



THE  
OFFICIAL GAZETTE  
OF THE  
COLONY AND PROTECTORATE OF KENYA.  
(SUPPLEMENT.)

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

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*His Excellency the Governor has approved of the following  
Bills being introduced into the Legislative Council.*

**G. R. SANDFORD,**  
*Clerk to the Legislative Council.*

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# COLONY AND PROTECTORATE OF KENYA.

## THE ESTATE DUTY CONSOLIDATION BILL.

### STATEMENT OF OBJECTS AND REASONS.

The object of this Consolidation Bill is to bring the law of estate duty exactly into line with the law of England and to avoid the ambiguities and inequalities which a strict reading of the present Ordinance entail.

Briefly the law as enunciated in this Bill is that estate duty will be paid only on the property of the deceased situate in this Colony unless such deceased was domiciled in this Colony when in addition estate duty will be paid on his movable property wherever situate.

Various allowances and deductions are made.

The procedure, subject to minor alterations, is the same as under the present Ordinance.

The Bill is given retrospective effect to 1st January, 1924.

## A Bill

### Intituled

#### **An Ordinance to Provide for Duties on Estates of Deceased Persons.**

1. This Ordinance may be cited as "the Estate Duty Short title..  
(Consolidation) Ordinance, 1926."

2. In this Ordinance, unless the context otherwise Definitions..  
requires—

5 (a) The expression "approved valuer" means a  
valuer approved by the Commissioners.

(b) The expression "the deceased" means a person  
dying on or after the 1st January, 1924.

10 (c) The expression "person accountable" means the  
executor or administrator of a deceased person, and  
includes, as regards any obligation under this Ordinance,  
any person who takes possession of or intermeddles with  
property passing on the death of the deceased person.

15 (d) The expression "estate duty" means the duty  
imposed under this Ordinance.

(e) The expression "property" includes immovable  
and movable property and the proceeds of sale thereof  
respectively and any money or investment for the time-  
being representing the proceeds of sale.

(f) The expression " interest in expectancy " includes an estate in remainder or reversion and every other future interest whether vested or contingent, but does not include reversions expectant upon the determination of leases.

5

(g) The expression " property passing on the death " includes property passing either immediately on the death or after an interval either certainly or contingently, and either originally or by way of substitutive limitation, and the expression " on the death " includes " at a period 10 ascertainable only by reference to the death."

(h) The expression " the Commissioners " means the Estate Duty Commissioners.

(i) The expression " prescribed " means prescribed by the Commissioners.

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#### COMMISSIONERS AND OFFICERS.

Constitution of Board of Commissioners.

3. There shall be a Board of Commissioners, in this Ordinance referred to as " the Estate Duty Commissioners," for the purpose of superintending the care, management and directions of this Ordinance having its Chief Office at Nairobi, 20 which shall consist of the Attorney General and the Treasurer, who shall be *ex-officio* members thereof, and such other person, and a Secretary to the Board, as the Governor may from time to time appoint. The name of the Commissioner so appointed by the Governor shall be published in the Gazette, and any 25 number of the Gazette containing a notice of such appointment shall be deemed sufficient evidence thereof for all purposes.

President and Vice-President of the Board.

4. The Attorney General and Treasurer shall be the President and Vice-President of the Board, and at every meeting of the Board the President, or in his absence, the Vice- 30 President shall be chairman.

Meetings.

5. The Board shall hold its meetings once a month (if necessity requires), and oftener if need be at such places as the President may appoint, and may adjourn from time to time. The President may at any time and shall, on a requisition 35 signed by two members of the Board, summon a meeting thereof.

Quorum.

6. Two members of the Board shall constitute a quorum.

Assistant Commissioners.

7. The Commissioners shall, subject to the approval of the Governor in Council, by writing under their hands, or the 40 hands of the major part of them, appoint a proper person to act as Assistant Commissioner to assess the duties hereby imposed, to see that the same are duly paid into the Treasury and to furnish monthly returns of all such assessments to the head office of the Commissioners, and subject to the like approval 45 the Commissioners shall appoint and assign to the Assistant Commissioner appointed under this Ordinance, if occasion shall require, such clerical staff as to the Commissioners may appear necessary for the purposes of this Ordinance.

Salaries.

