

1937

38033

38033

CO 533/477

38033

KENYA

NON-NATIVE POLL TAX LEGISLATION.

Previous

1936

Subsequent See 38098/41

SEE 38903/37

(EDUCATION & POLL TAXES

(GENERAL) ORDINANCE, 1936

294

107

309

162

In Sale

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For Parking

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C.I.

Taxation.
Title.

1. A/Govs. Deputy. 33.....12th Jan. 37

Trans. two authenticated and twelve printed copies of the Non-Native Poll Tax Ordce., No. 50 of 1936, together with Legal Report thereon.

(Spare copies to Library.)

Paragraph 385
Pim Report.

No.5/38173/236.

No.6/38173/236.

Sir A. Pim suggested that the basic minimum Tax should be fifty shillings. In September last when Sir J. Byrne was anxious to announce Government's intention in regard to Income Tax, he suggested that it would be equitable to fix the basic rate at fifty shillings for Europeans, forty shillings for Asiatics and twenty shillings for Arabs, to which the S. of S. expressed no objection.

The draft estimates for 1937 as presented to Legislative Council provide for a sum of £52,000 revenue from Non-Native Poll Tax based on the above rates. The standing Finance Committee recommended a reduction of £12,000 in the amount to be obtained from that Tax. As a result the rates now provided for in Ordinance No. 50 of 1936 are: Europeans, forty shillings; Asiatics, thirty shillings; Arabs (other Non-Natives) twenty shillings. This has been agreed to on other papers.

I should explain that the Income Tax Bill published in October last provided that Taxpayers may set-off the amount paid in Poll Tax against the amount to be paid in respect of Income Tax.

Section 4 of Ordinance No. 50 of 1936 provides that Poll Tax must be paid between the 1st of January and the 30th of April of the same year. But a Non-Native who is not residing in the Colony on the 1st of January and who enters the Colony after the 31st of March and is liable to pay Poll Tax is given thirty days in which to pay.

*
Yes. Sir A. Pim
said it would not
be unreasonable.

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This seems a little hard on the person who takes up residence in the Colony in November. He is liable to pay the full amount of Tax for the year January to December, and if he fails to do so he will be liable to pay an increase of fifty per cent on the amount due.

See Section 4(2).

** it used to be double*
X

The second proviso in Section 4 might be amended to make it clear that it applies to a person who leaves the Colony without having paid his Poll Tax.

Subject to legal observations.
draft ? non-disallowance and *draft* ~~notify~~ observations on these two points.

C. J. G. Smith
(6/7/37)

W. Dale

19

Under the old Act a person arriving in the Colony after the end of June was only liable for half the tax, but when a reasonable arrangement explanation has been given for not including a similar provision in the new Act, I think we might see for above as proposed.

J. J. P. Smith
22/7.

As the rates are now lower we need not fuss about it too much, but

as proposed

V. S. G. P. Smith

23-2

10/11/37
2
to Kenya - 200 (1/1/37) years -
Kenya (Kenya)
Kenya

3. GOV. KENYA.....272.....13.5.37
The observations on points raised in (2).

*to regard para 3 of the despatch, the
for considers it is too hard on
in view of the reduction of the
minimum tax payable, to
require a person arriving in the
Colony after the 30th June, to pay
the full year's Poll Tax.*

? Policy

C. J. G. Smith
23/6

J. J. P. Smith
22/7

above

KENYA

No. 272



GOVERNMENT HOUSE
NAIROBI.
KENYA

RECEIVED

19 JUN 1937

C. O. REGY

13 May, 1937.

Sir,

2. With reference to your despatch, No. 200 of the 8th March, on the subject of the Non Native Poll Tax Ordinance, 1936, I have the honour to furnish you with the following observations on the points raised in connection with Section 4 of the Ordinance.

2. I am in agreement with the proposal made in the second paragraph of your despatch and the Ordinance will be amended accordingly when a suitable opportunity occurs.

