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GOVERNMENT NOTICE No 175

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 LOCAL
GOVERNMENT LOANS ORDINANCE, 1953**

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

Short title,

No 9 of 1953

1. This Ordinance may be cited as the Local Government Loans (Amendment) Ordinance, 1955 and shall be read and construed as one with the Local Government Loans Ordinance, 1953 hereinafter referred to as the principal Ordinance 5

Amendment of
Schedule to the
principal
Ordinance
Cap 136

2. (1) The Schedule to the principal Ordinance is amended in the following respects—

(a) by substituting for the amendments to the Municipalities Ordinance, appearing therein, the amendments appearing in the Schedule to this Ordinance, 10

Cap 140

(b) in the amendments to section 118 of the Local Government (District Councils) Ordinance, by substituting for the words "the Council shall have in respect of the mortgage or charge", where those words appear in proviso (ii) to sub-section (2) of that section as thereby amended, the words "the mortgagee or chargee shall have in respect of the mortgage or charge", 15

No 30 of 1952

(c) in the amendments to section 145 of the Local Government (County Councils) Ordinance, 1952, 20 by substituting for the words "the Council shall have in respect of the mortgage or charge", where those words appear in proviso (ii) to sub-section (2) of that section as thereby amended, the words "the mortgagee or chargee shall have in respect of the mortgage or charge" 25

(2) The provisions of paragraph (a) of sub-section (1) of this section shall have retrospective effect to the commencement of the principal Ordinance and accordingly the principal Ordinance shall be deemed always to have had 30 effect as if the amendments contained in the Schedule thereto in relation to the Municipalities Ordinance were as expressed in the Schedule to this Ordinance, and all acts, matters or things done or purported to be done at any time during the period between the commencement of the principal Ordinance 35 and the commencement of this Ordinance which would have been validly and effectually done if the amendments to the Municipalities Ordinance appearing in the principal Ordinance had been so expressed shall be deemed to have been validly and effectually done for all purposes and in all 40 respects

SCHEDULE

FIRST COLUMN		SECOND COLUMN
<i>Chapter No</i>	<i>Title</i>	<i>Amendments</i>
-136	Municipalities Ordinance	<p>(a) In section 97—</p> <p>(i) Substitute for sub-section (1) thereof the following new sub-section—</p> <p>(1) The Council may from time to time, by a majority of the councillors present at a meeting specially convened for the purpose, at which the majority voting shall not be less than a majority of the whole Council, raise loans for such purposes, in such amounts and on such conditions as the Minister may approve</p> <p>Provided that no such loan shall be raised in any place outside the Colony except with the prior approval of the Secretary of State</p> <p>(ii) Substitute for sub-section (2) thereof the following new sub-section—</p> <p>(2) All such loans shall be charged indifferently on all rates and revenues of the Council and all securities therefor shall rank equally without any priority</p> <p>Provided that—</p> <p>(i) in the case of all such loans raised by the Municipal Council of Nairobi the same shall be secured on the property and revenue of the Council,</p> <p>(ii) nothing in this sub-section contained shall affect any priority existing at, or any right to priority conferred by a security created before, the date of commencement of the Local Government Loans Ordinance, No 9 of 1953 1953,</p>

SCHEDULE—(Contd)

FIRST COLUMN		SECOND COLUMN
<i>Chapter No</i>	<i>Title</i>	<i>Amendments</i>
136—(Contd)	Municipalities Ordinance	<p>(iii) any such loan may in addition be charged by way of mortgage or charge upon any land vested in the Council, and any such mortgage or charge shall rank in priority according to the law for the time being in force in the Colony and all moneys thereby secured shall be recoverable and the mortgagee or chargee shall have in respect of the mortgage or charge all such rights and remedies as are conferred by law upon mortgagees or chargees</p> <p>(iii) Amend sub-section (4) thereof by substituting for the words "property and revenues on which the loan is secured", appearing therein the words "rates and revenues of the Council, or, in the case of a loan raised by the Municipal Council of Nairobi, the property and revenues on which the loan is secured"</p> <p>(iv) Substitute for sub-section (7) thereof the following new sub-sections—</p> <p>(7) In the case of a loan made to the Council by the Local Government Loans Authority under the provisions of the Local Government Loans Ordinance, 1953, the powers No 9 of 1953 exercisable under this section shall be in addition to and not in substitution for or derogation of the powers conferred by that Ordinance in respect of the non-payment of any such loan or interest thereon or money due on account thereof</p>

SCHEDULE—(Contd)

FIRST COLUMN		SECOND COLUMN
Chapter No	Title	Amendments
136—(Contd)	Municipalities Ordinance	<p>(8) The court, on such application, in addition to any order which it is empowered to make under sub-section (5) of this section, may, if it shall think fit, order the sale of any property on which a loan raised by the Municipal Council of Nairobi may be secured, subject always to the provisions of any law as regards the alienation of any lands vested in the Council</p> <p>(b) In section 99 substitute for the words "property and revenues, present and future of the Council", appearing in sub-section (3) thereof, the words "rates and revenues of the Council, or, in the case of advances made to the Municipal Council of Nairobi, the property and revenues of the Council"</p>

MEMORANDUM OF OBJECTS AND REASONS

When the Local Government Loans Ordinance, 1953 (herein referred to as the principal Ordinance) was enacted, it was necessary to bring the various provisions of other local government legislation into line on matters affecting local authority loans. The principal Ordinance affected these amendments by means of a Schedule which, *inter alia*, amended the Municipalities Ordinance so as to cause loans of municipal bodies to be secured on the rates and revenues of these bodies instead of on their property and revenues.

