



THE OFFICIAL GAZETTE

OF THE COLONY AND PROTECTORATE OF KENYA

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

Vol. LVII—No. 20

NAIROBI, 19th April, 1955

Price 50 Cents

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GOVERNMENT NOTICE No 523

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

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- 3—Annual borrowing powers
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SECTION

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A BILL ENTITLED
AN ORDINANCE TO PROVIDE FOR ANNUAL
BORROWING TO A LIMIT OF FIVE MILLION
POUNDS AND TO DECLARE THE TERMS AND
CONDITIONS APPLICABLE GENERALLY TO
LOANS RAISED BY THE GOVERNMENT OF THE
COLONY IN THE COLONY

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 General Local Loans Ordinance, 1955, and shall apply to the raising of loans in the Colony Short title

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

“bonds” and “stock” mean respectively the bonds and stock referred to in section 4 of this Ordinance,

“consolidated fund” has the same meaning as it has in the Exchequer and Audit Ordinance, 1955, No — of 1955

10 “development account” means that part of the exchequer account which is charged with expenditure for purposes of development,

“exchequer account” has the same meaning as it has in the Exchequer and Audit Ordinance, 1955, No — of 1955

15 “revenue account” means that part of the exchequer account which is charged with expenditure other than that charged to the development account,

“security” means any document issued under the authority of the Minister as evidence of a loan raised under the provisions of this Ordinance, 20

“sinking fund” means a sinking fund established under section 10 of this Ordinance

3. (1) The Minister is hereby empowered to borrow in each financial year, in the manner provided by this Ordinance, such sum or sums not exceeding in any such year five million pounds, as he may require to defray expenditure lawfully chargeable to the Colony's accounts Annual borrowing powers

(2) In this section the expression “financial year” means the period from first July in any year to thirtieth June in the next succeeding year

Method of
raising loans

4. In exercising his powers under section 3 of this Ordinance, and whenever by any other Ordinance authority shall have been given to borrow any sum of money, the Minister may from time to time, as he deems expedient, borrow such sum by the creation of bonds or stock 5

Loan to be a
charge upon
general revenue

5. The principal moneys and interest represented by bonds or stock issued under the provisions of this Ordinance are hereby charged upon and shall be payable out of the general revenues and assets of the Colony

Stock to be
registered

6. Stock shall be issued by the Minister as registered 10 stock, upon the best and most favourable terms that can be obtained, and shall be transferable by written instrument of transfer, and every stock certificate issued by an officer nominated by the Minister for the purpose shall be *prima facie* evidence of the title of the person named therein to the stock 15 therein specified

Redemption
of stock

7. (1) Stock shall be redeemable at par on a date to be named when issuing it, such date not being later than forty years from the date of issue

Provided that the Minister may reserve the option to 20 redeem the stock in whole or in part, by drawings or otherwise, at any time prior to such date, on such conditions as may be declared at the time of issue

(2) On the date appointed for the redemption of the stock or any part of it all the interest on the principal moneys 25 represented thereby shall cease to accrue whether payment of the principal shall have been demanded or not

Expenses of
raising loans

8. All expenses of and incidental to the raising of loans and the issue of securities under the provisions of this Ordinance, other than discount shall be paid out of the consolidated 30 fund and shall be charged to the revenue account

Interest on
bonds and
stock

9. Interest on bonds and stock shall be payable half-yearly out of the consolidated fund, and shall be charged to the revenue account

Sinking funds

10. (1) The Minister may establish such sinking fund or 35 funds as he deems necessary or desirable for the redemption of loans raised on bonds or stock

(2) Into every sinking fund established by virtue of this section there shall be paid annually such sum or sums as the Minister shall at the time of issue of the loan direct, every 40 such payment to be made from the consolidated fund and charged to the revenue account

Provided that if the Minister so directs in relation to any sinking fund, no such payment shall be made in the first year of the fund 45

(3) All expenses of and incidental to the management of a sinking fund shall be paid out of that fund

Trustees for
sinking funds

11. (1) For the investment and management of every sinking fund the Minister shall appoint trustees and may vest in such trustees such powers and authorities and may impose 50 upon them such duties, not being inconsistent with the provisions of this Ordinance, as he may think fit, and may in like manner from time to time alter or vary any such power, authority or duty

(2) The Minister may at any time remove a trustee of a 55 sinking fund, and in the event of the removal, death or retirement of any such trustee may appoint another in his place, and may also at any time appoint an additional trustee or trustees

12. (1) The trustees of every sinking fund shall hold all moneys vested in them by virtue of this Ordinance, and all investments for the time being representing such moneys, and all proceeds and produce thereof, in trust for the redemption
5 at the earliest favourable opportunity of the bonds or stock to which such moneys or investments relate

Duties of
sinking fund
trustees

(2) All bonds and stock redeemed by sinking fund trustees shall be cancelled and shall not be reissued

13. The trustees of a sinking fund shall from time to
10 time invest all moneys paid into the fund, and all moneys accruing thereto, other than moneys immediately required for purposes of management and redemption, in such securities as the Minister shall from time to time approve for that purpose, and may from time to time change any such invest-
15 ments and sell or dispose of any securities for the purpose of effecting such change