8. The Commissioners and the Assistant Commissioner, 50 the Secretary to the Board and the clerical staff shall be remunerated out of the general revenues of the Colony in such manner and at such rates as the Governor in Council may from time to time prescribe with the approval of the Secretary of State.

9. The Treasurer shall submit to the Commissioners a monthly return of all duties received by him. Treasurer to submit monthly returns.

10. All money from time to time collected or received on account of duties imposed by this Ordinance shall form part of the general revenue of the Colony. All duties collected to form part of the general revenue.

#### ESTATE DUTY.

11. In the case of every person dying on or after the 1st January, 1924, there shall, save as hereafter expressly provided, be levied and paid upon the principal value, ascertained as hereafter provided, of all property, which passes on the death of such person a duty called "estate duty" at the graduated rates set forth in the schedule hereto. Estate duty on property passing on death of person dying after the commencement of this Ordinance.  
 Provided that where the value of an estate or share of an estate passing to the widow and/or minor children of the deceased, including property situate out of the Colony, does not exceed £2,500, duty shall be payable on such estate or share at half the rates set forth in the said schedule.

12. (1) Estate duty shall, subject to the deductions hereinafter mentioned, be payable in respect of :— Property on which estate duty is payable.

(a) Any property of which the deceased was at the time of his death competent to dispose.

(b) Any property taken as a *donatio mortis causa* made by the deceased or taken under a disposition made by the deceased purporting to operate as an immediate gift *inter vivos*, whether by way of transfer, delivery, declaration of trust or otherwise, which has not been *bona fide* made three years before the death of the deceased, or taken under any gift whenever made, if *bona fide* possession and enjoyment of such property have not been assumed by the donee immediately upon the gift and thenceforward retained to the entire exclusion of the donor, or of any benefit to him by contract or otherwise.

(c) Any property which the deceased, having been absolutely entitled thereto, has caused or may cause to be transferred to or vested in himself and any other person jointly, whether by disposition or otherwise, or any purchase or investment made by the deceased alone, or in concert, or by arrangement with any other person, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to such other person.

(d) Any property passing under any past or future disposition made by the deceased verbally, or by any instrument not taking effect as a will, whereby an interest in such property or the proceeds of sale thereof for life or any other period determinable by reference to death is reserved (or by contract or otherwise secured), either expressly or by implication to the deceased, or whereby the deceased may have reserved to himself the right, by the exercise of any power, to restore to himself or to reclaim the absolute interest in such property or the proceeds of sale thereof (notwithstanding in cases where the disposition is contained in any instrument, such instrument may have been made for valuable consideration as between the deceased and any other person).

(e) Money received under a policy of insurance effected by the deceased on his life where the policy is wholly kept up by him for the benefit of a donee, whether nominee or assignee, or a part of such money in proportion to the premiums paid by him, where the policy is partially kept up by the deceased for such benefit. 5

(f) Property in which the deceased or any other person had an interest ceasing on the death of the deceased, to the extent to which a benefit accrues or arises by the cesser of such interest; but exclusive of property the interest in which of the deceased or other person was only an interest as holder of an office, or recipient of the benefits of a charity, or as a corporation sole. 10

(g) Any annuity or other interest purchased or provided by the deceased, either by himself alone or in concert or by arrangement with any other person, to the extent of the beneficial interest accruing or arising by survivorship or otherwise on the death of the deceased. 15

Provided always that the provision marked (c) or (d) in this subsection shall not apply to any property disposed of *bona fide* by the deceased for full valuable consideration, but the consideration obtained therefor shall be subject to the same liability in respect of duty as the property so disposed of was subject, and if such consideration consists wholly or in part of any benefit or of any periodic payment which terminates on the death of the deceased, estate duty shall be payable on the value of such benefit or periodic payment, as if calculated at the time it was created or provided. 20 25

Definition of property.

(2) The term "property" as used in this section shall include immovable and movable property, rights and effects of any kind situate or having their situs in this Colony, and the proceeds of sale thereof, and any investment for the time being representing the same, and, in case the deceased was at the time of his death domiciled in this Colony shall also include movable property and effects wherever situate. 30 35

Estate duty on ships owned by deceased.

(3) Estate duty shall be charged and paid in respect of the value of any vessel or any share of a vessel belonging to the deceased which is registered in this Colony, notwithstanding such vessel at the time of the death of the deceased may have been at sea or elsewhere out of the Colony; and for the purpose of charging the said duty such vessel shall be deemed to have been at the time aforesaid in this Colony. 40

Trust property.

