



THE
OFFICIAL GAZETTE
OF THE
COLONY AND PROTECTORATE OF KENYA.
(SPECIAL ISSUE.)

Published under the Authority of His Excellency the Governor of the
Colony and Protectorate of Kenya.

Vol. XXVIII.—No. 1059.] NAIROBI, February 3, 1926. [PRICE 50 CENTS.]

Registered as a Newspaper at the G. P. O.

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COLONY AND PROTECTORATE OF KENYA.

*Came into force
from 3-2-26
Procl. No. 8/26
of 3-2-26. P. 2*

GOVERNMENT NOTICE No. 31.

AT THE COURT AT BUCKINGHAM PALACE,
The 16th day of December, 1925.

PRESENT,

THE KING'S MOST EXCELLENT MAJESTY
IN COUNCIL.

WHEREAS the Colony of Kenya is a British Settlement within the meaning of the British Settlements Act, 1887 :

AND WHEREAS by treaty, grant, usage, sufferance, and other lawful means His Majesty has power and jurisdiction within the Uganda Protectorate and the Protectorate of Kenya :

NOW THEREFORE, His Majesty, by virtue and in exercise of the powers in this behalf by the British Settlements Act, 1887, the Foreign Jurisdiction Act, 1890, or otherwise in His Majesty vested, is pleased by and with the advice of His Privy Council to order, and it is hereby ordered, as follows :—

1. (1) There shall be established the office of High Commissioner for Transport for the Colony and Protectorate of Kenya and the Protectorate of Uganda.

(2) The High Commissioner for Transport (hereinafter referred to as "the High Commissioner") shall be a Corporation Sole under that name with perpetual succession and an official seal and may sue and be sued under the above name, whether in contract or in tort by the ordinary procedure of law.

(3) Any damages, compensation or costs awarded by any Court to the High Commissioner shall be paid into the Railway and Harbour Fund; any damages, compensation or costs awarded by any Court against the High Commissioner shall be paid out of the Railway and Harbour Fund.

2. The person holding the Office of High Commissioner shall be the Officer administering the Government of Kenya.

3. (1) The High Commissioner shall have the control, working and management of the Services, and for this purpose shall have all the powers necessary for and incidental thereto. The Services shall include all such railways, ports, harbours, wharves and steamship services as :—

(i) Are now or may hereafter be owned, controlled, or managed by the Government of Kenya or the Government of Uganda; and

(ii) Are declared by an Order of the High Commissioner, with the approval of His Majesty's Principal Secretary of State for the Colonies (hereinafter referred to as "the Secretary of State"), to be included in the Services.

(2) All powers given to the High Commissioner by this Order shall be exercised in accordance with the provisions of this Order, and, in so far as is not inconsistent with the aforesaid provisions, in accordance with the provisions of any law in force in Kenya or Uganda and of any Ordinance which may hereafter be passed by the Legislature of Kenya or Uganda.

4. The Services shall be known as the Kenya and Uganda Railway.

5. (1) The High Commissioner may appoint a General Manager who shall have such of the authority and powers of the High Commissioner as may be delegated to him by the High Commissioner or may be conferred upon him by any Ordinance of Kenya or Uganda.

In any act done by the General Manager in pursuance of his duties it shall be presumed that he was duly authorised thereto.

(2) The High Commissioner may appoint in addition to the General Manager such servants as may be necessary for the efficient working of the Services.

(3) Persons so appointed or deemed to be appointed as hereinafter provided shall be servants of the High Commissioner, but shall be and remain in the service of the Crown and shall be deemed to be in the public service of Kenya and Uganda.

6. All persons who at the date of this Order in Council are employed in the Services shall as from the date hereof be deemed to be appointed servants of the High Commissioner upon the terms and conditions of their existing employment so far as is consistent with the provisions of this Order, and without prejudice to the continuity of their existing rights and obligations.

7. The High Commissioner may make, and when made may vary or revoke regulations with regard to all or any of the following matters :—

(a) The appointment, discharge, and discipline of servants, the minimum and maximum rates of pay, incremental scales, grading and classification of emoluments, leave of absence, and all other conditions of service in any department, office or branch of the Services.

(b) The security to be given by servants and the amount thereof.

(c) The grant of pensions or gratuities to servants holding pensionable posts in the Services, the establishment of sick funds, pensions and superannuation funds, provident funds, the scale of contributions and benefits, and the methods of administering such funds.

(d) The circumstances in which and the persons to whom appeals by servants in relation to their employment shall lie and the manner in which such appeals shall be made.

