

1938

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marriage legislation

Previous

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Subsequent

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GOVERNMENT HOUSE
NAIROBI
KENYA

27 May, 1938.

Sir,

208/33
With reference to the despatch No. 350 of the 25rd May, 1933, from Sir Philip Cunliffe-Lister (now Lord Swinton), I have the honour to forward two authenticated and twelve printed copies of Ordinance No. III of 1938 entitled "An Ordinance to Amend the Marriage Ordinance" together with a Legal Report and enclosures prepared by the Attorney General.

2. This Ordinance, the objects of which are made clear in the Legal Report, passed its third reading in the Legislative Council on the 26th April, 1938, and I assented to it in His Majesty's name on the 14th May.

I have the honour to be,

Sir,

Your most obedient, humble servant,

W. Brooke-Bopham

AIR CHIEF MARSHAL,
GOVERNOR.

THE RIGHT HONOURABLE

MALCOLM MACDONALD, M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W. 1.

LEGAL REPORT.

THE MARRIAGE (AMENDMENT) BILL, 1938.

Under the Marriage Ordinance, any person whose consent to a marriage is required may enter a caveat against the issue of a Registrar's Certificate. Where such a caveat has been entered, the matter is referred to the Supreme Court which, after hearing the parties to the intended marriage and the person who has entered the caveat, may remove the caveat. The Registrar may then issue the certificate and the marriage may proceed.

There is, however, no provision for reference to the Court where a person, whose consent is required but who has not entered a caveat, refuses his consent to the marriage of a minor.

This is a serious deficiency in the law, and it is therefore proposed to amend the Marriage Ordinance so as to permit a minor, consent to whose marriage has been refused by the person empowered to give such consent, to apply to the Supreme Court for consent

A Comparative Table together with a copy of the Bill showing the section of the Principal Ordinance which it is proposed to amend 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,

26th April, 1938.

W. S. A. G.
ATTORNEY GENERAL.

COMPARATIVE TABLE.

THE MARRIAGE (AMENDMENT) BILL, 1938.

Clause of the Bill.	Remarks.
1.	Short title.
2.	New.
3.	Cf. Section 9(1)(b) of the Guardian of Infants Act, 1925, 15 & 16 Geo.5, Ch.45.

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COPY OF THE MARRIAGE (AMENDMENT) BILL, 1958,
SHOWING THE SECTION OF THE MARRIAGE
ORDINANCE (CHAPTER 167 OF THE
REVISED EDITION OF THE LAWS
OF KENYA) WHICH IT IS
PROPOSED TO AMEND.

Caveat may be entered against issue of certificate.

Section 15 of the Principal Ordinance which it is proposed to amend:—

15. Any person whose consent to a marriage is hereby required, or who may know of any just cause why the marriage should not take place, may enter a caveat against the issue of the registrar's certificate, by writing at any time before the issue thereof the word "forbidden", opposite to the entry of the notice in the marriage book, and appending thereto his name and place of abode, and the grounds upon or by reason of which he claims to forbid the issue of the certificate, and the registrar shall not issue his certificate until such caveat shall be removed as hereinafter provided.

A Bill to Amend the Marriage Ordinance

BE IT 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 Marriage (Amendment) Ordinance, 1938, and shall be read as one with the Marriage Ordinance (Chapter 167 of the Revised Edition), hereinafter referred to as the Principal Ordinance.

Short title
Cap 167

2. Section 15 of the Principal Ordinance is hereby amended by deleting therefrom the words "whose consent to a marriage is hereby required, or" which appear in the first and second lines thereof.

Amendment of
section 15 of
the Principal
Ordinance.

3. The Principal Ordinance is hereby amended by inserting therein immediately after section 21 thereof the following new section:—

Amendment of
the Principal
Ordinance.

"21A. If any person whose consent to a marriage is hereby required refuses his consent, the Supreme Court may, on application being made, consent to the marriage, and the consent of the Court so given shall have the same effect as if it had been given by the person whose consent is so required."

OBJECTS AND REASONS

Under the Marriage Ordinance, any person whose consent to a marriage is required may enter a caveat against the issue of a Registrar's Certificate. Where such a caveat



Colony and Protectorate of Kenya

IN THE SECOND YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE VI

HENRY ROBERT MOORE BRÖÖKE-POPHAM
G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C. *Governor*

Assented to in His Majesty's
name this 14 MAY 1938 day of
1938.

R. BROOKE-POPHAM

Governor

**AN ORDINANCE TO AMEND THE MARRIAGE
ORDINANCE**

ORDINANCE No. III of 1938

An Ordinance to Amend the Marriage Ordinance

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 Marriage (Amendment) Ordinance, 1938, and shall be read as one with the Marriage Ordinance (Chapter 167 of the Revised Edition), hereinafter referred to as the Principal Ordinance. Short title.
Cap. 167.

2. Section 15 of the Principal Ordinance is hereby amended by deleting therefrom the words "whose consent to a marriage is hereby required, or" which appear in the first and second lines thereof. Amendment of section 15 of the Principal Ordinance.

3. The Principal Ordinance is hereby amended by inserting therein immediately after section 21 thereof the following new section:— Amendment of the Principal Ordinance.

"21A. If any person whose consent to a marriage is hereby required refuses his consent, the Supreme Court may, on application being made, consent to the marriage, and the consent of the Court so given shall have the same effect as if it had been given by the person whose consent is so required."

Passed in the Legislative Council the twenty-sixth day of April in the year of our Lord one thousand nine hundred and thirty-eight.

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.

R. W. BAKER-BEALL
Acting Clerk to the Legislative Council.