(4) Estate duty shall not be payable :—

(a) In respect of property held by the deceased as trustee for another person under a disposition not made by the deceased, or under a disposition made by the deceased more than three years before his death where possession and enjoyment of the property was *bona fide* assumed by the beneficiary immediately upon the creation of the trust and thenceforward retained to the entire exclusion of the deceased or of any benefit to him by contract or otherwise. 45 50

(b) In respect of any gift *inter vivos*, surrender, assurance, divesting or disposition made or effected by the deceased for public or charitable purposes more than twelve months before the death of the deceased if *bona fide* possession and enjoyment of the property have been 55

assumed by the donee immediately upon the gift, surrender, assurance, divesting or disposition and thenceforward retained to the entire exclusion of the donor or of any benefit to him by contract or otherwise.

- 5 (c) In respect of gifts *inter vivos* which are made by the deceased in consideration of marriage or which are proved to the satisfaction of the Commissioners to have been part of the normal expenditure of the deceased and to have been reasonable, having regard to the amount of  
10 his income or to the circumstances, or which in the case of any donee, did not exceed in the aggregate one hundred pounds in value or amount.

- (5) Where the Commissioners are satisfied, that in the United Kingdom or in a British possession duty is payable by  
15 reason of a death in respect of any property situate in the United Kingdom or in such possession and passing on such death, they shall allow a sum equal to the amount of that duty to be deducted from the estate duty payable in respect of that property on the same death.

Property in the United Kingdom or a British possession.

- 20 (6) Where any property subject to estate duty under this Ordinance is situate in a foreign country, and the Commissioners are satisfied that by reason of the death any duty is payable in that foreign country in respect of that property, they shall make an allowance of the amount of that duty from  
25 the value of the property.

Property in a foreign country.

13. For determining the rate of estate duty to be paid on any property passing on the death of the deceased, all property so passing in respect of which estate duty is leviable shall be aggregated so as to form one estate, and the duty  
30 shall be levied at the proper graduated rate on the principal value thereof :—

Aggregation of property to form one estate for purposes of estate duty.

- Provided that any property so passing, in which the deceased never had an interest shall not be aggregated with any other property, but shall be an estate by itself, and the estate  
35 duty shall be levied at the proper graduated rate on the principal value thereof.

#### COLLECTION AND RECOVERY OF DUTY AND VALUE OF PROPERTY.

14. Estate duty shall be collected and recovered as hereinafter mentioned.

Collection and recovery of estate duty.

- (1) The person accountable shall in the first instance pay the duty, calculated at the appropriate rate, according to the value of the estate as set forth in the estate duty affidavit and valuation required to be furnished under Section 20, forthwith  
45 on delivering a copy of such affidavit and account to the Assistant Commissioner, but if afterwards it appears that for any reason too little duty has been paid a corrective affidavit and account shall be furnished to the Assistant Commissioner and the additional duty shall be payable and be treated as duty  
50 in arrear.

(2) Payment of duty shall be made to the Local Treasury for the district in which the persons making payment reside and the receipt for the duty shall be produced to the Assistant Commissioner for inspection.

- 55 (3) Every estate shall include all income accrued upon the property included therein down to and outstanding at the date of the death of the deceased.

Interest.

(4) Interest at the rate of 6 per cent. per annum on the estate duty shall be paid from six months after the date of the death to the date of delivery of the estate duty affidavit and account and interest at the rate of 8 per cent. shall be payable from 30 days from the date of assessment to the date of payment and shall form part of the estate duty. 5

Payment of duty on immovable property by instalments.

(5) Provided that the duty due upon the account and valuation, required to be delivered under Section 20, of the immovable property may, at the option of the person accountable delivering the account and valuation be paid by eight equal yearly instalments, or sixteen half-yearly instalments, with interest at the rate of 6 per cent. per annum from the date at which the first instalment is due, and the first instalment shall be due at the expiration of six months from the death, and the interest on the unpaid portion of the duty shall be added to each instalment and paid accordingly, but the duty for the time being unpaid with such interest to the date of payment, may be paid at any time, and in case the immovable property is sold shall be paid on completion of the sale, and if not so paid shall be duty in arrear. 20

Value of property.