3. With regard to the question of the payment of the full amount of the tax by persons arriving in the Colony after the end of June, I am advised that no provision for the payment of half the amount in such cases was made when in the opinion of my advisers, with which I concur, the abolition of the Education Tax and the consequent substantial reduction in the amount of the minimum tax payable rendered it unnecessary to re-introduce the concession made in Chapter 52 of the revised edition of the Laws of Kenya.

I have the honour to be,

Sir,

Your most obedient, humble servant,

R. Breche-Popham
AIR CHIEF MARSHAL

G O V E R N O R .

THE RT. HON.
W. ORMSBY GORE, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWLING STREET, LONDON, S.W.1.

G. O.

Mr. Crossmith 24/2/37

Mr. Parkin *wpf.*

Mr.

Sir C. Parkinson.

Sir G. Tomlinson.

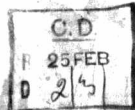
Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.



Downing Street,
8 MAR 1937
February, 1937.

Sir,

I have etc. to acknowledge the receipt of your despatch No. 53 of the 12th of January and to inform you that His Majesty will not be advised to exercise his power of disallowance in respect of Ordinance No. 5 of 1936 entitled "An Ordinance to provide for the Payment of an Annual Poll Tax by Non-Natives".

There are, however, two small points with regard to Section 4 of the Ordinance on which I should be

obliged for your observations. In Section 4(1) it is provided that any non-native who is not residing in the Colony on the first day of January and who enters the Colony after the thirty-first day of March and is

DRAFT.

KENYA

NO. 200

O.A.G.

FURTHER ACTION.

*X from
overleaf*

G. O.

Mr. Grossmith ^{24/2/37}
Mr. ~~Parkin~~ ^{24/2/37}

Amend (3)

2

Mr
Sir C. Parkinson
Sir G. Tomlinson
Sir C. Bottomley
Sir J. Shuckburgh
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

C.D.
F 25 FEB
D 24

Downing Street,
8 MAR 1937
February, 1937.

Sir,

DRAFT.

KENYA.

NO. 240

O.A.P.

I have etc. to acknowledge
the receipt of your despatch No. 33 of
the 12th of January and to inform you
that His Majesty will not be advised to
exercise his power of disallowance in
respect of Ordinance No. 5 of 1936
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the Payment of an Annual Poll Tax by
Non-Natives".

There are, however, two
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non-native who is not residing in the
Colony on the first day of January
and who enters the Colony after the
thirty-first day of March and is

FURTHER ACTION.

* from
overleaf

liable to pay tax, shall pay the ^{tax} full amount
in respect of the year during which he enters
the Colony within thirty days ^{from the date of} after his arrival,
and on failing to do so, he will be liable under
section 4(2) to pay an increase of ^{the cost} 50% on the
amount due. ^{3 In the second place I observe} It has been pointed out that under

Section 4 of Chapter 52 of the Revised Edition of
the Laws of Kenya, a person arriving in the Colony

after the end of June was only liable for half
the tax. ^{It appears that} I shall be glad to learn whether the
omission of similar provision in Section 4 of

Ordinance no. 50 of 1936 was intentional, and I also request that I may be
also been suggested that the words "without having

paid the tax" could, with advantage, be inserted in
the second proviso to Section 4(1) after the words
"before the thirtieth day of April in the same
year".

I have, etc.

(Signed) W. ORMSBY GORE.

liable to pay tax, shall pay the full amount ^{tax}
in respect of the year during which he enters
the Colony within thirty days ^{from the date of} after his arrival,
and on failing to do so, he will be liable under
Section 4(2) to pay an increase of ^{five cent} 5% on the
amount due. ^{In the second place I observe that} It has been pointed out that under

Section 4 of Chapter 52 of the Revised Edition of
the Laws of Kenya, a person arriving in the Colony

after the end of June was only liable for half
the tax. ^{It appears that} I shall be glad to learn whether the

omission of similar provision in Section 4 of
Ordinance No. 50 of 1966 was intentional, ^{and I also request that I may be} It has ^{provided with your} ^{views on this point.}

^{In the first place it has} also been suggested that the words "without having
paid the tax" could, with advantage, be inserted in
the second proviso to Section 4(1) after the words
"before the thirtieth day of April in the same
year".

