

1938

38873

C0533/500

38873

KENYA

Emergency Powers Ordinance

Previous

see 38329/38
(Mombasa
Disturbance)

2/19
2/27

1/9

Subsequent

297	2/16
309	2/26
297	2/16
88 Eric	4/7
Mr Smith	4/7
Mr Howard	8/6
Mr Sumridge	11/7
Mr 257	11/8
Mr Sumridge	11/8
Mr Howard	12/8
Mr Calder	16/8
Mr Dale	17
Mr Coates	17
Mr Sumridge	18/8
Mr Craig-White	

Gov. 33
Submits draft Emergency Powers Ordinance
& suggests any Rules made under the Order
should receive prior approval of S of S.

A 292

Can you please attach in 2' bar
pps. dealing with the same subject
(there was a decree within time
last 6 mos I think); & return
to me via A 83 to attach
circ. disp. on the subject if
there is one?

Overman will

28/6

283
See under

Mr. Overman

can you say what the power is
in regard to O.C. Dept. - I am
para. 4 & 5 in 41149(32)? I assume
that it will cover the points raised by
the Gov. at "

White
6/1/38

The set of Model Defence Regs has
been circulated to the Overseas
Defence Cts. and will come up
for consideration shortly.

At the same time the O.D.C. will
consider the draft Emergency Powers
Order in Council which will enable
Governors, inter alia, to deal with
purely local emergencies, & empower
them to make such regulations as
appear to them in their unimpeded discretion
to be necessary or expedient for securing the
public safety, the defence of the territory, the
maintenance of public order and the suppression
of mutiny, rebellion and riot, or for saving
the life of the community.

I think I might mention the name of the O.C.
Howard 9/7

Sheldon Mr Howard says that
all will be ready within a month.
In the interim we can wait. It
is better done by than in stages
consider the 5th & 6th in relation
to Kenya. Note in a month's time.

Notes
11/8/38

W. H. Alder
11/8/38
at one.

B. H. vide minute of 11/7.

J Jackson 29/7.
11/8.

Mr Howard.

? Anything definite yet.

W. H. Alder
11/8/38

I suggest that the Gov. be
informed that the preparation of legislation,
which will render the enactment of the
bill in its present form unnecessary, is now in
hand, and that it is hoped that
a measure dealing fully with emergency
legislation will be ready for issue in
the early autumn.

W. H. Alder 12/8/38

This Kenya draft bill corresponds
to sections 6, 7 & 8 of our draft Emergency
O. in C. Do you consider that
regulations dealing with all the
details in section 2(b) of the Kenya
Bill could be made under

section 6 (1) of our Emergency O. in C? And
are you satisfied that we do not
require in our Emergency O. in C
anything on the lines of sections 2(b) and
4 of the Kenya Bill?

W. H. Alder
16.8.38

Our proposed O. in C is as wide as possible and
I am satisfied it covers all the particular features
of the Kenya draft. No doubt about 2(c) - 4 of the
Kenya draft.

W. H. Alder
17.8.

Kenya draft
C. G. is not applicable
to the circumstances
of the present Bill
72 & 73 of the proposed
Regulations

? As proposed by Mr Smith

W. H. Alder
17.8.

W. H. Alder
18/8/38

at one.

To: Kenya 504. (Amend). 31. 8. 38.

C. O.

Mr. Conyngham 2/8

Mr. Sumner 2/8 fs.

Mr.

Sir H. Moore.

Sir G. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

31st August 1938

RECORDED
D 24

DRAFT.

Kenya
No 504
Gov

to provide for the public safety and the maintenance of public order in the colony, and

Time transmitting a ~~Bill~~ ^{Bill} ~~Emergency Powers~~

Bill

~~I have~~ to inform you that the ~~preparation~~ of legislation which will render the enactment of the Bill unnecessary, is at present in preparation in this Office. (2) It is hoped that a Memorandum dealing fully with the question of emergency legislation will be ready for ~~submission~~ ^{issue} in the early autumn.

FURTHER ACTION.

