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GOVERNMENT NOTICE No. 1464

The Governor in Council has approved of the introduction of the following Bill into Legislative Council.

A. W. PURVIS,
Clerk of the Legislative Council.

SECTION

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Vesting of scheduled lands in the Crown.
- 4—Lease of scheduled lands to the Company.
- 5—Compensation to persons interested in the scheduled lands.
- 6—Authority to Company to operate oil refinery and exemption from liability for nuisance.
- 7—No actions maintainable against the Crown, etc.

SECTION

- 8—Power to declare other lands to be scheduled lands.
 - 9—Compulsory acquisition of easements and rights.
 - 10—Savings of the rights of the Crown, bodies corporate and other persons.
- FIRST SCHEDULE—The Scheduled lands.
SECOND SCHEDULE—Section of the Indian Land Acquisition Act, 1894, applied by and incorporated in this Ordinance and modifications subject to which such sections are so applied and incorporated.

**A BILL ENTITLED
AN ORDINANCE TO EFFECT THE VESTING IN THE
CROWN OF CERTAIN LANDS IN THE COAST
PROVINCE, SUBJECT TO PAYMENT OF COMPEN-
SATION THEREFOR, AND FOR AUTHORIZING
THE GOVERNOR TO GRANT A LEASE THEREOF
FOR THE PURPOSE OF THE CONSTRUCTION OF
AN OIL REFINERY AND ANCILLARY WORKS;
AND FOR PURPOSES CONNECTED THEREWITH
AND INCIDENTAL THERETO**

WHEREAS The Anglo-Saxon Petroleum Company, Limited, a limited liability company incorporated in the United Kingdom and having its registered office at St. Helen's Court, London, has under consideration a project for the construction and operation, at considerable expense, of an oil refinery and ancillary works in the Coast Province and, for that purpose, of securing a lease or leases of, *inter alia* the lands hereinafter described:

AND WHEREAS it is in the public interest that the said Company, or an associate, should be enabled to construct and operate an oil refinery and ancillary works in the Colony:

AND WHEREAS accordingly it is expedient that the said lands should be vested in the Crown, subject to payment of compensation therefor, and that the Governor should be empowered to grant a lease or leases thereof to the said Company or its associate, with power to construct and operate an oil refinery and ancillary works as aforesaid:

AND WHEREAS it is desirable to make provision for giving effect to the foregoing purposes under the authority of the Legislative Council:

BE IT THEREFORE ENACTED by the Governor of the Colony and Protectorate of Kenya, by and with the advice of the Legislative Council thereof, as follows:—

1. This Ordinance may be cited as the Land Acquisition (Mombasa Oil Refinery) Ordinance, 1953, and shall come into operation on such day as the Governor may by notice in the Gazette appoint.

Short title and commencement.

2. In this Ordinance unless the context otherwise requires—

Interpretation.

“ancillary purposes” includes, subject to the provisions of the East African Railways and Harbours Act and of the East African Posts and Telecommunications Act, the construction

East Africa High Commission Acts, Cap. 3 and Cap. 4.

or provision of docks, slips, quays, wharves, piers, warehouses, buildings, yards and structures deemed by the Company to be necessary or useful for the purpose of accommodating, storing, loading, discharging, handling, importing or exporting goods, materials and commodities of any kind, and the construction or provision of railways, tramways, bridges, ferries, canals, roads, ways, pipelines, telegraphs, telephones and other means of transport or communication, and the construction or provision of housing and facilities for the recreation or welfare of employees of the Company; 10

"appointed day" means the day appointed by the Governor under section 1 of this Ordinance;

"appropriate Registrar" means the Registrar of Titles, the Registrar of Crown Lands, or the Registrar of Coast Land Titles, appointed for the purposes of the Registration of Titles Ordinance, the Crown Lands Ordinance, or the Land Titles Ordinance, as the case may require; 15

Cap. 160.
Cap. 155.
Cap. 159.

"appropriate Register" means the Register maintained under the provisions of the Registration of Titles Ordinance, the Crown Lands Ordinance or the Land Titles Ordinance, as the case may require; 20

Cap. 160.
Cap. 155.
Cap. 159.

"Her Majesty" includes Her Heirs and Successors;

"lease" means any tenancy however created;

"meeting" in relation to the Legislative Council, has the meaning for the time being assigned to it by the Standing Orders of the Legislative Council; 25

"scheduled lands" means the lands described in the First Schedule to this Ordinance;

"the Company" means, as the case may from time to time require, The Anglo-Saxon Petroleum Company, Limited, as aforesaid, or such other Company, incorporated in the Colony, as the Governor may deem to be an associate of The Anglo-Saxon Petroleum Company, Limited, aforesaid. 30

Vesting of the
scheduled lands
in the Crown.

3. (1) Immediately upon the appointed day the scheduled lands shall, by virtue of this Ordinance, vest in Her Majesty absolutely, freed and discharged from all estates, rights, titles, interests, encumbrances, claims and demands whatsoever, and such land shall be deemed to be Crown land within the meaning of the Crown Lands Ordinance, and Her Majesty shall be deemed in law to be in actual possession thereof to all intents and purposes whatsoever. 40

Cap. 155.

(2) As soon as may be after the appointed day, the appropriate Registrar shall cause to be entered in the appropriate Register, in respect of each piece or parcel of land forming part of the scheduled lands, a memorandum of the vesting thereof in Her Majesty by virtue of this Ordinance. 45

Lease of
scheduled lands
to the Company.

4. (1) At any time after the appointed day, the Governor may, on behalf of Her Majesty, grant a lease or leases of all or any part of the scheduled lands to the Company with authority to do all or any of the following acts and things thereon— 50

(a) to construct and operate an oil refinery and any ancillary works;

(b) to extend or alter the refinery or any ancillary works;

(c) to carry out ancillary purposes. 55

(2) Every such lease shall be granted at such premium and rent and shall be for such period and subject to such terms and conditions as the Governor may deem expedient. The lease may be made assignable to any company, incorporated

in the Colony, which the Governor may deem to be an associate of The Anglo-Saxon Petroleum Company, Limited.

(3) Nothing herein contained shall—

5 (a) be deemed to exempt any lease granted under the provisions of this Ordinance from chargeability to stamp duty under the provisions of the Stamp Ordinance or the Company from liability to payment of any such stamp duty; Cap. 259.

10 (b) affect the provisions of section 328 of the Companies Ordinance. Cap. 288.

(4) Every such lease shall be deemed for the purposes of the Crown Lands Ordinance to be a lease granted under the provisions of that Ordinance. Cap. 155.

15 5. (1) Subject to the provisions of this Ordinance, every person interested in the scheduled lands, or any part thereof, shall be entitled to compensation in respect of the vesting thereof in Her Majesty by virtue of the provisions of section 3 of this Ordinance. Compensation to persons interested in the scheduled lands.

20 (2) All such compensation shall be payable out of the public funds of the Colony.

(3) The provisions of those sections of the Indian Land Acquisition Act, 1894, as applied to the Colony, which are specified in the First Column of the Second Schedule to this Ordinance shall apply for the purposes of compensating persons interested in the scheduled lands as aforesaid and for regulating all matters connected with the compensation payable under this Ordinance to the persons interested as aforesaid and for those purposes the aforesaid sections of the said Act shall be deemed to be incorporated in and form part of this Ordinance in the same manner as if they were enacted in the body thereof, subject, however, to the following provisions—

35 (a) in their application and incorporation as aforesaid, sections 3, 8, 9, 14, 19, 23, 24, 25, 26, 28, 31, 34 and 54 of the said Act shall, subject to the provisions of sub-section (3) of section 8 of this Ordinance, be deemed respectively to be modified in the manner specified in respect of each such section in the Second Column of the Second Schedule to this Ordinance;

40 (b) every reference in any of the aforesaid sections of the said Act applied and incorporated herein as aforesaid to the provisions of any Act or law in force in India shall be deemed to be a reference to such comparable Ordinance or other law as may, for the time being, be in force in the Colony.

45 (4) The Governor shall appoint a person, by name or office, to be the Collector for the purposes of those provisions of the Indian Land Acquisition Act, 1894, which are applied and incorporated herein as aforesaid.

50 6. Subject to the grant of a lease to the Company under the provisions of this Ordinance and to the terms and conditions of any such lease, the Company is hereby authorized to construct and use upon the scheduled lands an oil refinery and ancillary works and to carry on all operations incidental to an oil refinery and ancillary works, and the Company is hereby exonerated from liability for nuisance in respect of such construction and use and all such operations as aforesaid except in so far as any nuisance is caused, or contributed to, by any negligence in the construction or use of such refinery or ancillary works or in the carrying on of such operations as aforesaid. Authority to Company to operate oil refinery and exemption from liability for nuisance.

No actions
maintainable
against the
Crown, etc.

7. No action, suit or proceeding of any kind shall be brought by any person against the Crown or the Governor or against the Government or any department thereof, or against any officer of the Government as such, in respect of the construction, use or operation of an oil refinery or ancillary works on the scheduled lands, or in respect of any matter or thing done or omitted to be done by the Company under this Ordinance or any lease granted to the Company thereunder. 5

Power to declare
other lands to
be scheduled
lands.

8. (1) The Governor may, at any time before the expiration of ten years from the appointed day, declare any other lands for the time being within the Mombasa District or the Kwale District of the Coast Province to be scheduled lands for the purposes of this Ordinance. 10

Cap. 155.

(2) Where any such other lands are, at the date of a declaration made by the Governor under the provisions of subsection (1) of this section, unalienated Crown land within the meaning of the Crown Lands Ordinance, no compensation shall be payable under this Ordinance in respect of the vesting thereof in Her Majesty, but all the provisions of this Ordinance with the exception of the provisions of section 5 thereof shall apply thereto: 20

Provided that in relation to such other lands the appointed day for the purposes of this Ordinance shall be deemed to be the date of such declaration as aforesaid.