15. (1) In determining the value of an estate for the purposes of estate duty, allowance shall be made for reasonable funeral expenses, and for debts and incumbrances; but no allowance shall be made :—

(a) For debts incurred by the deceased, or incumbrances created by a disposition made by the deceased, unless such debts or incumbrances were incurred or created *bona fide* for full consideration in money or money's worth wholly for the deceased's own use and benefit, and take effect out of his interest; nor 25 30

(b) For any debt in respect whereof there is a right to reimbursement from any other estate or person, unless such reimbursement cannot be obtained; nor

(c) More than once for the same debt or incumbrance charged upon different portions of the estate; 35

and any debt or incumbrance for which an allowance is made shall be deducted from the value of the land or other subjects of property liable thereto.

(2) An allowance shall not be made in the first instance for debts due from the deceased to persons resident out of the Colony (unless contracted to be paid in the Colony, or charged on property situate within the Colony), except out of the value of any movable property of the deceased situate out of the Colony in respect of which estate duty is paid; and there shall be no repayment of estate duty in respect of any such debts, except to the extent to which it is shown to the satisfaction of the Assistant Commissioner that the movable property of the deceased situate in the foreign country or the United Kingdom or British possession in which the person to whom such debts are due resides, is insufficient for their payment. 40 45 50

Interest in expectancy.

16. (1) Where an estate includes an interest in expectancy, estate duty in respect of that interest shall be paid, at the option of the person accountable for the duty, either with the duty in respect of the rest of the estate or when the interest falls into possession, and if the duty is not paid with the estate duty in respect of the rest of the estate, then :— 55

(a) For the purpose of determining the rate of estate duty in respect of the rest of the estate the value of the interest shall be its value at the date of the death of the deceased; and

5       (b) The rate of estate duty in respect of the interest when it falls into possession shall be calculated according to its value when it falls into possession, together with the value of the rest of the estate as previously ascertained.

(2) The value of the benefit accruing or arising from the  
10 cesser of an interest ceasing on the death of the deceased shall :—

(a) If the interest extended to the whole income of the property be the principal value of that property, and

15       (b) If the interest extended to less than the whole income of the property be the principal value of an addition to the property equal to the income to which the interest extended.

17. The amount of estate duty payable on an estate at the rate applicable thereto under the scale of rates of duty shall, where necessary, be reduced so as not to exceed the highest amount of duty which would be payable at the next lower rate, with the addition of the amount by which the value of the estate exceeds the value on which the highest amount of duty would be so payable at the lower rate.

Reduction of full amount of duty where the margin above the limit of value is small.

25       18. Where the Commissioners are satisfied that estate duty has become payable on any property consisting of land or a business (not being a business carried on by a company), or any interest in land or such a business, passing upon the death of any person, and that subsequently within five years estate  
30 duty has again become payable on the same property or any part thereof passing on the death of the person to whom the property passed on the first death, the amount of estate duty payable on the second death (if that death occurs after the passing of this Ordinance), in respect of the property so passing  
35 shall be reduced as follows :—

Relief in respect of quick succession where property consists of land or a business.

Where the second death occurs within one year of the first death, by fifty per cent.; where the second death occurs within two years of the first death, by forty per cent.; where the second death occurs within three years of the first death, by thirty per cent.; where the second death occurs within four years of the first death, by twenty per cent.; where the second death occurs within five years of the first death, by ten per cent. : Provided that where the value, on which duty is payable, of the property on the second death exceeds the value, on which  
45 duty was payable, of the property on the first death, the latter value shall be substituted for the former for the purpose of calculating the amount of duty on which the reduction under this section is to be calculated.

50       19. Where an interest in expectancy in any property has, before the commencement of this Ordinance, been *bona fide* sold or mortgaged for full consideration in money or money's worth, then no other duty on such property shall be payable by the purchaser or mortgagee when the interest falls into possession, than would have been payable if this Ordinance had not  
55 passed, and in the case of a mortgage, any higher duty payable by the mortgagor shall rank as a charge subsequent to that of the mortgagee.

Interest in expectancy.



Account of property and valuation to be furnished to the Assistant Commissioner.

**20.** (1) Every person accountable for the payment of estate duty in respect of property passing on the death of the deceased shall furnish to the Assistant Commissioner an account of such property, showing the value thereof.

(2) The said account and valuation shall be delivered to the Assistant Commissioner within six months after the date of the death of the deceased, or within such further time as the Commissioners may allow, and the said valuation shall be verified by oath or affirmation.