The provision referred to above has been found inappropriate in relation to the Nairobi City Council by reason of the fact that that Council has always raised its loans by way of charge on the "property and revenues" of the Council and is arranging to make future loans secured in the same way.

This Bill makes the necessary amendments to the Municipalities Ordinance in respect of Nairobi only, and is expressed to have retrospective effect in order to validate the acts of the Nairobi City Council since the principal Ordinance was enacted.

No additional expenditure of public moneys will be incurred if this Bill is enacted.

Nairobi,
25th January, 1955

JOHN WHYATT,
Attorney General

GOVERNMENT NOTICE No 176

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 AFRICAN
DISTRICT COUNCILS ORDINANCE, 1950**

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 African District Councils (Amendment) Ordinance, 1955, and shall be read and construed as one with the African District Councils Ordinance 1950 hereinafter referred to as the principal Ordinance

Short title

No 12 of 1950

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

Amendment of section 2 of the principal Ordinance

(a) by inserting immediately before the definition of “African”, appearing therein, the following new definition—

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“adult” means of or above the age or apparent age of eighteen years,

(b) by inserting, next after the definition of “District Commissioner”, appearing therein, the following new definition—

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“local authority” means a municipal council or municipal board, an African District Council, the council of a county, county district or county division, or, in the case of a township established by or under the Townships Ordinance, the district commissioner

20 Cap 133

3. Section 18 of the principal Ordinance is amended in the following respects—

Amendment of section 18 of the principal Ordinance

(a) by deleting the words “any other Council established under the provisions of this Ordinance, or with any District Council constituted under the Local Government (District Councils) Ordinance, 1928, or with any Municipal Council or Board constituted under the Municipalities Ordinance, 1928”, appearing in sub-section (2) thereof, and by substituting therefor the words “any other local authority”,

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No 21 of 1928

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No 19 of 1928

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

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(2A) No contract the amount of which exceeds ten thousand shillings shall be entered into by a Council by virtue of sub-section (1) of this section except after public tender, of which reasonable notice shall be given in such manner as the Provincial Commissioner shall determine

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Provided that—

(i) a council shall not be bound to accept the lowest or any tender,

(ii) the Minister may, in his discretion, exempt a Council from the requirements of this sub-section

Amendment of
section 19 of
the principal
Ordinance

4. Section 19 of the principal Ordinance is amended—
(a) by substituting for the words “other Councils”,
appearing therein, the words “other local authorities”,
and by substituting for the words “such Councils”,
appearing therein, the words “local authorities”, 5
(b) by re-numbering the section as sub-section (1) thereof
and by adding the following new sub-sections—

(2) Subject to the provisions of this section the
number of members of a joint committee appointed
under this section, the term of office of the members 10
thereof, and the area within which the joint com-
mittee is to exercise its authority, shall be fixed by
the appointing local authorities

(3) Every member of a joint committee
appointed under this section shall, upon ceasing to 15
be a member of the local authority by whom he
was appointed, also cease to be a member of the
joint committee

Provided that for the purposes of this sub-
section a member of a local authority shall not be 20
deemed to have ceased by reason of retirement to
be a member of the local authority if he has been
re-elected or re-appointed a member thereof not
later than the day of his retirement

Amendment of
section 30 of
the principal
Ordinance

5. Section 30 of the principal Ordinance is amended by 25
adding at the end of sub-section (5) thereof the words “and
such tax may also be related to residence or the ownership of
property, or both”

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to make a number of amendments to the African District Councils Ordinance, 1950, which are considered necessary

Section 18 (2) of the Ordinance enables African District Councils for certain purposes to enter into contracts with other Councils and with the local authorities specified in the sub-section. It does not, however, recognize in this connexion county councils or county district or divisional councils, which were non-existent when the Ordinance was made, nor does it deal with township authorities. This is remedied in *clause 3* of the Bill by substituting the comprehensive term “local authority”, and that term is defined in *clause 2*

The Ordinance does not require that contracts should be opened to tender, although it is considered that in contracts involving £500 or more a call for tenders should be obligatory. Provision for this is included in *clause 3* of the Bill, with power to the Minister to exempt a Council from the obligation, at his discretion

Section 19 of the Ordinance enables a Council to set up joint committees with other African District Councils and *clause 4* of the Bill amends that section to bring in other forms of local authority, i.e. municipal councils and boards, the various types of county council and (in the case of townships) district commissioners, since it is considered that co-operation and liaison between African District Councils and these other forms of local government should be encouraged

Clause 5 introduces an amendment to section 30 of the Ordinance in order that where a Council imposes a tax on persons within its jurisdiction the application of the tax may if so required be limited to those residing or owning property therein. As the section is at present worded persons who are only temporarily in the area of a Council may have to be taxed *pari passu* with those on whom the burden of the tax is actually intended to fall

No additional expenditure of public moneys will be incurred if this Bill is enacted

Nairobi,
2nd February, 1955

JOHN WHYATT,
Attorney General