(3) Where any such other lands are not, at the date of the declaration made by the Governor under the provisions of subsection (1) of this section, unalienated Crown land as aforesaid, compensation shall be payable under this Ordinance in respect of the vesting thereof in Her Majesty and all the provisions of this Ordinance shall apply thereto: 30

Provided that—

(i) every such declaration shall be laid before the Legislative Council on the first day of the meeting thereof next after the date of the making of the declaration and, unless before the conclusion of such meeting the Legislative Council resolves that the declaration shall not be approved, it shall come into effect on the day following such conclusion, or, if during such meeting the Legislative Council resolves that the declaration be approved with modifications, it shall come into effect on such day but subject to such modifications; 40

(ii) in relation to such other lands—

(a) the appointed day for the purposes of this Ordinance shall be the day upon which the declaration comes into effect as aforesaid; and 45

(b) all references in those provisions of the Indian Land Acquisition Act, 1894, which are applied by and incorporated in this Ordinance to the date of the publication of a declaration under section 6 of that Act shall be deemed for the purposes of such application and incorporation, to be references to the day on which the declaration made under this section in respect of such other lands comes into effect as aforesaid. 50

Compulsory
acquisition of
easements and
rights.

9. (1) Subject to the provisions of this section, where it appears to the Governor necessary so to do, he may by order, from time to time, provide for compulsorily vesting in the Company all such easements or other rights in, under or over, or in respect of, any lands other than the scheduled lands as 55

appear to him to be necessary or desirable for facilitating the operations of any oil refinery or ancillary works which may for the time be upon the scheduled lands, and, without prejudice to the generality of the foregoing provisions, such easements or rights may comprise easements or rights—

- (a) of support or withdrawal of support;
- (b) of ways of access or conveyance of any material;
- (c) of ventilation or drainage;
- 10 (d) of the use or occupation of any land for the purpose of the erection of any buildings or structure;
- (e) of obtaining water supplies or disposing of water or other liquid matter;
- 15 (f) of discharging into rivers, streams or watercourses of any liquid or solid matter, whether such discharge results in pollution or not;
- (g) of placing any waste materials on any land;
- 20 (h) of overhead ways or pipes or other means of conveyance of any material and the use and occupation of the surface or the underground of any land for the purpose of supporting or maintaining any such overhead ways, pipes or other means of conveyance.

(2) Any order made under this section shall provide for the payment of compensation by the Company in such cases and subject to such conditions as may be specified in the order or determined thereunder, in respect of loss suffered as the result of the acquisition or exercise of easements or rights under the order.

(3) No Order shall be made under this section in relation to land which is unalienated Crown land within the meaning 30 of the Crown Lands Ordinance or in relation to any land forming part of the Native Lands, without prejudice however, to the right of the Governor on behalf of Her Majesty to grant to the Company any easement or exclusive right over any land which is unalienated Crown land as aforesaid under the powers 35 conferred by sub-section (6) of this section. Cap. 155.

(4) Every Order made under this section shall be laid before the Legislative Council on the first day of the meeting thereof next after the date of the making of the Order and, unless before the conclusion of such meeting the Legislative 40 Council resolves that the order shall not be approved, it shall come into effect on the day following such conclusion, or, if during such meeting the Legislative Council resolves that the Order be approved with modifications, it shall come into effect on such day but subject to such modifications.

45 (5) As soon as may be after an order made under this section comes into effect, the appropriate Registrar shall cause a memorandum of the Order to be entered in the appropriate Register in respect of each piece or parcel of land affected by the Order.

50 (6) The Governor may on behalf of Her Majesty at any time grant to the Company any such easement or other right as is referred to in sub-section (1) of this section in, under or over, or in respect of any unalienated Crown land within the meaning of the Crown Lands Ordinance, on such terms and 55 conditions as he thinks fit. Cap. 155.

10. Save as herein expressly provided nothing in this Ordinance shall in any way prejudice or affect any rights of Her Majesty in any respect, or of any body politic or corporate or of any other person. Savings of the rights of the Crown, bodies corporate and other persons.

Section 2.

FIRST SCHEDULE

THE SCHEDULED LANDS

<i>Land Reference No.</i>	<i>Locality</i>	<i>Approximate Area in Acres</i>
SECTION II—		
Plot No. 18	Mombasa Mainland South	1.80
Plot No. 19	Mombasa Mainland South	1.70
Plot No. 20	Mombasa Mainland South	2.10
Plot No. 21	Mombasa Mainland South	0.90
Plot No. 22	Mombasa Mainland South	1.30
Plot No. 51	Mombasa Mainland South	16.30
SECTION I—		
Plot No. 105	Mombasa Mainland South	5.60
Plot No. 106	Mombasa Mainland South	1.90
Plot No. 109	Mombasa Mainland South	10.20
Plot No. 141	Mombasa Mainland South	1.84
Plot No. 139	Mombasa Mainland South	2.00
Plot No. 128	Mombasa Mainland South	2.00
Plot No. 129	Mombasa Mainland South	1.23
Plot No. 130	Mombasa Mainland South	1.00
Plot No. 131	Mombasa Mainland South	1.00
Plot No. 150	Mombasa Mainland South	1.07
Plot No. 157	Mombasa Mainland South	0.3047
Plot No. 158	Mombasa Mainland South	0.315
Plot No. 160	Mombasa Mainland South	0.50
Portion of Plot No. 174	Mombasa Mainland South	6.00
Portion of Plot No. 2 north-east of road, including Plot No. 149 }	Mombasa Mainland South	0.857
Plot No. 163	Mombasa Mainland South	9.80
Plot No. 144	Mombasa Mainland South	1.58
Portion of Plot No. 114	Mombasa Mainland South	2.06
Portion of Plot No. 111	Mombasa Mainland South	0.20
Portion of L.R. No. 3855	Mombasa Mainland South	2,160.00

which said lands are more particularly delineated on Survey Map No. 282 deposited in the Survey Records Office, Nairobi.

Section 5

SECOND SCHEDULE

SECTIONS OF THE INDIAN LAND ACQUISITION ACT, 1894, APPLIED AND INCORPORATED IN THIS ORDINANCE AND MODIFICATIONS SUBJECT TO WHICH SUCH SECTIONS ARE SO APPLIED AND INCORPORATED

<i>Sections and Marginal Notes</i>	<i>Modifications</i>
SECTION 3— Definitions	(a) The expression "Collector" shall mean the Collector appointed under section 5 of this Ordinance. (b) The expression "Court" shall mean a subordinate court of the first class, except where the land or subject-matter in dispute exceeds or is claimed to exceed in value the sum of twenty thousand shillings, in which case the expression means the Supreme Court. (c) The definition of "Company" shall be inapplicable. (d) In paragraph (g), the words "in cases to which the English law is applicable" shall be deleted.
SECTION 8— Land to be marked out, measured and planned.	(a) The words "as soon as may be after the appointed day caused the scheduled lands" shall be substituted for the words "thereupon cause the land". (b) The words "cause each piece or parcel of the scheduled lands" shall be substituted for the words
SECTION 9— Notice to persons interested.	"cause it". All references to land to be taken or needed shall be read and construed as references to the scheduled lands, and all references to the Government's intention to take possession of land shall be read as references to the vesting of the scheduled lands in Her Majesty by virtue of this Ordinance.
SECTION 10— Power to require and enforce the making of statements as to names and interests.	

<i>Sections and Marginal Notes</i>	<i>Modifications</i>
SECTION 11— Enquiry and award by Collector.	_____
SECTION 12— Award of Collector, when to be final.	_____
SECTION 13— Adjournment of enquiry ..	_____
SECTION 14— Power to summon and enforce attendance of witnesses and production of documents.	The reference to a Civil Court acting under the Code of Civil Procedure of India shall be read and construed as a reference to the Supreme Court acting under the Civil Procedure Ordinance (Cap. 5).
SECTION 15— Matters to be considered and neglected.	_____
SECTION 18— Reference to Court ..	_____
SECTION 19— Collector's statement to the Court.	The references to sections 5 and 17 of the Act shall be inapplicable.
SECTION 20— Service of notice ..	_____
SECTION 21— Restriction on scope of proceedings.	_____
SECTION 22— Proceedings to be in open Court.	_____
SECTION 23— Matters to be considered in determining compensation.	All references to the date of the publication of a declaration under section 6 of the Act shall be read and construed as references to the date, the 30th day of August, 1952; and all references to the time of the Collector taking possession of land shall be read and construed as references to the appointed day.
SECTION 24— Matters to be neglected in determining compensation.	All references to the date of publication of a declaration as aforesaid shall be read and construed as references to the 30th day of August, 1952.
SECTION 25— Rules as to the amount of compensation.	All references to the Judge shall be read and construed as references to the Judge or Magistrate.
SECTION 26— Form of awards	There shall be substituted for the section the following:— Form of awards. 26. Every award under this Part shall be in writing and signed by the Judge or Magistrate, and shall be in such form as the Judge or Magistrate shall think fit.
SECTION 27— Costs	_____
SECTION 28— Collector may be directed to pay interest on excess compensation.	The reference to interest at the rate of six per centum shall be read and construed as a reference to interest at the rate of four per centum.
SECTION 29— Particulars of apportionment to be specified.	_____
SECTION 30— Dispute as to apportionment.	_____
SECTION 31— Payment of compensation or deposit of same in Court.	The reference to the Local Government shall be read and construed as a reference to the Member of Executive Council for the time responsible for Lands.
SECTION 32— Investment of money deposited in respect of lands belonging to persons incompetent to alienate.	_____
SECTION 33— Investment of money in other cases.	_____

<i>Sections and Marginal Notes</i>	<i>Modifications</i>
SECTION 34— Payment of interest	The reference to interest at the rate of six per centum shall be read and construed as a reference to interest at the rate of four per centum.
SECTION 45— Service of notices	_____
SECTION 46— Penalty for obstructing acquisition of land.	_____
SECTION 51— Exemption from stamp duty and fees.	_____
SECTION 52— Notice in case of suits for anything done in pursuance of Act.	_____
SECTION 53— Code of Civil Procedure to apply to proceedings before Court.	_____
SECTION 54— Appeals in proceedings before Court.	There shall be substituted for the section the following:— Appeals in proceedings before Court. 54. (1) An appeal shall lie to the Supreme Court from any award or decree of a Magistrate under this Act. (2) An award or decree of the Supreme Court under this Act shall, whether the same be made or passed on appeal from a subordinate court or otherwise, be final and conclusive both as to law and as to fact.