(3) The Assistant Commissioner may require that any valuation to be furnished under the provisions of this section shall be made and signed by an approved valuer.

Power of Assistant Commissioner to inspect and take copies of record of any case in which application for probate or letters of administration has been made, and if Assistant Commissioner is of opinion value of property underestimated he may take steps to ascertain the real value.

**21.** The Assistant Commissioner may at any time inspect and take or cause to be taken copies of the record of any case in which application for probate or letters of administration, or sealing under the British and Colonial Probate Ordinance, 1914, has been made, and if on such inspection or otherwise he is of opinion that the value of the property shown by the account and valuation furnished in accordance with Section 20 has been underestimated or that any property passing on the death of the deceased has been omitted from such account and valuation, the Assistant Commissioner may, if he thinks fit, summon the person accountable for the duty, or the valuer, if any, to appear before him, either in person or by agent, and give any information or explanation respecting property passing on the death of the deceased or the value thereof, and the person so summoned shall be legally bound to appear and if any person refuses or wilfully neglects to make such appearance or give such information or explanation as aforesaid or knowingly misleads or deceives the Assistant Commissioner in giving such information or explanation, he shall be liable on conviction to the punishment provided respectively by Sections 174, 176, and 177 of the Indian Penal Code, as applied to the Colony, or any statutory enactment in substitution therefor. The Assistant Commissioner may take evidence on oath and inquire into the matter in such manner as he may think fit, and if he is still of opinion that the value of the property shown by the account and valuation has been underestimated, or that property passing on the death has been omitted from the aforesaid account and valuation, he may by notice in writing require the person accountable for the duty to cause the valuation to be amended or to disclose the nature and value of the property so omitted by furnishing to the Assistant Commissioner a corrective account and valuation which shall be verified by oath or affirmation. The Assistant Commissioner may also require that any valuation to be furnished under the provisions of this section shall be made and signed by an approved valuer.

(2) If, within thirty days or such further time as may be allowed by the Assistant Commissioner, a corrective account and valuation is not so furnished to the satisfaction of the Assistant Commissioner, the Assistant Commissioner shall report the case and all the evidence taken thereon to the Commissioners.

(3) The Commissioners, on receipt of such report, shall hold an inquiry into the matter and shall record a finding as to the true value, as near as may be, at which the property of the deceased should have been estimated. The Assistant Commissioner shall be deemed to be a party to the inquiry.

(4) The finding of the Commissioners shall be notified to the person accountable for the duty, and if within thirty days, or such further time as may be allowed by the Commissioners, he shall fail to pay, or make arrangements to pay, the duty payable on the value of the property so found, the Commissioners may move the Supreme Court for an order directing payment.

(5) At the hearing of the motion the evidence taken before the Assistant Commissioner shall be read as evidence in the case and the court may allow such further evidence as may be produced to prove the true value of the property and thereafter may make such order as to payment, including costs as between the Commissioners and the person accountable for the duty, as it may deem fit, and such order shall be final and binding on all parties.

22. (1) Where the property of the deceased has been estimated to be of greater value than the same has afterwards proved to be, and the person accountable for the duty has consequently paid too high a duty thereon, if, within six months after the true value of the property has been ascertained, such person produces the probate or letters of administration to the Assistant Commissioner and delivers to the Assistant Commissioner a particular account and valuation of the property of the deceased verified by affidavit or affirmation the Assistant Commissioner shall report his opinion to the Commissioners.

Relief where too high a duty has been paid.

(2) If the Commissioners are satisfied that too much duty has been paid they shall direct the Treasurer to make a refund out of the general revenues of the Colony.

(3) If the Commissioners shall refuse to make a refund the person accountable for the duty may, within thirty days of receiving a notification to that effect, move the Supreme Court for a rule to direct the Commissioners to make such refund.

(4) Any order made by the Supreme Court for a refund, or for payment of costs by the Commissioners shall be in the nature of a direction to the Treasurer to pay to the person named in the order the sum found due. Such order shall be signed by the judge, and on receipt of the same by the Treasurer he shall comply therewith.

23. Where the Commissioners are satisfied that the estate duty leviable in respect of any particular property cannot without excessive sacrifice be raised at once, they may allow payment to be postponed for such period, to such extent, and on payment of such interest not exceeding seven per cent., or any higher interest yielded by the property, and on such terms, as the Commissioners think fit.