8. (1) There shall be constituted a Kenya and Uganda Railway Advisory Council (hereinafter referred to as "the Council") which shall consist of :—

(a) Not more than two official members representing the Colony and Protectorate of Kenya.

(b) Not more than two official members representing the Protectorate of Uganda.

(c) Not more than two unofficial members representing the Colony and Protectorate of Kenya.

(d) Not more than two unofficial members representing the Protectorate of Uganda.

The official members representing the Colony and Protectorate of Kenya shall be appointed by the Governor of Kenya, and the official members representing the Protectorate of Uganda shall be appointed by the Governor of Uganda. The unofficial members shall be appointed by the Governor in Council of Kenya or Uganda as the case may be.

(2) The General Manager may be present at all meetings of the Council and take part in the discussion, but shall not be entitled to vote.

9. The names of all members appointed to the Council shall be forthwith notified in the Official Gazettes of Kenya and Uganda, and any number of a Gazette containing a notice of any such appointment shall be deemed sufficient evidence thereof for all purposes.

10. Each official member shall hold office during the pleasure of the Governor by whom he is appointed, and each unofficial member shall hold office for a period of two years from appointment subject to such conditions as may be laid down by the Governor in Council by whom he is appointed.

11. The senior official member representing the Colony and Protectorate of Kenya shall be the chairman of the Council, provided that when meetings are held in Uganda the senior official member present representing the Protectorate of Uganda shall preside.

12. If any member of the Council shall be prevented by absence, or other cause, from acting, the Governor by whom he is appointed may appoint some other person to act and vote in his place until he shall return, or be able to resume his functions.

13. The High Commissioner may make, and when made may vary or revoke regulations prescribing:—

(a) The fees and expenses which may be paid or allowed to members of the Council.

(b) The quorum necessary to constitute a meeting.

(c) The intervals at which meetings shall be held, the manner in which the business of the Council shall be conducted, the method of voting, and the form in which the minutes shall be kept.

14. (1) The High Commissioner may consult the Council upon any matter concerning the administration and working of the Services, and shall consult the Council upon the following matters:—

(a) Any substantial alteration in the tariff of rates, fares and charges of the Services.

(b) All estimates of revenue and expenditure, including Loan Services.

(c) All Government Bills relating to the Services prior to submission to the Legislative Council of Kenya or Uganda, as the case may be.

(d) The expenditure of any sum exceeding £2,500 in respect of any one railway or harbour work or service other than a work or service covered by sanctioned working estimates or carried out under an authorised construction, betterment or renewals programme.

(e) Alterations in the scales of salaries, wages or hours of employment, or other important conditions of employment.

(f) Substantial reduction of staff.

(g) The abolition of any office in the Services carrying a salary of £1,000 per annum or over.

(h) Substantial changes in the organisation of the Services.

(i) All questions of general policy in connection with the administration, control, working or management of the Services.

15. (1) All Government Bills relating to the Services shall, prior to submission to the Legislative Council of Kenya or Uganda, as the case may be, be submitted to the High Commissioner by the Government introducing the Bill.

(2) The Railway Council shall be entitled to submit to the High Commissioner within a reasonable time of receiving a copy of the proposed Bill a minute containing the Council's comments on the proposed Bill, and it shall be the duty of the High Commissioner to forward such memorandum to the Government concerned.

16. The minutes of the Council shall be submitted to the High Commissioner through the General Manager. The High Commissioner shall, as soon as may be after the receipt of any minute, and after considering any matter in connection therewith which may be represented to him by the General Manager, either act upon the minute or refer it back to the Council for further consideration or reserve the matter for submission to the Secretary of State.

17. There shall be formed a Railway and Harbour Fund, into which shall be paid all revenues derived from the administration of the Services, and from which all disbursements shall be made.

Estimates of receipts and of expenditure on revenue and net revenue accounts and from betterment and renewal funds or other funds established by contributions from revenue, shall be prepared by the General Manager before the commencement of the financial year in which the expenditure is to be incurred, and supplementary and additional estimates may be prepared from time to time as may be necessary. Such estimates shall be submitted to the Council for consideration, and shall thereafter be transmitted with the recommendations of the Council to the High Commissioner for approval and transmission to the Secretary of State for his sanction.

As soon as may be after approval by the High Commissioner and before sanction by the Secretary of State, such estimates shall be submitted to the Legislative Councils of Kenya and Uganda, which may by resolution approve or disapprove of the estimates or propose modifications. The resolutions of the Legislative Councils shall be submitted for the consideration of the Secretary of State. Sanction of the estimates by the Secretary of State shall be sufficient authority for the expenditure specified therein.