I have, etc.

(Signed) W. ORMSBY GORE.

KENYA.

No. 33



GOVERNMENT HOUSE

NAIROBI.

KENYA.

January, 1937.

RECEIVED

FEB 25

C. O. REGY

33354/36

Sir,

I have the honour to forward two authenticated copies and twelve printed copies of Ordinance No. 1 of 1936 entitled "An Ordinance to Provide for the Payment of an Annual Poll Tax by Non-Natives" together with a Legal Report thereon by the Attorney General.

This Ordinance passed its Third Reading in the Legislative Council on the 30th December, 1936, and the Acting Governor assented to it in His Majesty's name on the 31st December, 1936.

I have the honour to be,

Sir,

Your most obedient, humble servant,

A. M. Little
ACTING GOVERNOR'S DEPUTY.

THE RT. HON. W. GEMSBY GORE, F.C.S.I.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON, S.W.1.

Chart 2

KENYA.
No. 33



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

RECEIVED 18
- 8 FEB 1937
C. O. REGY

January, 1937.

36033/36

Sir,

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ACTING GOVERNOR'S DEPUTY.

Encl 2

THE RT. HON. W. ORMSBY GORE, F.C. S.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON, S.W.1.

LEGAL REPORT

THE NON NATIVE POLL TAX BILL, 1936

The object of this Bill is to provide for the payment of an annual poll tax by non-natives, and to make provision for the collection of such tax.

A Comparative Table together with a copy of the Non-Native Poll Tax Ordinance (Chapter 82 of the Revised Edition) showing in blue-black ink the amendments which it is proposed to be made by the Bill is enclosed for transmission to the Secretary of State.

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

Nairobi,

30th December, 1936

W. H. King
ATTORNEY GENERAL

8

COMPARATIVE TABLE
THE NON NATIVE POLL TAX BILL, 1946

Clause of the Bill.	Remarks.
1.	Short title and commencement.
2.	Cf. Section 2 of the Non-Native Poll Tax Ordinance (Chapter 52 of the Revised Edition).
3.	The definitions of "Asiatic non-native", "European non-native" and "non-native" are new.
3.	Cf. Section 3 of Chapter 52 of the Revised Edition). The rates of tax are altered. The proviso is new but cf. Section 15(a) of Chapter 52 of the Revised Edition).
4.	Cf. Section 4 of Chapter 52 of the Revised Edition. Verbally amended, and on failure to pay the tax on dates prescribed a penalty of 50% of the tax, instead of the double the amount of tax, has been provided.
5.	Cf. Sections 5 and 6 of Chapter 52 of the Revised Edition.
6.	Cf. Section 7 -do-
7.	Cf. Section 8 -do-
8.	Cf. Section 9 -do-
9.	Cf. Section 10 -do-
10.	Cf. Section 11 -do-
12.	Cf. Section 13 -do- Penalties increased from £7-10-0 to £10 and from £45 to £50.
13.	Cf. Section 14 of Chapter 52 of the Revised Edition
14.	Cf. Section 15 -do-
15.	Cf. Section 16 -do-
16.	Cf. Section 17 -do-

C O P Y
O F
THE NON NATIVE POLL TAX ORDINANCE
(CHAPTER 52 OF THE REVISED EDITION)
SHOWING IN BLUE BLACK INK THE
AMENDMENTS WHICH IT IS PROPOSED
TO BE MADE BY THE NON NATIVE
POLL TAX BILL, 1936

CHAPTER 52.

NON-NATIVE POLL TAX.

Ordinance
No. 18 of 1937

Amended 1st January 1938
Amended by Ord 4/39
Added to it 1935 - see Ord 16/37 [16th October, 1912.]

Short title. 1. This Ordinance may be cited as the Non-Native Poll Tax Ordinance, 1937.