Postponement of payment.

24. All duty in arrear shall be a first charge on the property in respect of which the duty is leviable : Provided that the property shall not be chargeable as against a *bona fide* purchaser thereof for valuable consideration without notice.

Charge of estate duty in arrear on property.

25. (1) The Commissioners on being satisfied that the full estate duty has been or will be paid in respect of an estate or any part thereof shall, if required by the person accountable for the duty, give a certificate to that effect which shall discharge from any further claim for estate duty the property shown by the certificate to form the estate or part thereof, as the case may be.

Release of person paying estate duty.

(2) A certificate of the Commissioners under this section shall not discharge any person or property from estate duty in case of fraud or failure to disclose material facts, and shall not affect the rate of duty payable in respect of any property afterwards shown to have passed on the death, and the duty 5 in respect of such property shall be at such rate as would be payable if the value thereof were added to the value of the property in respect of which duty has been already accounted for.

(3) Provided nevertheless that a certificate purporting to 10 be a discharge of the whole estate duty payable in respect of any property included in the certificate shall exonerate a *bona fide* purchaser for valuable consideration without notice from the duty notwithstanding any such fraud or failure.

No probate or letters of administration to be granted except on production of certificate from Assistant Commissioner.

**26.** No probate or letters of administration or resealing 15 of probate or letters of administration shall be granted by any court, unless a certificate is produced to the court from the Assistant Commissioner or the Commissioners to the effect that the requirements of this Ordinance in regard to the payment of duty have been complied with. 20

Mode of determining situation of property in United Kingdom.

**27.** The local situation in the United Kingdom of any property shall be determined in accordance with the law of England with regard to the local situation of property within the meaning of Section 20 of the Finance Act, 1894 (Imperial).

#### LEGAL PROCEEDINGS.

Proceedings for duty, fines, etc., not to be commenced without order of the Commissioners.

**28.** It shall not be lawful to commence proceedings 25 against any person for the recovery of any estate duty, fines or penalties levied, imposed or payable under this Ordinance or any rules thereunder, except by order of the Commissioners.

Proceedings to be in the name of the Estate Duty Commissioners.

**29.** All actions, suits and proceedings for the recovery 30 of any estate duty, fines or penalties or in respect of any matters relating to this Ordinance shall be commenced, prosecuted and carried on in the name of the Commissioners and shall be verified by one of the Commissioners or by the Secretary of the Board, and the seal of the Board. 35

The Commissioners may be plaintiffs or defendants, as the case may require, and may be represented in such actions, suits and proceedings by an advocate, or administrative officer as circumstances require.

Commissioners' power to sue for estate duty, etc.

**30.** Nothing in this Ordinance shall prevent the Com- 40 missioners from suing for, at any time, any estate duty, fees or penalties due and payable in respect of any property, or for any estate duty, fees or penalties due and payable in respect of any intentionally undisclosed property.

Power to make rules.

**31.** The Governor in Council may from time to time 45 make rules for the purposes of this Ordinance :—

(1) For prescribing the forms and methods in which accounts shall be kept and remitted to the Treasury.

(2) For the procedure to be observed in carrying out 50 the provisions of this Ordinance.

(3) For prescribing the fees and charges which shall be levied in respect of any act, matter or thing required to be done before the Commissioners and the Assistant Commissioner.

(4) For prescribing the forms generally to be used for 55 the purposes of this Ordinance.

All rules made under this section shall be submitted to the Legislative Council at the sessions next following the date of the promulgation of such rules.

**32.** A person who fails to comply with the provisions of this Ordinance shall be liable to pay a penalty not exceeding ten thousand shillings, which may be recovered as a civil debt recoverable summarily. Penalties.

5 **33.** This Ordinance shall apply to all persons other than natives living in a communal state in a tribe. Application of Ordinance.

**34.** On the coming into operation of this Ordinance the following Ordinances shall be repealed :— Repeal.

10 (1) The Estate Duty Ordinance, 1918 (No. 17 of 1918).

(2) The Estate Duty (Amendment) Ordinance, 1921 (No. 18 of 1921).

(3) The Estate Duty (Amendment) Ordinance, 1923 (No. 24 of 1923).

15 (4) The Estate Duty (Amendment) Ordinance, 1924 (No. 21 of 1924).