Sinking fund
investments

Provided that any investments made as a result of such change shall be in securities approved as aforesaid

14. The Minister may authorize the creation and issue
20 of stock for the purpose of converting existing loans (whether issued before or subsequent to the commencement of this Ordinance) into stock to be issued under the provisions of this Ordinance, or of raising money for redeeming any such loans

Issue of
stock for
conversion or
redemption
of loans

15. The Minister may appoint any bank, broker or
25 person as agent for the issue, management or repayment of securities and to perform such other duties under this Ordinance as he deems expedient, and may enter into agreement with any such agent as to the duties to be performed and the
30 remuneration therefor

Appointment
of agents

16. Neither the Minister nor any agent appointed under this Ordinance shall be under any obligation as regards the due fulfilment of any trust, whether expressed, implied or constructive, to which any security may be subject, notwith-
35 standing any notice that the security is held subject to a trust

No
responsibility
for trusts

17. No stamp duty shall be payable in respect of any interest, certificate or transfer of stock

Exemption from
stamp duty

18. All interest on stock shall be deemed to be debenture interest within the meaning of section 42 of the East
40 African Income Tax (Management) Act, 1952, and sub-sections (1), (2) and (4) of that section shall apply upon payment of such interest as if the references therein to a company resident in the Territories and to the manager or the principal officer of such company were read as references to the Minister and
45 to any officer or agent acting on his behalf under the provisions of this Ordinance

Deduction of tax
at source

H C No 8
of 1952

19. The Minister may at the time of issue of any bonds or stock impose conditions, not inconsistent with this Ordinance, as to all or any of the following matters—

Conditions
of issue
of securities

- 50 (a) the price of issue of the security,
(b) the denominations in which the security will be issued and transferred,
(c) the rate of interest thereon,
(d) the times and places of the repayment of principal and payment of interest,

(e) the exchange of stock into certificates to bearer and the exchange again, as occasion may require, of such certificates into stock,

(f) the exchange of bonds, during the currency thereof, into stock,

5

together with such other conditions, not inconsistent with this Ordinance, as he may deem expedient

Regulations

20. (1) The Minister may make regulations for all or any of the following purposes—

(a) the registration of stock, 10

(b) the issue, transfer, conversion and replacement of bonds and stock,

(c) prescribing the persons who may be registered as stockholders,

(d) prescribing the method by which any payment in respect of bonds or stock may be made, 15

(e) the registration, payment of interest, repayment of principal, and transfer, of stock in the case of persons under legal disability,

(f) the replacement of lost certificates of stock, 20

(g) prescribing fees and charges for any services provided for in this Ordinance,

(h) generally for the better carrying out of the provisions of this Ordinance

(2) Subject to any regulations hereafter made in pursuance of this section, the Local Loan Regulations shall apply in respect of all stock issued under this Ordinance in like manner as they apply to stock issued under the Local Loan Ordinance

Cap 248
Subsidiary
Legislation
Cap 248

MEMORANDUM OF OBJECTS AND REASONS

This Bill is primarily designed to establish the terms and conditions which will be applicable to all loans raised by the Government in the Colony, as distinct from loans raised in the United Kingdom, the conditions for which are covered by the General Loan and Stock Ordinance, 1950 (No 14 of 1950). The Bill also contains a clause (*clause 3*) to provide a general power, if required, to raise loans in any financial year to a limit of five million pounds, the object of that clause is to facilitate the raising of local loans by obviating the necessity for specific loan Ordinances.

By *clause 1* the Bill is made applicable to loans raised in the Colony only, and *clause 4* provides that the method of raising loans shall be by bonds or stock.

Clause 5 creates a general charge on the Colony's revenues and assets in relation to local loans.

It is proposed (*clause 6*) that stock shall be registered and transferable, and *clause 7* renders it redeemable at par within 40 years.

Provision is made for all loan expenses, and the half-yearly interest on loans, to be met from the revenue account (*clauses 8 and 9*).

Clauses 10 to 13 inclusive deal with the establishment when required of sinking funds, the appointment and duties of trustees, and the investment of sinking fund moneys under the direction of the Minister for Finance.

Clause 14 empowers the Minister to issue stock in order to convert existing loans into stock issued under this Bill when enacted.

Clause 15 empowers the Minister to appoint a bank, broker or other person as agent, when circumstances render such an appointment desirable.

Clause 16 contains the usual provision absolving the Minister and his agents from any obligation to fulfil trusts to which securities may become subject

Clauses 17 and 18 provide for stamp duty exemptions and for the deduction of income tax at source before paying interest on stock

By *clause 19* it is proposed that the Minister shall be empowered, when arranging loans, to impose conditions as to the price of issue, interest rates, repayment, conversion and other matters

The purposes for which regulations can be made are contained in *clause 20*, and until such regulations are made it is provided that the Local Loan Regulations already in existence under a specific loan Ordinance will apply

Additional expenditure of public moneys on interest and sinking fund contributions in respect of loans raised is to be anticipated if the provisions of this Bill become law. The amount of such additional expenditure cannot be estimated

Nairobi,
31st March, 1955

E N GRIFFITH-JONES,
Acting Attorney General