MEMORANDUM OF OBJECTS AND REASONS

The objects of, and reasons for, this Bill are fully explained in the Preamble thereto.

No additional expenditure of public moneys will be incurred if the provisions of this Bill become law.

Nairobi,
3rd September, 1953.

JOHN WHYATT,
Attorney General.

GOVERNMENT NOTICE No. 1465

The Governor in Council has approved of the introduction of the following Bill into Legislative Council

A. W. PURVIS,
Clerk of the Legislative Council.

ARRANGEMENT OF SECTIONS

SECTION

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Guarantee of loans.
- 4—Sums charged on general revenues.

SECTION

- 5—Provision for payment of money due to stock-holder.
- 6—Certificate by Crown Agents.
- 7—Certain Ordinances may properly be disallowed.

A BILL ENTITLED
AN ORDINANCE TO GUARANTEE LOANS OF THREE
AND A HALF MILLION, AND THIRTY-TWO
MILLION SEVEN HUNDRED AND FIFTY
THOUSAND POUNDS STERLING OR THE
EQUIVALENT IN POUNDS STERLING AND
OTHER CURRENCIES TO BE RAISED BY THE
HIGH COMMISSION FOR CERTAIN PURPOSES
OF THE EAST AFRICAN RAILWAYS AND
HARBOURS ADMINISTRATION, TO FACILITATE
THE INVESTMENT OF TRUST AND OTHER
FUNDS IN THE UNITED KINGDOM IN HIGH COM-
MISSION SECURITIES ISSUED FOR THE PUR-
POSES OF SUCH LOANS, AND FOR OTHER
MATTERS RELATING THERETO AND CON-
NECTED THEREWITH

WHEREAS the High Commission, by an Act entitled the Loan (Railways and Harbours) Act, 1951 (hereinafter called the Act of 1951) as amended by an Act entitled the Loan (Railways and Harbours) (1951) (Amendment) Act, 1953, made in accordance with the provisions of section 28 (1) (a) of the East Africa (High Commission) Order in Council, 1947, is authorized to raise, either at one time or by instalments, and either separately or at the same time as any other loan, a loan of three and a half million pounds sterling or the equivalent in pounds sterling and other currencies for certain purposes of the East African Railways and Harbours Administration (hereinafter called the Administration) specified in such Act:

H.C. Act,
Cap. 14.H.C. Act,
No. 6 of 1953

AND WHEREAS the High Commission, by an Act entitled the Loan (Railways and Harbours) Act, 1952 (hereinafter called the Act of 1952) made in accordance with the said Order in Council, is authorized to raise, either at one time or by instalments and either separately or at the same time as any other loan, a loan of thirty-two million, seven hundred and fifty thousand pounds sterling, or the equivalent in pounds sterling and other currencies, for certain purposes of the said Administration specified in the Schedule thereto:

H.C. Act,
No. 7 of 1952.

AND WHEREAS the principal moneys authorized to be raised by the Act of 1951 and the Act of 1952 respectively, and any interest and other charges thereon, are by such Acts charged upon and payable out of the Railways and Harbours Fund maintained by the High Commission for the Administration under the provisions of section 22 of the East African Railways and Harbours Administration Act:

H.C. Act,
Cap. 3.

AND WHEREAS by section 7 of the Act of 1951 (as inserted by the said amending Act of 1953) and by section 8 of the Act of 1952 it is provided (in the case of each of those Acts, namely the Act of 1951 and the Act of 1952) that if any portion of the loan thereby authorized is raised by means of a loan from the International Bank for Reconstruction and Development and if it be lawful for the Treasury to guarantee

such loan, then any sum issued out of the Consolidated Fund of the United Kingdom on account of the guarantee of such loan by the Treasury shall be repaid with interest to the Treasury out of the said Fund:

H.C. Act,
No. ... of 1953.

AND WHEREAS by an Act entitled the Loan (Railways and Harbours) (1952) (Amendment) Act, 1953, it is provided that any portion of the loan authorized to be raised by the Act of 1952 may be raised by means of advances from the Government of the United Kingdom out of credit provided by the Mutual Security Agency as hereinafter defined:

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

Short title and
commencement.

1. This Ordinance may be cited as the Guarantee (High Commission Railways and Harbours Loans) Ordinance, 1953, and shall come into force on such day as the Governor may by notice in the Gazette, appoint.

Interpretation.

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

40 & 41 Vict.
Cap. 59 to 12,
13, 14, Geo. 6
Cap. 1.

“High Commission (Railways and Harbours Loans) Securities” means all securities created or issued by the High Commission on behalf of the Administration for the purpose of raising the loans of three and a half million, and thirty-two million, seven hundred and fifty thousand pounds sterling or the equivalent in pounds sterling and other currencies respectively authorized by the Act of 1951 and the Act of 1952, to which securities for the time being the Colonial Stock Acts, 1877 to 1948, of the United Kingdom apply, and which are for the time being registered in the United Kingdom in accordance with the provisions of those Acts;

“final judgment, decree, rule or order” means in case of appeal the final judgment, decree, rule or order of the ultimate court hearing the appeal;

“Mutual Security Agency” means the Agency of the United States Government set up to carry out the programme of military, economic and technical assistance authorized by the Mutual Security Act, 1951, of the United States of America, as amended;

“the Treasury” means the Commissioners for the time being of Her Majesty’s Treasury in the United Kingdom.

Guarantee of
loans.

3. (1) The payment of the principal moneys authorized to be raised by the High Commission under the authority of the Act of 1951 and the Act of 1952 respectively, and any interest and other charges thereon, is, to the extent to which such principal moneys and interest and other charges are not paid out of the Railways and Harbours Fund maintained for the Administration under the provisions of section 22 of the East African Railways and Harbours Administration Act, hereby guaranteed out of the general revenues and funds of the Colony:

H.C. Act,
Cap. 3.

Provided that the aggregate amount of principal moneys guaranteed under this Ordinance shall not exceed thirty-seven and a half million pounds sterling.

(2) The guarantee created by sub-section (1) of this section shall extend to the repayment to the Treasury of any sums due to be repaid to the Treasury under section 7 of the Act of 1951 or under section 8 of the Act of 1952 and to the repayment under section 9 of the Act of 1952 to the Government of the United Kingdom of any advances received by the High Commission from that Government out of credit provided by the Mutual Security Agency.

4. Any sum required for fulfilling the guarantee created by this Ordinance shall be charged upon and paid out of the general revenues and other funds of the Colony, and the Governor shall appropriate out of the general revenues and funds of the Colony and remit to the Crown Agents any such sum; and any sum received by the Governor by way of the repayment of any sum so paid shall form part of the general revenues of the Colony.

Sums charged
on general
revenues.

5. (1) Whenever by the final judgment, decree, rule or order of any court of competent jurisdiction in the United Kingdom any sum of money is adjudged or declared to be payable in respect of any of the High Commission (Railways and Harbours Loans) Securities, then that sum, if not forthwith paid by the High Commission, shall be paid by the Governor out of the funds of the Colony in the hands of the Crown Agents without other or further appropriation than this Ordinance.

Provision for
payment of
money due to
stockholder.

(2) Whenever any sum of money is required to be paid to the Treasury under section 7 of the Act of 1951 or under section 8 of the Act of 1952, or to the Government of the United Kingdom under section 9 of the Act of 1952, then that sum, if not forthwith paid by the High Commission shall be paid by the Governor out of the funds of the Colony in the hands of the Crown Agents without other or further appropriation than this Ordinance.

(3) If the sum remitted to the Crown Agents under section 4 of this Ordinance is insufficient for the payment of any sum adjudged or declared to be payable under sub-section (1) of this section or of any sum required to be repaid to the Treasury or the Government of the United Kingdom as aforesaid, any balance required to meet such deficit shall be charged upon and paid out of the general revenues and funds of the Colony, and the Governor shall forthwith appropriate out of such general revenues and funds and shall remit to the Crown Agents a sum equal to the amount of the said balance; and the said sum shall be applied by the Crown Agents in the satisfaction of the amount due under any such final judgment, decree, rule or order or the amount due to the Treasury or the Government of the United Kingdom, as the case may be, as aforesaid.

6. In order to enable every payment due to be made by the Crown Agents under the provisions of this Ordinance to be duly made, a certificate under the hand of the Crown Agents, specifying the sums so paid under a judgment, decree, rule or order of any court or to the Treasury or to the Government of the United Kingdom, as the case may be, shall be sufficient authority to the Auditor General, or other officer having the auditing of the accounts of the Crown Agents, for passing such sum without further appropriation

Certificate by
Crown Agents.

7. If at any time hereafter an Ordinance is passed which appears to Her Majesty's Government in the United Kingdom to alter any of the provisions affecting the High Commission (Railways and Harbours Loans) Securities to the injury of the holder thereof, or to involve a departure from the original contract in regard to these securities, or to prejudicially affect the right of the Treasury to require repayment of any sum under section 7 of the Act of 1951 or under section 8 of the Act of 1952 or the right of the Government of the United Kingdom to require repayment of any advance under section 9 of the Act of 1952, that Ordinance may properly be disallowed.

Certain Ordin-
ances may
properly be
disallowed.

MEMORANDUM OF OBJECTS AND REASONS

By Cap. 14 of the High Commission Acts (originally Act No. 10 of 1951) the East Africa High Commission is authorized to raise a loan of £3½ million, and by Act No. 7 of 1952, a further loan of £32½ million for certain purposes of the East African Railways and Harbours Administration specified in these Acts.