**35.** The estate of any person dying on or after the 1st January, 1924, shall be dealt with as though this Ordinance had come into operation on that date. Retrospective effect.

### SCHEDULE.

#### SCALE OF RATES OF ESTATE DUTY.

Where the Principal Value of Estate Exceeds		And Does Not Exceed		Estate Duty shall be Payable at the Rate of	
£		£			
100	...	500	...	1	per cent.
500	...	1,000	...	2	"
1,000	...	5,000	...	3	"
5,000	...	10,000	...	4	"
10,000	...	15,000	...	5	"
15,000	...	20,000	...	6	"
20,000	...	25,000	...	7	"
25,000	...	30,000	...	8	"
30,000	...	40,000	...	9	"
40,000	...	50,000	...	10	"
50,000	...	60,000	...	11	"
60,000	...	70,000	...	12	"
70,000	...	90,000	...	13	"
90,000	...	110,000	...	14	"
110,000	...	130,000	...	15	"
130,000	...	150,000	...	16	"
150,000	...	175,000	...	17	"
175,000	...	200,000	...	18	"
200,000	...	225,000	...	19	"
225,000	...	250,000	...	20	"
250,000	...	300,000	...	21	"
300,000	...	350,000	...	22	"
350,000	...	400,000	...	23	"
400,000	...	450,000	...	24	"
450,000	...	500,000	...	25	"
500,000	...	600,000	...	26	"
600,000	...	800,000	...	27	"
800,000	...	1,000,000	...	28	"
1,000,000	...	1,250,000	...	30	"
1,250,000	...	1,500,000	...	32	"
1,500,000	...	2,000,000	...	35	"
2,000,000	...	—	...	40	"

# A Bill

## Intituled

### An Ordinance to Make Provision for the Protection of Game Birds.

Short title.

1. This Ordinance may be cited as "the Game Bird Protection Ordinance, 1926."

Interpretation.

2. In this Ordinance, and unless any other interpretation be therein assigned to them in all rules, proclamations and notices made or issued thereunder, the following terms shall be respectively interpreted as follows :—

"Administrative officer" means senior commissioner, resident or district commissioner and assistant resident or district commissioner.

"Authorised officer" means any administrative officer and any magistrate, game warden, assistant game warden, honorary game warden and police officer.

"Game bird" means any bird mentioned in the schedule and the eggs of any such bird.

"Game warden" means the officer for the time being in charge of the Game Department.

"Police officer" means any European police officer.

"Trophy" means any game bird or portion of any game bird or the egg thereof.

Prohibition of unauthorised hunting and possession.

3. Save as permitted by this Ordinance no person shall hunt, kill, capture or possess any game bird mentioned in the schedule to this Ordinance or possess any trophy.

Variation of schedules by the Governor.

4. The Governor may by proclamation declare that the name of any species or variety of any bird shall be added to the schedule, or remove the name of any species or variety of any bird from the schedule or may alter the number of birds of any species or variety mentioned in the schedule which may be hunted, killed or captured under a licence issued as provided under this Ordinance and may apply such proclamation to the whole of the Colony or any province, district or other area thereof.

Power of Governor to proclaim close seasons.

5. The Governor may by proclamation referring to the whole or to any specified part of the Colony, declare that during any specified period, which shall be known as a close season, it shall be an offence to hunt, kill or capture game birds or any specified game bird without the written authority of the game warden.

Prohibition of sale or purchase of game birds or trophies.

6. Notwithstanding anything to the contrary contained in this Ordinance, no person shall, without permission in writing of the Game Warden sell or purchase or offer or expose for sale any game bird, alive or dead, or any trophy thereof.

7. Whenever any person is charged with hunting, killing, capturing or possessing any game bird alive or dead or possessing any trophy in contravention of this Ordinance, it shall be sufficient if the summons or charge shall allege that the bird or trophy was obtained in contravention of law and the onus shall then be on the person accused to produce satisfactory proof that the trophy was lawfully obtained under a licence granted under this Ordinance.

Onus of proof to be on person charged with unlawful possession of a live game bird or trophy.

8. Any person who, without the written permission of the Game Warden, hunts, kills, or captures game birds by means of traps, nets, snares, bird-lime or poison, or who has in his possession for the purpose of killing or capturing game birds any of such appliances shall be guilty of an offence.

Prohibited methods of hunting game birds.