18. No money shall be withdrawn from the Railway and Harbour Fund except to satisfy a judgment of a Court of Law or except as approved on estimates sanctioned by the Secretary of State pursuant to Article 17, but the High Commissioner may authorise the withdrawal of such monies as may be necessary for the Services pending such sanction. Subject to such regulations as may be prescribed by the High Commissioner, the General Manager may authorise expenditure in excess of the provision under the individual heads of the estimates, provided that such excess expenditure is covered by savings under other heads.

19. The Railway and Harbour Fund shall be liable for all loans including all charges connected therewith advanced by His Majesty's Government and raised or borrowed or to be raised or borrowed by the Government of Kenya or the Government of Uganda or by both Governments jointly for the purposes of the Services and expended for those Services. The High Commissioner shall pay out to the Treasurer of Kenya or Uganda, as the case may be, such interest and sinking fund contributions as may be required to meet the obligations of the Fund to His Majesty's Government or of Kenya or Uganda under the Ordinance raising the loan.

20. The High Commissioner shall not be required either by the Government of Kenya or the Government of Uganda to provide transport facilities either gratuitously or at a rate of charge which is insufficient to meet the costs involved in the provision of such transport facilities unless the Government concerned undertakes to pay the amount of loss incurred by reason of the provision of such transport facilities.

21. No loan shall be raised for the construction of new railways or for additions to the capital assets of the Services except by the Government of Kenya or the Government of Uganda, or by both Governments jointly in such proportions as the Secretary of State may determine; and any loan so raised shall be authorised and appropriated by Ordinance.

22. If any railway is constructed by either the Government of Kenya or the Government of Uganda or both against the advice of the High Commissioner, the High Commissioner may, with the approval of the Secretary of State, by Order declare that such railway shall be included in the Services and in such case the loss, if any, upon the working of such railway, shall be made good to the Railway and Harbour Fund by the Government or Governments concerned.

23. Accounts relating to the Services shall be kept as directed by the High Commissioner. Such accounts shall be subject to audit under the direction of the Director of Colonial Audit, and shall be published annually.

24. The High Commissioner shall forward to the Secretary of State all regulations made by him under this Order, and any such regulation may be disallowed by the Secretary of State, in which case such regulation shall cease to have effect from such date as the Secretary of State shall determine.

25. Nothing in this Order shall limit the rights of the legislatures of Kenya and Uganda to pass laws, not being inconsistent with the provisions of this Order, relating to the Services.

26. All contracts entered into by or with the authority of the Government of Kenya or the Government of Uganda on behalf of the Uganda Railway prior to the date of this Order shall be deemed to be contracts entered into by or on behalf of the High Commissioner.

27. The Governors of Kenya and Uganda may, by joint Proclamations in the Gazettes of Kenya and Uganda at any time within two years from the date of this Order, and provided that the approval of the Secretary of State has been previously obtained, vary, annul, or add to the provisions of this Order in order to carry out the purposes of the same.

28. His Majesty, His Heirs and Successors in Council may from time to time revoke, alter, add to or amend this Order, and nothing in this Order shall limit the right of the Legislative Council of Kenya or Uganda to petition His Majesty through the Secretary of State for the termination of this Order or any provisions of this Order.

29. This Order may be cited as the Kenya and Uganda (Transport) Order in Council, 1925, and shall come into force on such date as may be fixed by Proclamation, made jointly by the Governors of Kenya and Uganda and notified in the Official Gazettes of Kenya and Uganda.

And the Right Honourable Leopold Stennett Amery, one of His Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

M. P. A. HANKEY.

PROCLAMATION No 8.



COLONY AND PROTECTORATE OF KENYA.



PROTECTORATE OF UGANDA.

THE KENYA AND UGANDA (TRANSPORT) ORDER
IN COUNCIL, 1925.

PROCLAMATION.

By Their Excellencies

L.S.

EDWARD GRIGG.

Sir Edward William Macleay Grigg, Knight Commander of the Royal Victorian Order, Companion of the Most Distinguished Order of Saint Michael and Saint George, Companion of the Distinguished Service Order, upon whom His Majesty has conferred the decoration of the Military Cross, Lieutenant-Colonel in His Majesty's Army (retired), Governor and Commander-in-Chief of the Colony and Protectorate of Kenya :

AND

L.S.

W. F. GOWERS.

Sir William Frederick Gowers, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Governor and Commander-in-Chief of the Uganda Protectorate.