In order to provide security for investors it is essential that the repayment of the loans should be guaranteed by each of the three Territories concerned. The guarantee must be for an amount greater than the authorized amounts of the loans to allow for the possibility of the loans being issued at a discount.

Accordingly, this Bill is designed to guarantee the payment, out of the general revenues and funds of the Colony, of the principal and interest and other charges on any loan or loans raised by the High Commission under the authority of these Acts to the extent to which such moneys are not paid out of the funds of the Railways and Harbours Fund maintained under the provisions of section 22 of the East African (Railways and Harbours) Act. The guarantee of the principal of such loans is, however, expressly limited to a maximum of £37½ million.

Both Acts (No. 10 of 1951 (as amended) and Act No. 7 of 1952) empower the High Commission to raise loans thereby authorized from the International Bank for Reconstruction and Development and accordingly the Bill necessarily guarantees repayment to the United Kingdom Treasury of any sums so raised; further it is proposed to amend Act No. 7 of 1952 in the Central Legislative Assembly September meeting so as to empower the High Commission to raise any portion of the loan thereby authorized by means of advances from the Government of the United Kingdom out of credit provided by the Mutual Security Agency set up by the Government of the United States and accordingly the Bill necessarily also guarantees repayment to the United Kingdom Government of any moneys so raised, on the assumption that the High Commission amending Bill will become law.

It is not possible to state whether any, and if so, what, additional expenditure of public moneys of the Colony will be involved if the provisions of this Bill become law.

Nairobi,
28th August, 1953.

JOHN WHYATT,
Attorney General.

GOVERNMENT NOTICE No. 1466

The Governor in Council has approved of the introduction of the following Bill into Legislative Council.

A. W. PURVIS,
Clerk of the Legislative Council.

**A BILL ENTITLED
AN ORDINANCE TO AMEND THE AUDIT
ORDINANCE, 1952**

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 Audit (Amendment) Ordinance, 1953, and shall be read and construed as one with the Audit Ordinance, 1952, hereinafter referred to as the principal Ordinance. Short title.
No. 14 of 1952.
- 5 2. Section 12 of the principal Ordinance shall, with effect as from the 30th day of June, 1954, be amended by substituting for the words "Within the period of four months or such longer period as the Legislative Council may, by resolution, appoint after the close of each financial year the
10 Accountant General shall transmit to the Director of Audit accounts showing fully the financial position of the Colony on the last day of such financial year.", appearing therein, the words "Within the period of four months after the 30th day of June in each year or such longer period thereafter as the
15 Legislative Council may, by resolution, appoint, the Accountant General shall transmit to the Director of Audit accounts showing fully the financial position of the Colony on such 30th day of June." Amendment of
section 12 of
the principal
Ordinance.
- 20 3. Sub-section (1) of section 13 of the principal Ordinance shall, with effect as from the 30th day of June, 1954, be amended by substituting for the words "The Director of Audit shall prepare and transmit to the Member within seven months or such longer period as the Legislative Council may, by resolution, appoint after the close of each financial year",
25 appearing therein, the words "Within the period of seven months after the 30th day of June in each year or such longer period thereafter as the Legislative Council may, by resolution, appoint, the Director of Audit shall prepare and transmit to the Member". Amendment of
section 13 of the
principal
Ordinance.
- 30 4. Nothing herein contained shall affect the operation of the provisions of section 12 and of sub-section (1) of section 13 of this Ordinance as originally enacted in respect of the financial year ending on the 31st day of December, 1953. Special provisions
for the year
ending 31st
December, 1953.
- 35 5. As respects the interim period from the 1st day of January, 1954, to the 30th day of June, 1954, the provisions of section 12 and of sub-section (1) of section 13 of this Ordinance shall be read and construed as if that period were a full year ending on the 30th day of June, 1954. Special pro-
visions in respect
of interim period
1st January to
30th June, 1954.

MEMORANDUM OF OBJECTS AND REASONS

The Colony's fiscal year at present coincides with the calendar year, that is to say, the twelve months ending on 31st December. It has been agreed by the Governments of Kenya, Uganda and Tanganyika that in future the Government fiscal year in each territory should be the twelve months ending on 30th June and that this alteration should come into effect as from 1st July, 1954. It is not intended, at present, to change the year for the purposes of various taxes, licences, etc., nor does this change affect Local Government bodies or quasi-Government organizations.

The proposed alterations will affect the provisions of section 12 and 13 (1) of the Audit Ordinance, 1952, which refer to "financial year", by reason of the provisions of the Interpretation and General Clauses Ordinance (Cap. 1) wherein "financial year" is defined as the period from 1st January to 31st December in any year.

Clauses 2 and 3 of this Bill amend sections 12 and 13 of the Audit Ordinance 1952, accordingly.

Clauses 4 and 5 effect consequential alterations in respect of the year ending 31st December, 1953, and the interim period 1st January, 1954, to 30th June, 1954.

No additional expenditure of public moneys will be incurred if the provisions of this Bill become law.

Nairobi,
5th August, 1953.

JOHN WHYATT,
Attorney General.

GOVERNMENT NOTICE No. 1467

The Governor in Council has approved of the introduction of the following Bill into Legislative Council.

A. W. PURVIS,
Clerk of the Legislative Council.

**A BILL ENTITLED
AN ORDINANCE TO AMEND THE GUARANTEE
(HIGH COMMISSION RAILWAYS AND HAR-
BOURS LOAN) ORDINANCE, 1950**

WHEREAS the High Commission by an Act entitled the Loan (Railways and Harbours) Act, 1949, made in accordance with the provisions of section 28 (1) (a) of the East Africa (High Commission) Order in Council, 1947, is authorized to raise at one time or by instalments, a loan of twenty-three million pounds sterling for certain purposes of the East African Railways and Harbours Administration set out in the Schedule to such Act:

H.C. Act,
Cap. 13.

AND WHEREAS by the Guarantee (High Commission Railways and Harbours Loan) Ordinance, 1950, the repayment of the principal and interest of such loan was guaranteed out of the general revenues and other funds of the Colony:

No. 1 of 1950.

AND WHEREAS by an Act entitled the Loan (Railways and Harbours) (1949) (Amendment) Act, 1953, it was enacted that where any sums authorized to be raised under the said Act of 1949 had not, on the commencement of the said amending Act of 1953, been raised, then in respect of any such sums which might thereafter be raised under the said Act of 1949, the said Act of 1949 should have effect subject to the amendments contained in the Schedule to the said Act of 1953, being amendments *inter alia* authorizing the raising of such sums as aforesaid by means of a loan from the International Bank for Reconstruction and Development (hereinafter referred to as the International Bank):

H.C. Act,
No. 5 of 1953.

H.C. Act,
Cap. 13.

H.C. Act,
No. 5 of 1953.

AND WHEREAS accordingly it is expedient to amend the Guarantee (High Commission Railways and Harbours) Loan Ordinance, 1950, so as to extend the guarantee created by that Ordinance to all such sums as may be raised by the High Commission by means of a loan from the International Bank as aforesaid:

NOW, THEREFORE, 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 Guarantee (High Commission Railways and Harbours Loan) (Amendment) Ordinance, 1953, and shall be read and construed as one with the Guarantee (High Commission Railways and Harbours) Loan Ordinance, 1950 (hereinafter referred to as the principal Ordinance), and shall come into operation on such day as the Governor may by notice in the Gazette appoint.

Short title and
commencement.

No. 1 of 1950.

2. The long title and preamble to the principal Ordinance are hereby amended by inserting immediately after the words "pounds sterling", appearing therein, the words "or the equivalent in pounds sterling and other currencies".

Amendment of
long title and
preamble to
the principal
Ordinance.

3. Section 2 of the principal Ordinance is hereby amended in the following respects—

Amendment of
section 2 of
the principal
Ordinance.

- (a) by inserting immediately after the words "pounds sterling", appearing in the definition of the expression "High Commission (Railways and Harbours Loan) securities", the words "or the equivalent in pounds sterling and other currencies";

(b) by adding at the end thereof the following new definition—

“the Treasury” means the Commissioners for the time being of Her Majesty’s Treasury in the United Kingdom.

Amendment
of section 3 of
the principal
Ordinance.

4. Section 3 of the principal Ordinance is hereby amended in the following respects—

(a) by inserting the words “and other charges” immediately after the word “interest” where that word occurs for the first time in the section; 10

(b) by substituting for the words “interest is”, appearing in the section, the words “interest and other charges are”; and

(c) by re-numbering the section, as so amended, as sub-section (1) of the section and adding the following 15 sub-section as sub-section (2) thereof—

(2) The guarantee created by sub-section (1) of this section shall extend to the repayment to the Treasury of any sums due to be repaid to the Treasury under section 7 of the Loan (Railways and Harbours) Act, 1949, as inserted by the Loan (Railways and Harbours) (1949) (Amendment) Act, 1953. 20

H.C. Act,
Cap. 13.
H.C. Act, No. 5
of 1953.

Amendment of
section 5 of
the principal
Ordinance.

5. Section 5 of the principal Ordinance is amended in the following respects— 25

(a) by re-numbering sub-section (2) thereof as sub-section (3) and by inserting immediately after the words “sub-section (1) of this section”, appearing therein, the words “or of any sum required to be paid to the Treasury as aforesaid”; 30

(b) by inserting the following new sub-section as sub-section (2) thereof immediately after sub-section (1) thereof—

(2) Whenever any sum of money is required to be paid to the Treasury under section 7 of the Loan (Railways and Harbours) Act, 1949, as contained in the Loan (Railways and Harbours) (1949) (Amendment) Act, 1953, then the sum if not forthwith paid by the High Commission shall be paid by the Governor out of the funds of the Colony in the hands of the Crown Agents without other or further appropriation than this Ordinance. 35 40

H.C. Act,
Cap. 13.
H.C. Act, No. 5
of 1953.