9. No person shall, without the written consent of the Game Warden, take or destroy the eggs of any game bird.

Prohibition against taking or destroying the eggs of game birds.

10. When it appears to the Governor that any method otherwise lawful employed in hunting, killing or capturing game birds is likely to prove unduly destructive he may by proclamation prohibit such method or prescribe the conditions in which such method may be employed.

Power of Governor to prohibit unduly destructive methods of killing.

11. (1) A licence to hunt, kill or capture game birds may be issued at discretion by any administrative officer or by any other person authorised in that behalf by the Governor.

Discretionary power of administrative officer or other authorised person to issue game bird licence.

The fee payable therefor shall be Sh. 10.

Fee payable.

25 The Governor in Council may by rule alter this fee.

(2) Every licence issued under this section shall expire on the 31st day of December of the year in which it was issued.

Duration of licence.

12. (1) A game bird licence entitles the holder to hunt, kill or capture game birds to the number mentioned in the schedule, subject to any restrictions imposed by proclamation made under sections four or five of this Ordinance.

Rights of licensee.

(2) Any person who having killed or captured any species of game bird to the number allowed by the schedule proceeds to hunt, kill or capture birds of that species shall be guilty of an offence against this Ordinance.

13. The holder of any visitor's or resident's game licence granted under the Game Ordinance, 1921, shall be deemed to be the holder of a game bird licence during the currency of and subject to the restrictions imposed by his visitor's or resident's game licence.

The holder of a visitor's or resident's game licence to be deemed the holder of a game bird licence.

14. The holder of a game bird licence shall, on demand being made by any authorised officer, produce his licence for inspection, and if such licence holder refuses or fails without reasonable cause to produce his licence when required he shall be guilty of an offence.

Licence to be produced.

Power of arrest.

**15.** When any person is seen or found committing an offence or is reasonably suspected of having committed an offence against this Ordinance, any authorised officer may demand his name and address, and if he refuses to give such information or fails to give such information to the satisfaction 5 of the authorised officer, or if the latter has reasonable grounds for believing that unless arrested the offender may escape or cause an unreasonable amount of delay, trouble or expense he may arrest him forthwith.

Power of search.

**16.** Whenever any authorised officer suspects that any 10 person has committed an offence against this Ordinance he may inspect and search or authorise any person subordinate to him to inspect and search any baggage, package, vehicle, tent or premises belonging to or under the control of such person or any one in his employment and if there is found as a 15 consequence of such search any game bird alive or dead or any trophy appearing to have been obtained or to be possessed in contravention of this Ordinance the same may be seized and taken before the court.

Attempts and abetments to be offences.

**17.** (1) Where any act is declared to be an offence any 20 person who attempts to do such act or abets the doing of such act shall be deemed to be guilty of the principal offence.

(2) Where the possession of any thing is declared to be an offence, any person who attempts to acquire possession or abets the acquisition of possession of that thing shall be guilty 25 of the principal offence.

Disposal of illegally obtained game birds or trophies.

**18.** Any game bird alive or dead or trophy that has been obtained in contravention of this Ordinance shall, unless the Governor otherwise direct, be forfeited to the Government, and shall be disposed of as the Governor shall order. 30

Penalties.

**19.** Any person who commits any act forbidden by this Ordinance shall be guilty of an offence and shall on conviction be liable to a fine not exceeding five hundred shillings, or to imprisonment of either description not exceeding two months or to both such fine and imprisonment. 35

Killing of birds mentioned in the Game Ordinance, 1921, forbidden.

**20.** Nothing in this Ordinance shall be deemed to permit the hunting, killing or capturing of any bird in a game reserve, or any bird the hunting, killing or capturing of which is prohibited by the Game Ordinance, 1921, or any amendment thereto. 40

Repeal.

**21.** The following Regulations and Ordinances are hereby repealed to the extent mentioned :—

The Bird Protection Regulation, 1901	...	The whole.	
The East Africa Wild Birds Protection Ordinance, 1903	...	The whole.	45
The Wild Birds Protection (Amendment) Ordinance, 1914	...	The whole.	
The General Revision Ordinance, 1924	...	Section 6.	

Provided that all rules in force at the date of the passing of this Ordinance made under any Ordinance repealed by this 50 Ordinance shall, as far as applicable, be deemed to be rules made under this Ordinance.

Rules.

**22.** The Governor in Council may make rules for the better carrying out of the provisions of this Ordinance.