Interpretation. 2. In this Ordinance—
"Native" means a male person who is a native of the Colony;
"Non-native" means a male person who is not a native of the Colony;
"Magistrate" means a Magistrate holding a subordinate court of the first, second or third class, and the powers conferred upon a Magistrate by this Ordinance may be exercised by any such Magistrate notwithstanding that he is not a Magistrate for the purposes of the Magistrates Ordinance, 1936.
3. There shall be paid in every year by every non-native male person who is liable to pay the tax by the dates prescribed in this Ordinance, a sum equal to the amount of such tax and in lieu thereof, provided always that such liability shall not accrue if such non-native fails to pay the tax by the dates prescribed in this Ordinance, and shall be liable to pay double the amount of such tax if he fails to pay the tax by the dates prescribed in this Ordinance.

4. Any non-native who wilfully furnishes false information as to any information required by such person paying the tax shall furnish the collector of the tax with a statement in writing that he is a non-native.

5. Any non-native who wilfully furnishes false information as to any information required by such person paying the tax shall furnish the collector of the tax with a statement in writing that he is a non-native.

6. There shall be paid in every year by every non-native male person who is liable to pay the tax by the dates prescribed in this Ordinance, a sum equal to the amount of such tax and in lieu thereof, provided always that such liability shall not accrue if such non-native fails to pay the tax by the dates prescribed in this Ordinance, and shall be liable to pay double the amount of such tax if he fails to pay the tax by the dates prescribed in this Ordinance.

7. Any non-native who wilfully furnishes false information as to any information required by such person paying the tax shall furnish the collector of the tax with a statement in writing that he is a non-native.

8. Any non-native who wilfully furnishes false information as to any information required by such person paying the tax shall furnish the collector of the tax with a statement in writing that he is a non-native.

9. Any non-native who wilfully furnishes false information as to any information required by such person paying the tax shall furnish the collector of the tax with a statement in writing that he is a non-native.

10. Any non-native who wilfully furnishes false information as to any information required by such person paying the tax shall furnish the collector of the tax with a statement in writing that he is a non-native.

11. Any non-native who wilfully furnishes false information as to any information required by such person paying the tax shall furnish the collector of the tax with a statement in writing that he is a non-native.

12. Any non-native who wilfully furnishes false information as to any information required by such person paying the tax shall furnish the collector of the tax with a statement in writing that he is a non-native.

*Amended 1st January 1936
Amended by Ord 4/24*

CHAPTER 52.

NON-NATIVE POLL TAX

Ordinance
No. 19 of 1936

Amended 28 Nov - see Ord 10/37
10th October, 1912]

Short title.

1. This Ordinance may be cited as "the Non-Native Poll Tax Ordinance, 1936."

Interpretation.

1. In this Ordinance, unless the context otherwise requires, the words "poll tax" shall mean the tax payable by the persons prescribed in this Ordinance, and "non-native" shall mean a person who is not a native of the Colony and is not a person who is liable to pay double the tax payable by a native of the Colony.

2. Any person who is liable to pay the tax shall furnish the collector with the particulars required by the collector.

"Non-native" means a male person other than a native of the Colony within the meaning of the Native Title and Poll Tax Ordinance, 1912.

"Magistrate" means a magistrate holding a subordinate position in the judicial service of the Colony and the powers conferred upon a magistrate by this Ordinance may be exercised by any such magistrate not withstanding that he is not a member of the judicial service of the Colony.

3. Any non-native who fails to furnish a collector with the particulars required by the collector shall be liable to pay double the tax payable by a native of the Colony.

Amendment of tax.

3. There shall be paid in every year by every non-native of the Colony a tax, to be known as the Non-Native Poll Tax, of the amount specified in the Schedule to this Ordinance.

4. The tax shall be payable in every year shall be paid between the 1st day of January and the 31st day of December in any year in which the person liable to pay the tax is residing in the district or place in which the tax is payable for the time being staying or residing in the Colony.