Amendment of
section 7 of
the principal
Ordinance.

6. Section 7 of the principal Ordinance is hereby amended by inserting immediately after the word “securities”, appearing therein, the words “or prejudicially to affect the right of the Treasury to require repayment of any sum under the said section 7 of the Loan (Railways and Harbours) Act, 1949”. 45

H.C. Act,
Cap. 13.

MEMORANDUM OF OBJECTS AND REASONS

Kenya Ordinance No. 1 of 1950 guarantees the loan of £23 million sterling authorized to be raised by the High Commission under the High Commission Loan (Railways and Harbours) Act, 1949.

At the April meeting of the Central Legislative Assembly the High Commission Act of 1949 was amended so as to authorize the raising of any balance of the loan through the International Bank for Reconstruction and Development. Accordingly it is necessary to amend the Kenya Ordinance No. 1 of 1950 so as to extend the guarantee to any moneys so raised, and this Bill will provide accordingly.

Clause 1 of the Bill provides that it shall come into operation on such day as the Governor shall appoint in order that the corresponding Bills of all three High Commission territories shall be brought into effect simultaneously.

Clause 4 provides for the extension of the guarantee on the lines explained above and *clauses 2, 3, 5 and 6* make the necessary consequential amendments.

No expenditure additional to that which might be incurred under Kenya Ordinance No. 1 of 1950 will fall to be met out of the public funds of the Colony if the provisions of this Bill become law.

Nairobi,
28th August, 1953.

JOHN WHYATT,
Attorney General.

GOVERNMENT NOTICE No. 1468

The Governor in Council has approved of the introduction of the following Bill into Legislative Council.

A. W. PURVIS,
Clerk of the Legislative Council.

**A BILL ENTITLED
AN ORDINANCE TO AMEND THE INTERPRETATION
AND GENERAL CLAUSES ORDINANCE**

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 Interpretation and General Clauses (Amendment) Ordinance, 1953, and shall be read and construed as one with the Interpretation and General Clauses Ordinance, hereinafter referred to as the principal Ordinance.

Cap. 1.

Amendment of section 2 of the principal Ordinance.

2. Section 2 of the principal Ordinance is amended in the definition of "subsidiary legislation" by inserting next after the word "by-law" the words "appointment, delegation".

Amendment of section 15 of the principal Ordinance.

3. Section 15 of the principal Ordinance is amended by adding next after paragraph (e) thereof the following new paragraph—

(f) when any subsidiary legislation purports to be made or issued in exercise of a particular power or powers it shall be deemed also to be made or issued in exercise of all other powers thereunto enabling.

Insertion of new section 22A in the principal Ordinance.

4. There shall be inserted, immediately after section 22 of the principal Ordinance, the following new section—

Power to appoint substantively pending retirement, etc., of existing office-holder.

22A. Where the substantive holder of any office in the service of the Government is on leave of absence pending relinquishment of his office it shall be lawful for another person to be appointed substantively to the same office.

Renumbering of section 23A of the principal Ordinance. No. 32 of 1948.

5. Section 23A of the principal Ordinance, which was originally inserted next after section 23 of the Interpretation and General Clauses Ordinance, 1948 (now section 26 of the principal Ordinance), is amended by renumbering the section as section 26A.

Insertion of new section 26B in the principal Ordinance.

6. There shall be inserted, immediately after section 26A of the principal Ordinance (formerly section 23A) the following new section—

Power to authorize Member to make rules during absence, etc., of another Member.

26B. Where any Ordinance empowers a Member of the Executive Council to make rules, the Governor may by notice in the Gazette authorize any other Member of the Executive Council to make such rules during any period of absence from the Colony, or of inability to act from illness or any other cause, of such first-mentioned Member, and thereupon or from such date as may be specified in such notice, the Member so authorized shall be empowered to make such rules, and any rules so made shall be of the like validity as if they had been made by such first-mentioned Member.

Insertion of new section 32A in the principal Ordinance.

7. (1) There shall be inserted, immediately after section 32 of the principal Ordinance, the following new section—

Effect of change of boundaries, etc.

32A. (1) Where in any Ordinance reference is made to any area and, at any time or times after the Ordinance comes into effect, any one or more of the following events occur by virtue of any Proclamation or other instrument made in exercise of the powers conferred by the Kenya

Colony and Protectorate (Boundaries) Order in Council, Sub. Leg. Vol. V
1921, or otherwise, namely— p. 379.

- (a) the name of the area or of any part thereof is altered;
5 (b) the boundaries thereof are altered;
(c) the area or any part thereof is incorporated in any one or more other areas,

10 then nothing contained in any such Proclamation or other instrument shall be deemed to affect such reference as aforesaid and every such reference shall for the purposes of the Ordinance be deemed to be and to continue to be a reference to the area as constituted, named, defined or bounded prior to such alteration or incorporation as aforesaid.

- 15 (2) For the purposes of this section—
“area” includes any province, extra-provincial district, district or other place;
“Ordinance” includes any subsidiary legislation.

(2) This section shall be deemed to have come into effect
20 on the 1st day of August, 1953, and to have had effect for all purposes from that date.

8. There shall be substituted for section 48 of the principal Ordinance the following section—

- 25 48. Where any Ordinance has been amended it shall be lawful for the Government Printer, with the authority of the Attorney General, to print copies of the Ordinance with all the additions, omissions, substitutions and amendments effected by the amending Ordinance or Ordinances, and all copies purporting to be so printed
30 shall, until the contrary is shown, be deemed to be authentic copies of the Ordinance as so amended.

Repeal and replacement of section 48 of the principal Ordinance. Reprint of amended Ordinances.

MEMORANDUM OF OBJECTS AND REASONS

This Bill amends the Interpretation and General Clauses Ordinance (Cap. 1) to effect a number of improvements which have from time to time appeared to be desirable

Clause 2 extends the definition of “subsidiary legislation” to include appointments, delegations and notices.

Clause 3 is designed to provide that where any subsidiary legislation or other legal instrument is expressed to be made under a particular power it shall not be necessary to narrate in the instrument that it stems from other powers in addition.

Clause 4 inserts new section in the Ordinance to overcome the difficulty created when the substantive holder of a Government Office is on leave pending retirement. In such cases it has in the past been necessary to await the end of the retiring official's leave before appointing another substantive holder of the office, but the new section will enable his successor to be appointed forthwith if required.

Section 23A of the Ordinance appears next after section 26 due to the fact that the Ordinance was amended after the effective date of the revision of laws in 1948 but before the revised edition had been approved and brought into force. Clause 5 of the Bill renumbers the section as 26A.

Clause 6 inserts new section to empower the Governor, in the absence of a Member of Executive Council, or his inability to act, to appoint another Member to exercise any rule-making powers vested in the former.

Clause 7 is designed to ensure that when place names or boundaries are altered, any reference in any law or other legal instrument to such place shall not, unless otherwise intended, be affected by the change.

Clause 8 substitutes a new section for the existing section 48 so as to provide that any reprint of an amended Ordinance prepared in the prescribed manner shall have proper authenticity.

No expenditure of public moneys is envisaged as the result of the enactment of this Bill.

Nairobi,
5th September, 1953.

JOHN WHYATT,
Attorney General.

GOVERNMENT NOTICE No. 1469

The Governor in Council has approved of the introduction of the following Bill into Legislative Council.

A. W. PURVIS,
Clerk of the Legislative Council.

ARRANGEMENT OF SECTIONS

SECTION

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Guarantee of loan.
- 4—Sums charged on general revenues.

SECTION

- 5—Provision for payment of money due to stock-holder.
- 6—Certificate by Crown Agents.
- 7—Certain Ordinances may properly be disallowed.

A BILL ENTITLED
AN ORDINANCE TO GUARANTEE A LOAN OF SIX
MILLION POUNDS STERLING OR THE EQUIVA-
LENT IN POUNDS STERLING AND OTHER
CURRENCIES TO BE RAISED BY THE HIGH
COMMISSION FOR CERTAIN PURPOSES OF THE
EAST AFRICAN POSTS AND TELECOMMUNICA-
TIONS ADMINISTRATION, TO FACILITATE THE
INVESTMENT OF TRUST AND OTHER FUNDS IN
THE UNITED KINGDOM IN HIGH COMMISSION
SECURITIES ISSUED FOR THE PURPOSES OF
SUCH LOAN, AND FOR OTHER MATTERS
RELATING THERETO AND CONNECTED THERE-
WITH

H.C. Act,
No. 9 of 1953.

WHEREAS the High Commission, by an Act entitled the Loan (Posts and Telecommunications) Act, 1953 (hereinafter called the Act of 1953), made in accordance with the provisions of section 28 (1) (a) of the East Africa (High Commission) Order in Council, 1947, is authorized to raise, either at one time or by instalments, as may be convenient, a loan of six million pounds sterling or the equivalent in pounds sterling and other currencies for certain purposes of the East African Posts and Telecommunications Administration (hereinafter called the Administration) specified in such Act:

H.C. Act,
Cap. 4.

AND WHEREAS the principal moneys authorized to be raised by the Act of 1953 and any interest or other charges thereon, are by that Act charged upon and payable out of the Posts and Telecommunications Fund maintained by the High Commission for the Administration under the provisions of section 97 of the East African Posts and Telecommunications Administration Act:

AND WHEREAS by section 8 of the Act of 1953 it is provided that if any portion of the loan thereby authorized is raised by means of a loan from the International Bank for Reconstruction and Development and if it be lawful for the Treasury to guarantee such loan, then any sum issued out of the Consolidated Fund of the United Kingdom on account of the guarantee of such loan by the Treasury shall be repaid with interest to the Treasury out of the said Fund:

AND WHEREAS it is expedient that repayment of such principal moneys and interest and other charges as aforesaid should be guaranteed out of the general revenues and other funds of the Colony and that any sums necessary for fulfilling such guarantee should be charged on such general revenues and other funds:

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

Short title and
commencement.