IN EXERCISE of the powers conferred upon us by the Kenya and Uganda (Transport) Order in Council, 1925, we do hereby declare that the Kenya and Uganda (Transport) Order in Council, 1925, shall come into force upon the third day of February, 1926.

GOD SAVE THE KING.

Given under our hands and the Public Seals of the Colony of Kenya and the Protectorate of Uganda this twenty-eighth day of January, 1926.

By command of His Excellency the Governor of Kenya.

E. B. DENHAM,

Colonial Secretary, Kenya.

By command of His Excellency the Governor of Uganda.

E. B. JARVIS,

Colonial Secretary, Uganda.

GOVERNMENT NOTICE No. 32

THE KENYA AND UGANDA (TRANSPORT) ORDER
IN COUNCIL, 1925.

ORDER OF THE HIGH COMMISSIONER FOR TRANSPORT.

WHEREAS by Order of His Majesty in Council bearing date the 16th day of December, 1925, and to be cited as the Kenya and Uganda (Transport) Order in Council, 1925, the Office of High Commissioner for Transport (in the said Order referred to as "the High Commissioner") for the Colony and Protectorate of Kenya and the Protectorate of Uganda is established.

And whereas in the said Order in Council it is provided that it shall come into force on such date as may be fixed by Proclamation, made jointly by the Governors of Kenya and Uganda and notified in the Official Gazettes of Kenya and Uganda.

And whereas a joint Proclamation of the Governors of Kenya and Uganda dated the 28th day of January, 1926, and published in the Gazette of 3rd day of February, 1926, has notified that the said Order in Council shall come into force upon the 3rd day of February, 1926.

And whereas the said Order in Council provides that the person holding the office of High Commissioner shall be the Officer Administering the Government of Kenya.

And whereas it is provided by Article 3 (1) (ii) of the said Order in Council that the Services mentioned in the said Order in Council shall include all such railways, ports, harbours, wharves and steamship services as are declared by an Order of the High Commissioner, with the approval of the Secretary of State, to be included in the Services.

Now therefore, I, Edward William Macleay Grigg, Knight Commander of the Royal Victorian Order, Companion of the Most Distinguished Order of Saint Michael and Saint George, Companion of the Distinguished Service Order, upon whom His Majesty has conferred the decoration of the Military Cross, Lieutenant-Colonel in His Majesty's Army (retired), Governor and Commander-in-Chief of the Colony and Protectorate of Kenya, High Commissioner for Transport for the Colony and Protectorate of Kenya and the Protectorate of Uganda, with the approval of the Secretary of State and in pursuance of the powers given to me by Article 3 (1) (ii) of the said Order in Council and all other powers thereto enabling me in this behalf, do hereby order and declare the railways, ports, harbours, wharves, steamship services and other items mentioned in the Schedule hereto to be included in the said Services.

Nairobi,

This 3rd day of February, 1926.

EDWARD GRIGG,

High Commissioner for Transport.

SCHEDULE.

1. Uganda Railway from Mombasa to Kisumu Pier including branch lines on the Island of Mombasa.
2. Voi-Kahe Branch Railway from Voi to Kahe Junction.
3. Magadi Railway from Magadi Junction to Lake Magadi.
4. Nyeri Branch Railway from Nairobi to Nyeri (under construction from Punda Milia to Nyeri).
5. Uasin Gishu Railway from Nakuru Junction to Turbo.
6. Solai Branch Railway from Rongai to Solai (under construction).
7. Kitale Branch Railway from Lesern to Kitale (under construction).
8. Railway Extension from Turbo to Mbulamuti (under construction).
9. Busoga Railway from Jinja Pier to Namasagali Pier.
10. Port Bell-Kampala Railway from Port Bell Pier to Kampala.
11. Steamship tug and lighter services on Lake Victoria and all the ports, harbours, docks, piers, wharves, navigation signs and marks which are now owned or may hereafter be owned by the Government of Kenya or the Government of Uganda and which are now used or may hereafter be used in connection with and as part of the said Services.
12. Steamship and lighter services on Lake Kioga and Kwania and on the River Nile between Namasagali and Atura, and all ports, harbours, docks, piers, wharves, navigation signs and marks which are now or may hereafter be used in connection with and as part of the said Services.
13. Steamship, boat and lighter services on Lake Albert and on the River Nile between Lake Albert and Nimule and all ports, harbours, docks, piers, wharves, navigation signs and marks which are now or may hereafter be used in connection with and as part of the said Services.
14. Motor vehicles and garages as are now or may hereafter be used in connection with and as part of the said Services.