5. Any person who is liable to pay the tax shall be liable to pay the tax within one month of the date on which the tax is payable in the case may be.

6. This Ordinance may be cited as the Non-Native Poll Tax Ordinance, 1936, and shall come into operation on the 1st day of January, 1937.

7. In this Ordinance, unless inconsistent with the context, the words "poll tax" shall mean the tax payable by the persons prescribed in this Ordinance, and "non-native" shall mean a person who is not a native of the Colony and is not a person who is liable to pay double the tax payable by a native of the Colony.

8. Any person who is liable to pay the tax shall furnish the collector with the particulars required by the collector. Any person who fails to furnish a collector with the particulars required by the collector shall be liable to pay double the tax payable by a native of the Colony.

CHAPTER 52.

NON-NATIVE POLL TAX

Ordinance No. 19 of 1912.

Enacted on January 1913
Enacted by Ord 4/29
Amended on 17th October, 1912.]

Short title.

1. This Ordinance may be cited as "the Non-native Poll Tax Ordinance" and shall come into operation on the 1st day of January, 1913.

Interpretation.

2. In this Ordinance, unless inconsistent with the context -
"Magistrate" means a Magistrate in charge of a District; "the tax" means the non-native poll tax payable by this Ordinance.

"Asiatic" non-native means a male person of Asiatic race or origin but shall not include an Arab or a Somali;

"European" non-native means a male person of European origin or descent

"District Commissioner" includes an assistant district commissioner.

"Non-native" means a male person other than a native within the meaning of the Native Land and Poll Tax Ordinance.

"Magistrate" means a magistrate holding a subordinate court of the first, second or third class, and the powers conferred upon a magistrate by this Ordinance may be exercised by any such magistrate notwithstanding any law limiting the jurisdiction of such magistrate over Europeans or other non-natives.

"Temporary visit" means a visit to the Colony not exceeding six months in duration.

Amount of tax.

3. There shall be paid in every year by every non-native a tax of fifteen shillings to be called the Non-native Poll Tax, at the following rates: -

- (a) By every European non-native Sh. 40
- (b) By every Asiatic non-native Sh. 30
- (c) By every other non-native Sh. 20.

Tax when payable.

Who enters the Colony under the provisions of this Ordinance shall pay the tax in thirty days after the date of his entry into the Colony:

And provided further that any non-native who is residing in the Colony on the first day of January and who leaves the Colony before the thirtieth day of April in the same year, shall pay the tax in respect of that year within thirty days of his return to the Colony whether he returns during the year in which he left the Colony or during a subsequent year.

4. (1) The tax payable in any year shall be paid between the first day of January and the thirtieth day of April, provided, that in the case of any non-native who is not residing in the Colony on the first day of January, or who is not residing in the Colony on such date, last day of the Colony during the month of January, without having paid the tax payable in that year, such non-native shall pay the tax within one month of his coming or returning to the Colony as the case may be. And provided further that any non-native who shall come to the Colony after the thirtieth day of June in any year, and who shall not have previously resided in the Colony in the same year, shall pay a tax of fifteen shillings in lieu of the tax before prescribed.

And provided further that any non-native who fails to pay such tax within three months of the expiry of the period prescribed set forth for such payment shall be liable for a tax double the amount of such tax and in lieu thereof, provided always that such liability shall not accrue if such non-native can show that such default was due to causes beyond his own control.

Penalty.

(2) Failure to pay the tax by the dates prescribed in this section shall render a non-native liable to pay double the amount of such tax.

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Interpretation

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19. The collector may from time to time make alterations in the form of the receipt or the better carrying out the provisions of this Ordinance.

14. A collector may enter upon any land or into the holding in the execution of his duties under this Ordinance.

15. In the event of any person within the description of any of the classes of persons set out in the schedule hereto being injured or disabled as a result thereof, becoming totally or partially disabled or as a result thereof, becoming totally or partially disabled to such an extent as materially to affect his earning capacity, the commanding officer of such person at the time of such injuries or disease being received, contracted or resulting as aforesaid, or such officer as the Governor may appoint in that behalf may recommend and the Governor may sanction the exemption of such person from the payment of poll tax on one not for life or from the payment of poll tax in respect of himself for life as the case may be.