1. This Ordinance may be cited as the Guarantee (High Commission Posts and Telecommunications Loan) Ordinance, 1953, and shall come into force on such day as the Governor may, by notice in the Gazette, appoint.

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

“High Commission (Posts and Telecommunications Loan) Securities” means all securities created or issued by the High Commission on behalf of the Administration for the purpose of raising the loan of six million pounds sterling or the equivalent in pounds sterling and other currencies authorized by the Act of 1953 to which securities for the time being the Colonial Stock Acts, 1877 to 1948, of the United Kingdom apply, and which are for the time being registered in the United Kingdom in accordance with the provisions of those Acts; 40 and 41 Vict., Cap. 59 to 12, 13, 14 Geo. 6, Cap. 1.

“final judgment, decree, rule or order” means in case of appeal the final judgment, decree, rule or order of the ultimate court hearing the appeal;

“the Treasury” means the Commissioners for the time being of Her Majesty’s Treasury in the United Kingdom.

3. (1) The payment of the principal moneys authorized to be raised by the High Commission under the authority of the Act of 1953 and any interest and other charges thereon, is, to the extent to which such principal moneys and interest and other charges are not paid out of the Posts and Telecommunications Fund maintained for the Administration under the provisions of section 97 of the East African Posts and Telecommunications Administration Act, hereby guaranteed out of the general revenues and funds of the Colony: Guarantee of loan. H.C. Act, Cap. 4.

Provided that the aggregate amount of principal moneys guaranteed under this Ordinance shall not exceed six and a half million pounds sterling.

(2) The guarantee created by sub-section (1) of this section shall extend to the repayment to the Treasury of any sums due to be repaid to the Treasury under section 8 of the Act of 1953.

4. Any sum required for fulfilling the guarantee created by this Ordinance shall be charged upon and paid out of the general revenues and other funds of the Colony, and the Governor shall appropriate out of the general revenues and funds of the Colony and remit to the Crown Agents any such sum; and any sum received by the Governor by way of the repayment of any sum so paid shall form part of the general revenues of the Colony. Sums charged on general revenues.

5. (1) Whenever by the final judgment, decree, rule or order of any court of competent jurisdiction in the United Kingdom any sum of money is adjudged or declared to be payable in respect of any of the High Commission (Posts and Telecommunications) Securities, then that sum, if not forthwith paid by the High Commission, shall be paid by the Governor out of the funds of the Colony in the hands of the Crown Agents without other or further appropriation than this Ordinance. Provision for payment of money due to stock-holder.

(2) Whenever any sum of money is required to be paid to the Treasury under section 8 of the Act of 1953, then that sum, if not forthwith paid by the High Commission, shall be paid by the Governor out of the funds of the Colony in the hands of the Crown Agents without other or further appropriation than this Ordinance.

(3) If the sum remitted to the Crown Agents under section 4 of this Ordinance is insufficient for the payment of

any sum adjudged or declared to be payable under subsection (1) of this section or of any sum required to be repaid to the Treasury as aforesaid, any balance required to meet such deficit shall be charged upon and paid out of the general revenues and funds of the Colony, and the Governor shall 5 forthwith appropriate out of such general revenues and funds and shall remit to the Crown Agents a sum equal to the amount of the said balance; and the said sum shall be applied by the Crown Agents in the satisfaction of the amount due under any such final judgment, decree, rule or order or the 10 amount due to the Treasury, as the case may be, as aforesaid.

Certificate by
Crown Agents.

6. In order to enable every payment due to be made by the Crown Agents under the provisions of this Ordinance to be duly made, a certificate under the hand of the Crown Agents, specifying the sums so paid under a judgment, decree, rule or 15 order of any court or to the Treasury, as the case may be, shall be sufficient authority to the Auditor General, or other officer having the auditing of the accounts of the Crown Agents, for passing such sum without further appropriation.

Certain
Ordinances
may properly
be disallowed.

7. If at any time hereafter an Ordinance is passed which 20 appears to Her Majesty's Government in the United Kingdom to alter any of the provisions affecting the High Commission (Posts and Telecommunications) Loan Securities to the injury of the holder thereof, or to involve a departure from the original contract in regard to these securities, or to prejudi- 25 cially affect the right of the Treasury to require repayment of any sum under section 8 of the Act of 1953, that Ordinance may properly be disallowed.

MEMORANDUM OF OBJECTS AND REASONS

By Act No. 9 of 1953 the East Africa High Commission is authorized to raise a loan of £6 million for certain purposes of the East African Posts and Telecommunications Administration specified in that Act.

In order to provide security for investors it is essential that the repayment of the loan should be guaranteed by each of the three territories concerned. The guarantee must be for an amount greater than the authorized amount of the loan to allow for the possibility of the loans being issued at a discount.

Accordingly this Bill is designed on the lines of previous Ordinances, to guarantee the payment, out of the general revenues and funds of the Colony, of the principal and interest and other charges on any loan raised by the High Commission under the authority of that Act to the extent to which such moneys are not paid out of the funds of the Posts and Telecommunications Fund maintained under the provisions of section 97 of the East African Posts and Telecommunications Act. The guarantee of the principal of any such loan is, however, expressly limited to a maximum of £6½ million.

The Act No. 9 of 1953 empowers the High Commission to raise the loan thereby authorized from the International Bank for Reconstruction and Development and accordingly this Bill necessarily guarantees repayment to the United Kingdom Treasury of any sums so raised.

It is not possible to state whether any, and, if so, what, additional expenditure of public moneys will be involved if the provisions of this Bill become law.

Nairobi,
28th August, 1953.

JOHN WHYATT,
Attorney General.

GOVERNMENT NOTICE No. 1470

The Governor in Council has approved of the introduction of the following Bill into Legislative Council.

A. W. PURVIS,
Clerk of the Legislative Council.

**A BILL ENTITLED
AN ORDINANCE TO AMEND THE OIL PRODUCTION
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 Oil Production (Amendment) Ordinance, 1953, and shall be read and construed as one with the Oil Production Ordinance, hereinafter referred to as the principal Ordinance. Short title.
Cap. 171.
2. Section 2 of the principal Ordinance is amended in the following respects— Amendment of
section 2 of
the principal
Ordinance.
 - (a) by substituting for the definition of "Commissioner of Mines", the following— Cap. 168.

"Commissioner" means the Commissioner (Mines and Geology) appointed under the Mining Ordinance;
 - (b) by deleting the definitions of "prospecting" and "salt licks";
 - (c) by adding, in their appropriate alphabetical order, the following new definitions—
 - "explore" means to explore for oil in such manner as may be authorized by an exploration licence;
 - "exploration licence" means a licence to explore for oil granted under this Ordinance;
 - "lease" means a lease to mine for oil granted under this Ordinance;
 - "lessee" means a lessee under a mining lease;
 - "licence" means an exploration licence or a prospecting licence as the case may require, and "licensee" has a corresponding meaning;
 - "prospect" means to prospect for oil in such manner as may be authorized by a prospecting licence;
 - "prospecting licence" means a licence to prospect for oil granted under this Ordinance;
 - "salt lick" means a deposit of salt or other mineral regularly used as a salt lick by cattle or other stock;
 - "to mine" means intentionally to win oil in such manner as may be authorized by a mining lease.
3. There shall be substituted for the expression "Commissioner of Mines", wherever that expression occurs in the principal Ordinance, the expression "Commissioner". Substitution of
"Commissioner"
for "Commis-
sioner of Mines"
throughout
Ordinance.
4. There shall be substituted for the words and figures "Mining Ordinance, 1912", wherever those words and figures appear in the principal Ordinance, the words "Mining Ordinance". Substitution of
"Mining
Ordinance" for
"Mining Ordin-
ance, 1912"
throughout
Ordinance.

Replacement of
section 3 of
the principal
Ordinance.

Application of
Ordinance and
licences and
leases there-
under.

5. There shall be substituted for section 3 of the principal Ordinance the following new section—

3. (1) Subject to the provisions of this section, this Ordinance shall extend to all land situate within the Colony and Protectorate including that part of the sea bed off the coasts of the Colony and Protectorate, and the sub-soil thereunder, whereof the natural resources, by right, treaty, grant, usage, sufferance or other lawful means, appertain to Her Majesty or are subject to Her Majesty's jurisdiction or control; and the Governor may grant licences to explore or prospect for oil and leases to mine for oil over or in respect thereof or any part thereof.

(2) Subject to the provisions of sub-section (3) of this section and except as is provided in this sub-section, nothing contained in this Ordinance or contained in or implied by any licence or lease shall be deemed to authorize the licensee or lessee—

(a) to enter upon or occupy or exercise any rights whatsoever in respect of the surface or the sub-soil of any land comprised in the licence or lease being—

(1) the site of a burial ground or place of worship;

(2) land which the Governor may in exercise of the powers conferred by sub-section (4) of this section declare to be required for any public purpose;

(3) land which prior to the grant of the licence or lease has been dedicated or set apart for any public purpose, except with the consent of the Governor;

(4) a salt lick, except with the consent of the Governor;

(5) land which is the site of, or land situate within fifty yards of, any building, reservoir or dam owned by the Government, except with the consent of the Governor;

(6) land situate within any municipality, urban district or township, except with the consent of the owner and occupier of the surface thereof and the consent either of the Governor or of the municipal, urban or township authority;

(7) the site of a public street, road or highway, except with the consent either of the Governor or of the municipal, urban or township authority or other person or body having control of such street, road or highway;

(8) the site of a railway, or land reserved for the purpose of a railway or situate within fifty yards of any railway, except with the consent of the East African Railways and Harbours Administration as defined by the East African Railways and Harbours Act;

(b) to enter upon or occupy or exercise any rights whatsoever in respect of the surface of any land comprised in the lease or licence, being—

5 (1) land in respect of which any right of prospecting or mining for minerals has been granted prior to the grant of the licence or lease, except with the consent of the person enjoying such right;

10 (2) the site of a licensed or Government aerodrome or Government landing ground or land within one thousand yards of the boundaries thereof, except with the consent of the Governor;

15 (3) the site of a Government rifle range, except with the consent of the Governor;

20 (4) the foreshore, between high and low water marks at ordinary spring tides, within the boundaries of any municipality, urban district or township, except with the consent either of the Governor or of the municipal, urban or township authority;

25 (5) land situate within any trading centre within the meaning of the Trading Centres Ordinance, except with the consent of the Governor: Cap. 278.