I have etc

AIR MAIL

KENYA

No. 331



GOVERNMENT HOUSE
NAIROBI
KENYA

14 June, 1935.

SIR,

38329/38

with reference to paragraph 3 of my despatch No. 225 of the 21st April, I have the honour to transmit to you, for your consideration, a draft Bill to Provide for the Public Safety and the Maintenance of Public Order in the Colony.

2. The purpose of the Bill is to provide powers to enable the Government to deal effectively and quickly with situations which may never arise out which on the other hand may arise at any time unexpectedly in the circumstances prevailing at Mombasa and to a lesser extent in other areas of the Colony. The disturbances which occurred at Mombasa last year revealed the inadequacy of existing powers to control an outbreak of disorder among non-natives.

3. Mombasa is an old oriental town in which Indians, Arabs, Seychellois, Comorins and Africans live side by side. The relationship of these peoples is generally friendly, but communal feeling is strong and at any time a small incident such as a dispute over a woman or a petty assault can develop into a clash between the communities. There are no real causes of friction that can be removed. There exist, however, a permanent condition of inflammability and the consequent possibility of major disturbances, with loss of life, resulting from small beginnings, unless

prompt ...

THE RIGHT HONOURABLE

MALCOLM MACDONALD, M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S. W. 1.

prompt and effective action can be taken to check the spread of an outbreak.

4. To a lesser extent similar conditions exist in parts of Nairobi and Kisumu, where Somalis and Luoians are an uncertain element, but it is principally at Mombasa that disturbances may occur from time to time, on account of the presence of Arabs from the Hadramaut and elsewhere.

5. The provisions of the bill are drastic, and you may consider it advisable to stipulate that any Rules to be made under the bill should not be brought into force without your prior approval in each case.

I have the honour to be,

Sir,

Your most obedient, humble
servant,

A. Brooke-Popham

AIR CHIEF MARSHAL.

G O V E R N O R.

7

A BILL TO PROVIDE FOR THE PUBLIC SAFETY AND
THE MAINTENANCE OF PUBLIC ORDER IN THE COLONY.

BE IT ENACTED by the Governor of the Colony of Kenya with the advice and consent of the Legislative Council thereof, as follows:-

Short title.

1. This Ordinance may be cited as "the Emergency Powers Ordinance, 1938".

Governor in Council may make Rules.

2. (1) The Governor in Council may make such rules as appear in his discretion to be necessary or expedient for securing the public safety, the maintenance of public order and the suppression of disturbances, riot or rebellion.

(2) Without prejudice to the generality of the powers conferred by sub-section (1) of this section, such Rules may -

- (a) provide for the imposition and enforcement of a curfew;
- (b) prohibit the buying or selling of, or any other dealing in, arms, firearms, or explosives;
- (c) prohibit the carrying of arms, firearms, explosives, sticks, missiles or any other weapon;
- (d) provide for the arrest (without a warrant) and detention of any person committing or inciting any person to any act of violence or intimidation, or of any person who is suspected of committing or inciting any person to any act of violence or intimidation or of any person carrying any arm, firearm, explosive, stick, missile or weapon;
- (e) require all or any of the inhabitants of any town, village, area or quarter to remove from any road situated in such town, village, area or quarter any glass, nails or other obstruction or impediment to the proper use by traffic or otherwise of such road;
- (f) provide that any premises suspected of being used for any purpose which may be likely to endanger the public safety or to incite any person to commit any act of such a nature as to be likely to endanger the public safety may be entered and searched without a warrant and that anything found therein which is suspected of being used for such purpose as aforesaid may be seized and detained.

(3) Any Rules made under the provisions of this Ordinance may provide that the whole or any part of such Rules shall apply to such district or area and during such hours and such times as the Governor, or any officer in

Application of Rules.

the public service or of the Armed forces of the Crown deputed by the Governor, may appoint.

Penalties.

3. Any Rules made under the provisions of this Ordinance may, for the purpose of securing compliance with the Rules, provide for the imposition of a penalty not exceeding a fine of £500 or imprisonment for a term not exceeding five years.

Saving.

4. The provisions of this Ordinance or of any Rules made thereunder shall be in addition to and not in derogation of any other law for the time being in force in the Colony.