SCHEDULE

Any native officer, non-commissioned officer or private of the King's African Rifles, or any native carrier or any combatant or non-combatant native, recruited or selected under any ordinance for the time being in force or otherwise for any form of military service.

5. The tax shall be paid by the person liable to pay the same to a district commissioner at the office of the collector to whom payment is made.

6. A district commissioner shall give to the person paying to tax a receipt in the prescribed form.

6A. Every person paying the tax shall furnish the collector to whom payment is made with such information as may be required by him in preparing a receipt in the prescribed form, and shall, if required by such officer, attend personally at the office of such officer for such purpose.

7. Any person who shall wilfully furnish a district commissioner with false particulars as to any of the information required by such officer in preparing a receipt, or who, on being required to attend at the office of a district commissioner, shall neglect or refuse to attend, or attending, shall neglect or refuse to furnish any information required as aforesaid, shall be liable to a fine not exceeding fifteen pounds, or to imprisonment for a term not exceeding two months.

7B. Whenever any person shall make default in the payment of the tax due and payable by him, any magistrate having jurisdiction in the district or place in which the person in default is for the time being staying or residing, may issue a summons directing the defaulter to attend before him, at a time to be named in the summons, to show cause why he should not be ordered to pay the amount due as a judgment debt.

7C. A summons for enabling a defaulter to show cause as mentioned in the last preceding section, if issued, it shall be lawful for the magistrate on the date named in the summons or at any other date to which the hearing may be adjourned, to order him to pay into court the amount of the unpaid tax, and such costs and expenses as are for this purpose from time to time fixed by the Governor, or to order him to pay into court any part of such amount which the magistrate may deem the defaulter able to pay or arrange for paying, within seven days of the order or within such extended time as may be determined by the magistrate, and either in a lump sum or by instalments, the amount of the unpaid tax and penalties, and costs, either in one sum or in instalments.

Where and to whom tax to be paid

Yes to be paid to collector

District commissioner give receipt in prescribed form

Collector has to provide information

Collector has to provide information required in preparing the receipt, and if required shall attend at the office for such purpose

Penalty for furnishing false particulars as to any of the information required or for neglecting or refusing to attend, or attending, shall neglect or refuse to furnish any information required as aforesaid

Magistrate may order defaulter in default to pay amount of tax and costs into court

Magistrate may order defaulter to pay into court any part of such amount which the magistrate may deem the defaulter able to pay or arrange for paying, within seven days of the order or within such extended time as may be determined by the magistrate, and either in a lump sum or by instalments, the amount of the unpaid tax and penalties, and costs, either in one sum or in instalments.

Magistrate may order defaulter to pay into court any part of such amount which the magistrate may deem the defaulter able to pay or arrange for paying, within seven days of the order or within such extended time as may be determined by the magistrate, and either in a lump sum or by instalments, the amount of the unpaid tax and penalties, and costs, either in one sum or in instalments.

13. The provisions of this Ordinance shall apply from time to time to the rules prescribing the form of any receipt or the manner of carrying out and giving effect to the provisions of this Ordinance.

14. A collector may enter upon any land or into any building in the execution of his duties under this Ordinance.

15. In the event of any person within the description of any of the classes of persons set out in the schedule hereto being injured or suffering from any disease contracted otherwise on active service or owing to a disease contracted partially in such active service or as a result thereof, becoming totally or partially disabled to such an extent as materially to affect his earning capacity, the commanding officer of such person at the time of such injuries or disease being received, contracted or resulting as aforesaid, or such officer as the Governor may appoint in that behalf may recommend and the Governor may sanction the exemption of such person from the payment of hut tax on one not for life or from the payment of poll tax in respect of himself for life as the case may be.

Collector may enter land and buildings in execution of duty. Provision for the remission of hut and poll tax in certain cases.