30 Provided that in the case of a licence, subject to the terms and conditions of his licence, the licensee may explore or prospect upon the surface only of any such lands as are described in sub-paragraphs (2) to (5) inclusive of this paragraph and for that purpose enter thereon and make geological, geophysical, topographic and hydrographic examinations thereof, causing as little damage as possible in so doing and making good any damage caused forthwith upon the completion of such examinations.

35 (3) The Governor may in or by any licence or lease, or document varying the same, authorize the licensee or lessee to enter upon, occupy and exercise rights of exploration, prospecting or mining for oil over or in respect of the surface or the sub-soil of any such lands as are described in paragraph (a) of sub-section (2) of this section or to enter upon or occupy or to exercise such rights as aforesaid over or in respect of the surface of any such lands as are described in paragraph (b) of sub-section (2) of this section, but save in so far as any licence or lease or any such document as aforesaid expressly grants such authority by reference to this sub-section every licence and lease shall be deemed, notwithstanding anything therein contained or implied, to be subject to the provisions of sub-section (2) of this section.

40 (4) The Governor may at any time and from time to time during the subsistence of any licence or lease declare any land comprised in such licence or lease to be land required for a public purpose:

45 Provided that—

50 (i) no such declaration may be made in respect of any land or lands exceeding, or exceeding in the aggregate, five per centum of the land comprised in the licence or lease; and

- (ii) if the licensee or lessee shall within thirty days of being notified of any such declaration satisfy the Governor that the declaration will interfere substantially with the operations or proposed operations of the licensee or lessee under his licence 5 or lease, he shall be entitled to require the Governor to declare other land or other lands, being part of the land comprised in the licence or lease, to be required for such public purpose and thereupon the Governor shall modify the 10 declaration accordingly.

Insertion of new sections 3A and 3B in the principal Ordinance.

6. The principal Ordinance is amended by inserting therein, immediately after section 3 thereof, the following new sections—

Notice in respect of private land.

3A. Where any licensee or lessee intends to explore, 15 prospect or mine upon, or in any manner to disturb, the surface of any private land, he shall give not less than forty-eight hours' notice of such intention to the occupier, and if practicable to the owner, of such land and shall, if required by the owner or occupier, give security in such 20 sum and by such means as the Commissioner may direct for meeting any compensation payable under the provisions of section 3B of this Ordinance.

Payment of compensation to owners or occupiers of private land.

3B. (1) Whenever, in the course of any exploring, prospecting or mining operations carried on by any 25 licensee or lessee, any disturbance of the rights of the owner or occupier of any private land, or damage to any such land, or to any crops, trees, buildings, stock or works therein or thereon, is caused, the licensee or lessee shall be liable on demand to pay to the owner or occupier such 30 compensation as is fair and reasonable having regard to the extent of the disturbance or damage and to the interest of the owner or occupier in the land.

(2) If any such licensee or lessee as aforesaid shall fail to pay compensation, when demanded, under sub- 35 section (1) of this section or if any owner or occupier shall be dissatisfied with the amount of any compensation offered to him thereunder, such owner or occupier may within six months of the date on which such demand or offer as aforesaid is made, take proceedings before a court 40 of competent jurisdiction for the determination and recovery of the compensation (if any) properly payable under the provisions of sub-section (1) of this section:

Provided that where the owner or occupier is an African, a Somali or an Arab, the district commissioner 45 of the district in which land affected is situate shall, if the African, Somali or Arab so desires, determine the amount of compensation (if any) so payable and make an award for the payment thereof; any such award shall be subject to review by a magistrate of the first class upon an 50 application by either party filed within the period of thirty days from the date of such award and the magistrate may upon any such review, confirm, quash or vary the award, subject to an appeal to the Supreme Court whose decision shall be final, and for the purposes of any 55 such appeal the decision of the magistrate shall be deemed to be a decree within the meaning of the Civil Procedure Code.

(3) Any sum payable under any such award as aforesaid shall be paid by the licensee or lessee to the person entitled thereto upon the expiration of the period of thirty days from the date of the final award.

- 5 (4) Any award made by virtue of the provisions of this section shall be enforceable as if it were a decree of a competent court.

7. Section 7 of the principal Ordinance is amended by substituting for the words "the granting of licences or leases to
10 prospect and mine for oil", appearing therein, the words "the granting of licences and leases to explore, prospect and mine for oil".

Amendment of section 7 of the principal Ordinance.

8. Section 8 of the principal Ordinance is amended in the following respects—

Amendment of section 8 of the principal Ordinance.

- 15 (a) by substituting for the words "that His Majesty's Government shall have the right of pre-emption", appearing in paragraph (a) thereof, the words "that the Governor shall, in time of war or national emergency, have the right of pre-emption";
- 20 (b) by substituting for the words "that in the event of war, whether His Majesty's Government is involved or not, the Governor on behalf of His Majesty shall", appearing in paragraph (b) thereof, the words "that the Governor shall, in time of war or national emergency,".
- 25

MEMORANDUM OF OBJECTS AND REASONS

In view of possible developments in the way of exploration for oil in the Colony and Protectorate, it is considered necessary to remove defects in the existing law, which is contained in the Oil Production Ordinance (Cap. 171), particularly in regard to the various descriptions of land which should be excluded from oil exploration, prospecting and mining or otherwise safeguarded.

Accordingly the major amendments sought to be effected by this Bill are as follows:—

Clause 5 replaces section 3 of the Ordinance which is ambiguous in its terms; paragraph (g) of the section whilst purporting to authorize prospecting and mining on private land on payment of compensation is inadequate to achieve that purpose; further, it is considered unnecessary to exclude entirely from exploration, prospecting and mining all the descriptions of land mentioned in the section, having regard to modern methods of drilling for oil. The clause extends the provisions of the Ordinance to include the sea bed and sub-soil thereof and proceeds (*sub-clause (2)*) to differentiate between those descriptions of land (specified in paragraph (a) of the sub-clause) of which both the surface and sub-soil is provisionally excluded from exploration, prospecting or mining and those descriptions of land (specified in paragraph (b) of the sub-clause) of which only the surface is so excluded; overriding powers are conferred upon the Governor by *sub-clause (3)* of the clause but except in so far as those powers are exercised the provisions of *sub-clause (2)* will prevail and be deemed to form part of every licence and lease.

Clause 6 inserts new sections 3A and 3B in the Ordinance.

The new section 3A provides for notice of intention to operate on private land.

The new section 3B makes more adequate and workable provision for compensation to owners and occupiers of private land than exists at present; the amount of any compensation payable is, if desired, in

the case of an African, a Somali or an Arab, determinable by the District Commissioner, subject to appeal to the Court and in any other case is to be determined by the Court.

Clause 8 amends section 8 which deals with Her Majesty's Government's right of pre-emption in respect of oil, etc., won under any licence or lease. The clause substitutes the Governor for Her Majesty's Government so as to make it clear that the right is one exercisable by the Government of the Colony and introduces the qualification (regarded as reasonable in present circumstances) that the right only arises in case of war or national emergency.

Clauses 2, 3, 4 and 7 of the Bill effect amendments of a minor character.

No additional expenditure of public moneys will be incurred if the provisions of this Bill become law.

Nairobi,
27th August, 1953.

JOHN WHYATT,
Attorney General.

GOVERNMENT NOTICE No. 1471

The Governor in Council has approved of the introduction of the following Bill into Legislative Council.

A. W. PURVIS,
Clerk of the Legislative Council.

**A BILL ENTITLED
AN ORDINANCE TO AMEND THE EXPLOSIVES
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 Explosives (Amendment) Ordinance, 1953, and shall be read and construed as one with the Explosives Ordinance, hereinafter referred to as the principal Ordinance.

Short title.

Cap. 303.

2. Section 2 of the principal Ordinance is amended in the following respects—

Amendment of section 2 of the principal Ordinance.

(a) by inserting next after the definition of "blasting materials" the following new definition—

10 "Commissioner" means the Commissioner (Mines and Geology) or any other officer whom he may depute to exercise the powers conferred upon the Commissioner by this Ordinance;

15 (b) in the definition of "danger building" by deleting the words "unless in respect of that building or part thereof a certificate has been granted in accordance with rules made under this Ordinance" and by substituting therefor the words—

20 "other than a building or part thereof in which no material of an explosive nature is made, used or kept, in respect of which—

(i) the licence clearly indicates that it does not constitute a danger building, or

25 (ii) a certificate has been granted by an inspector to the effect that it does not constitute a danger building";

(c) by deleting the definition of "Director".

3. The principal Ordinance is amended by substituting for the word "Director" wherever it appears therein, the word "Commissioner".

Substitution of "Commissioner" for "Director".

30 4. Sub-section (2) of section 4 of the principal Ordinance is amended by substituting for the words "two thousand shillings" and "six months" the words "five thousand shillings" and "two years" respectively.

Amendment of section 4 of the principal Ordinance.

35 5. Section 5 of the principal Ordinance is amended by substituting for the words "two thousand shillings" and "six months" the words "five thousand shillings" and "two years" respectively.

Amendment of section 5 of the principal Ordinance.

Amendment of
section 7 of
the principal
Ordinance.

6. Sub-section (2) of section 7 of the principal Ordinance is amended by substituting for the words "one thousand shillings" and "three months" the words "three thousand shillings" and "one year" respectively.

Amendment of
section 8 of
the principal
Ordinance.