SCHEDULE

Any native carrier, non-combatant officer or private of the King's African Rifles, or any native carrier or any combatant or non-combatant native recruited or selected under any Ordinance for the time being in force or otherwise for any form of military service.

5. The tax shall be paid by the person liable to pay the same to a district commissioner at the office of the officer to whom payment is made.

6. A district commissioner shall give to the person paying the tax a receipt in the prescribed form.

6A. Every person paying the tax shall furnish the officer to whom payment is made with such information as may be required by him in preparing a receipt in the prescribed form, and shall, if required by such officer, attend personally at the office of such officer for such purpose.

7. Any person who shall wilfully furnish a district commissioner with false particulars as to any of the information required by such officer in preparing a receipt, or who, after being required to attend at the office of a district commissioner, shall neglect or refuse to attend or attend, shall neglect or refuse to furnish any information required as aforesaid, shall, on conviction, be liable to a fine not exceeding fifteen pounds, or to imprisonment for a term not exceeding three months.

8. Whenever any person shall make default in the payment of the tax due and payable by him to a magistrate having jurisdiction in the district or place in which the person in default is for the time being staying or residing, may issue a summons directing the defaulter to attend before him, at a time to be named in the summons, to show cause why he should not be ordered to pay the amount due as a judgment debt.

9. If a summons for enabling a defaulter to show cause as mentioned in the last preceding section is issued, it shall be return for the magistrate on the date named in the summons or at any other date to which the hearing may be adjourned, to order him to pay into court the amount of the unpaid tax, and such costs and expenses as are for this purpose from time to time fixed by the Governor, or to order him to pay into court any part of such amount which the magistrate may deem the defaulter able to pay or arrange for paying, within seven days of the order or within such extended time as may be determined by the magistrate, and either in a lump sum or by instalments: the amount of the unpaid tax and the whole and whole, either in one sum or in instalments.

Where and subject tax is paid. Tax to be paid to collector. District commissioner give receipt in prescribed form. Person to provide information required in preparing receipt, and if required shall attend at the office of such officer. Penalty for furnishing false particulars, neglect or refusal to attend or furnish information when required.

Magistrate may call on defaulter to pay amount of tax and show cause why he should not pay the tax.

Magistrate may order person defaulting to pay amount of tax and costs and expenses. Power to order defaulter to pay into court & unpaid tax, etc.

Imprisonment for failure to obey order
Penalty

Proviso

Proof as to means of defaulter.

Order of commitment

Imprisonment not to extinguish liability.

Tools, implements, attachments and sale of movable property.

Debtor pays whole amount ordered to be paid.

Revised by
de la Parra

without lawful excuse
10X. (1) If the person summoned as aforesaid fails to comply with the summons without lawful excuse or if he makes default in payment into court, in the instance aforesaid, it shall be lawful for the magistrate to commit such person to prison, without hard labour, for a term not exceeding six weeks or until payment of the sum ordered to be paid ~~is paid~~ *is paid before the expiration of such term*. Provided that no such committal shall be ordered for default in payment as aforesaid unless it be proved to the satisfaction of the magistrate that the person making the default either has, or has had since the date of the order, the means to pay the sum in respect of which he has made default, and has refused or neglected, or refuses and neglects, to pay the same.

(2) Proof of the means of the person making default may be given in such manner as the magistrate thinks fit, and for the purpose of such proof, the debtor and any witnesses may be summoned and their attendance enforced by the same processes as in cases in which the magistrate has jurisdiction in civil matters, and such debtor and witnesses may be examined on oath.

(3) Every order or commitment under this section shall be issued, obeyed, and executed in manner similar to commitments by a court in the exercise of jurisdiction in civil cases.

(4) Imprisonment under this section shall not operate as a satisfaction or extinguishment of the payment debt.

not for sale
(5) The amount of any tax due and unpaid, and the sum (if any) ordered to be paid for costs and expenses under section 10X. may, at any time, be levied by the attachment and sale, under the orders of a magistrate, of the movable property of the defaulter, in like manner as the same were payable under decree of a civil court, and a magistrate is hereby empowered to issue such orders either on his own motion or on the application of any *district commissioner*.

12. In the event of the defaulter paying the whole amount ordered to be paid as aforesaid and the cost and expenses of or in connection with any attachment ordered, the magistrate, if a district commissioner, shall remit to the person paying a receipt in the prescribed form, for the amount of the tax paid, or, if not a district commissioner, shall remit to a district commissioner the amount so paid after deducting therefrom

such sum thereof as may represent the court costs, and the district commissioner, on the receipt of such sum, shall deliver to the person who shall have paid the same a receipt in the prescribed form.

Collect
17-18. (1) A district commissioner may, at any time, require any non-native to produce the receipt ~~produced~~ *to* such non-native for the payment of the tax last payable and a *district commissioner* may retain any receipt produced for such time as he may consider necessary for the purpose of identifying the person named therein with the person producing the same.

District commissioner may require production of receipt to see how to fill for the receipt of information

Collect
(2) A district commissioner may require any non-native who refuses or neglects to produce his receipt when requested, to furnish him with information as to the office at which he has paid his tax last payable, and with such further information as the district commissioner may require for the purpose of ascertaining whether such non-native has paid such tax.

If receipt not produced information required to be furnished to district commissioner

(3) Any non-native who without lawful excuse, shall neglect or refuse to produce his receipt when required as aforesaid, or who, having failed or refused to produce his receipt, shall fail to furnish the information which may be required of him under the preceding subsection, shall, on conviction, be liable to a fine not exceeding ten pounds or, in default, to imprisonment for a term not exceeding six months.

Penalty for refusing to produce receipt or give information

(4) Evidence of the non-production of a receipt for the payment of a tax upon requisition being made as aforesaid shall, in and for the purposes of any proceedings for the recovery of such tax, be prima facie evidence that the tax has not been paid.

Non-production of receipt to be prima facie evidence of payment of tax

Collect
(5) Any non-native who, being required by a district commissioner to produce his receipt, shall produce a receipt granted to some other person, or who, having failed or refused to produce his receipt, shall furnish a receipt to a district commissioner with any false particulars as to any of the information which may be required of him under subsection (3) of this section, shall, on conviction, be liable to a fine not exceeding forty pounds or to imprisonment of either description for a term not exceeding six months.

Penalty for producing receipt granted to some other person or for giving false information

Collect
13. The Governor may remit wholly or in part, the tax on the ground of poverty of the person liable to pay the same, or on the ground that the tax is oppressive, or for other good cause, and may also for like reason refund the tax or any part thereof.

General Power of Governor to remit or refund the tax

Exemption
~~Section 14~~

14.15. There shall be exempted from the payment of the tax under this Ordinance ~~the persons following~~ *the persons following*:-

(a) Every person under the age of eighteen

(b) A person on a temporary visit to the Colony, provided that he is not the owner or lessee of land in the Colony, and is not engaged in any employment or business in the Colony, and has not any pecuniary interest in any business or enterprise conducted or carried on in the Colony.

(c) Every person who shall produce to a district commissioner a receipt showing that he has paid non-native poll tax in the Uganda Protectorate for the current year.

Burden of proof of exemption

15.16. The burden of proof of exemption from the tax shall lie on the party claiming the exemption.

Power to make rules

16.17. The Governor may, from time to time, make rules prescribing the form of the receipt to be ~~issued~~ *issued* under this Ordinance, and generally ~~for the better carrying out of the purposes of this Ordinance; and may attach penalties not exceeding a fine of seven pounds ten shillings for the breach of any rule made or to be made under this Ordinance.~~ *for the better carrying out of the purposes of this Ordinance; and may attach penalties not exceeding a fine of seven pounds ten shillings for the breach of any rule made or to be made under this Ordinance.*

The Amendment in italics were made by Ord. 4 of 1929.

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The amendment in red ink was made by Ord 4 of 1929.