7. Section 8 of the principal Ordinance is amended in the following respects—

(a) by numbering the existing three paragraphs thereof, which begin respectively with the words "No person", "There shall be", and "For the purposes", as sub-sections (1), (2) and (3) respectively of that section;

(b) by substituting for the words "a mine manager", where they appear in sub-section (3) thereof, the words "a manager as defined in the Mining (Safety) Regulations".

Cap. 168
Subsidiary
Legislation.

Insertion of
new section 8A
in the principal
Ordinance.

8. There shall be inserted, next after section 8 of the principal Ordinance, the following new section—

Permit for
acquisition of
blasting
materials.

8A. (1) No person shall purchase or otherwise acquire blasting materials except under the authority of, and to the extent authorized in, a written permit issued by an inspector.

(2) No person shall sell or dispose of blasting materials to any person who fails to produce at the time of the transaction a permit of the type referred to in sub-section (1) of this section, nor shall any person sell or dispose of any such materials in excess of the quantity referred to in such permit.

Repeal of
sub-section (2)
of section 10
of the principal
Ordinance.

9. Sub-section (2) of section 10 of the principal Ordinance is hereby repealed.

Replacement
of section 11
of the principal
Ordinance.
Penalties.

10. There shall be substituted for section 11 of the principal Ordinance the following section—

11. Any person who contravenes the provisions of sections 8, 8A, 9 or 10 of this Ordinance shall be liable on conviction to a fine not exceeding three thousand shillings or in default of payment to imprisonment for a period not exceeding one year.

Insertion of
new section 11A
in the principal
Ordinance.

11. There shall be inserted, next after section 11 of the principal Ordinance, the following new section and heading—

MOVEMENT OF EXPLOSIVES WITHIN COLONY

Prohibition on
conveyance of
explosives
without permit.

11A. (1) No person shall convey explosives or cause them to be conveyed within the Colony, except under and in accordance with a permit in writing issued by an inspector:

Provided that—

(i) this section shall not apply to safety fuses, percussion caps or fireworks;

(ii) no permit shall be required for the conveyance of explosives within a mine or works.

(2) Every person contravening the provisions of this section or of any permit issued under this section, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings, or in default of payment, to imprisonment for a period not exceeding six months.

12. The provisions of section 12 of the principal Ordinance shall continue to have effect until the 31st day of December, 1953, but shall then cease to have effect.

Expiry of section 12 of the principal Ordinance.

13. There shall be substituted for paragraph (f) of sub-section (1) of section 13 of the principal Ordinance the following paragraph—

Amendment of section 13 of the principal Ordinance.

(f) the maximum number of persons of each race which it is proposed to employ in each danger building in the factory;

10 14. Section 21 of the principal Ordinance is hereby repealed.

Repeal of section 21 of the principal Ordinance.

15 15. Sub-sections (2) and (4) of section 22 of the principal Ordinance are hereby repealed.

Repeal of sub-sections (2) and (4) of section 22 of the principal Ordinance.

16. There shall be substituted for section 23 of the principal Ordinance the following section—

Replacement of section 23 of the principal Ordinance.

20 23. Any person who establishes, erects, maintains or uses a factory for the manufacture of explosives, otherwise than in accordance with a valid licence issued under the provisions of this Ordinance, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand shillings, or in default of payment, to imprisonment for a period not exceeding twelve months.

Penalty for unlicensed factory or magazine.

25 17. Section 25 of the principal Ordinance is amended by substituting for the words "one thousand shillings" and "three months" the words "three thousand shillings" and "one year" respectively.

Amendment of section 25 of the principal Ordinance.

18. There shall be substituted for section 26 of the principal Ordinance the following section—

Replacement of section 26 of the principal Ordinance.

30 26. (1) If an inspector finds any method of work, storage, packing or use in connexion with explosives to be in conflict with the provisions of this Ordinance or of any rules, or to be in his opinion dangerous to the public security or to the safety of any person, he may in his discretion—

Power to stop dangerous methods.

35 (a) confiscate and remove the explosives;
(b) by order in writing require the immediate discontinuance of such method;
40 (c) by order in writing require such remedial measures to be taken as in his opinion are necessary.

45 (2) Any person who is dissatisfied with a confiscation or requisition done or made under this section may within thirty days thereof appeal to the chief inspector of explosives, who shall give his decision thereon with the least possible delay.

50 (3) If an appellant is dissatisfied with a decision of the chief inspector of explosives given under this section he may within thirty days of such decision appeal therefrom to the Governor in Council, whose decision shall be final.

(4) The provisions of this section shall be without prejudice to any prosecution.

Insertion of new section 28A in the principal Ordinance.

Penalty for making, possession or control of explosive for unlawful object.

19. There shall be inserted, next after section 28 of the principal Ordinance, the following new section.

28A. Any person who makes or knowingly has in his possession or under his control any explosive, in circumstances which give rise to a reasonable suspicion 5 that he is not making it or does not have it in his possession or under his control for a lawful object shall, unless he can show that he made it or had it in his possession or under his control for a lawful object, be guilty of an offence and shall be liable on conviction to 10 imprisonment for a period not exceeding seven years, and the explosive shall be forfeited to Her Majesty.

Amendment of section 29 of the principal Ordinance.

20. Section 29 of the principal Ordinance is amended in the following respects—

(a) by numbering the provisions thereof which begin with 15 the words “The Governor in Council” and end with the words “purposes of this Ordinance”, as sub-section (1) of that section, and by numbering the remaining two paragraphs of that section as sub-sections (2) and (3) respectively; 20

(b) by substituting for the words “giving of notice”, where they appear in paragraph (g) of sub-section (1) of that section, the word “reporting”;

(c) by substituting for the words “manufacturers and dealers”, where they appear in paragraph (k) of sub- 25 section (1) of that section, the words “manufacturers, dealers and users of explosives”;

(d) by adding next after paragraph (k) of sub-section (1) of that section, the following new paragraph—

(l) prescribing the fees payable for licences or 30 permits, and any renewals or duplicates thereof;

(e) by substituting for the words “three thousand shillings” and “twelve months”, where they appear in sub-section (2) thereof, the words “five thousand shillings” and “two years” respectively. 35

Insertion of new section 29A in the principal Ordinance.

Expiration of licences and permits.

21. There shall be inserted next after section 29 of the principal Ordinance, the following new section—

29A. Every licence or permit issued under the provisions of this Ordinance shall expire on the 31st day of December in the year of issue unless renewed. 40

Amendment of Schedule to the Principal.

22. The Schedule to the principal Ordinance is amended by deleting the words “Safety fuse” and “Fuse igniters or tshisha sticks” and substituting therefor the words “Danolite and instantaneous detonating fuse”.

MEMORANDUM OF OBJECTS AND REASONS

A Committee was appointed in 1951 to inquire into the adequacy of the Explosives Ordinance and to consider the arrangements necessary for the administration thereof.

The Committee recommended a number of changes, the most fundamental of which was that the administration of the Ordinance, which has hitherto been vested in the Public Works Department, should appropriately be transferred to the Department of Mines and Geology. This step involves the amendment of the Ordinance, and it was recommended that the opportunity should be taken to make further amendments aimed at the closer control of explosives. This Bill is designed to achieve the above objects.

Clause 2 of the Bill defines the term "Commissioner" as the Commissioner (Mines and Geology) or other person deputed by him and deletes the definition of "Director"; *clause 3* substitutes the former expression throughout the Ordinance in place of the latter. *Clause 2* also amends the definition of "danger building" to obviate the present necessity of reference to rules, and to enable a licence or certificate to show what parts of factory and magazine buildings are not to be considered as danger buildings.

Clauses 4, 5, 6, 10, 17 and (in part) *20* inclusive increase certain penalties of the principal Ordinance which, by reason of the decreased value of money and the increased danger from modern explosives, are considered to be inadequate.

Section 8 of the principal Ordinance provides that a dealer in explosives must be licensed to carry on that occupation. It is considered necessary, however, that individual purchases and sales of blasting materials should be controlled and recorded, and *clause 8* of the Bill accordingly inserts a new section 8A in the principal Ordinance to prohibit the purchase or sale of these materials except under permit issued to the purchaser.

Clause 9 of the Bill, by deleting section 10 (2) of the Ordinance, removes the requirement of a fee for the issue of blasting permits in respect of mines, thus bringing the practice into line with similar provisions under the Mining Ordinance (Cap. 168). A general power to prescribe fees for licences and permits where such fees are appropriate is, however, inserted in the Ordinance by *clause 20* of the Bill.

Clause 11 inserts a new provision requiring permits to be obtained for the transport of explosives within the Colony.

Clause 15 inter alia repeals section 22 (4) of the principal Ordinance, removing the requirement of a fee of Sh. 100 for a licence to erect or carry on an explosives magazine. It is intended to replace this provision by rules under section 29, to allow greater flexibility if any alteration in the method of charge comes necessary. For the same reason *clause 16* repeals section 23 of the Ordinance.

Clause 18 substitutes a more comprehensive section for section 26 of the principal Ordinance, giving an inspector power to confiscate explosives or require an alteration in the method of work, or both, where explosives are found on inspection to be used or stored dangerously. The section also provides for appeal against the inspector's action, in the first place to the chief inspector of explosives, and finally to the Governor in Council.

Clause 21 provides that all licences and permits shall expire annually, thus allowing for close control of explosives and consequentially for greater security.

The remaining clauses of the Bill make minor amendments to clarify the penal provisions of the Ordinance and to bring the provisions into closer accord with modern practice and terminology.

If the provisions of this Bill become law it is anticipated that a loss of revenue due to the repeal of section 10 (2) of the Ordinance (*clause 9*) amounting to approximately £70 annually, will be offset by increased revenue from the requirement that licences and permits be renewed annually. For the proper administration of the Ordinance it will however be necessary to employ additional staff costing approximately £3,000 per annum.

Nairobi,
27th August, 1953.

JOHN WHYATT,
Attorney General.

