



Shenandoah Library

1. Ad. Secretary 3 hrs (minutes) \_\_\_\_\_ 11 May 33  
Trans. 12 copies of report of Select Committee on a Bill to amend the Public Travel & Access Roads Ordinance.

? Wait for the Ordinance.

C. P. ...  
3/7/33

*[Signature]*  
3/7/33

*[Handwritten mark]*

Shenandoah Library

2. A/Ad. Secy. 3 hrs (minutes) \_\_\_\_\_ 11 Aug. 33.

Trans. 12 copies of report of Select Committee on a Bill to amend the Public Travel & Access Roads Ordinance.

Wait for order

Provisions: 29/14

*[Handwritten mark]*

Shenandoah Library

3. A/Comm. D. Deputy 25 Sale 526 \_\_\_\_\_ 9<sup>th</sup> Sept 33.

Trans. on dup. authenticated copy of the Public Travel & Access Roads (Amendment) Ordinance No 28/1933.

Shenandoah Library

4. A/Ad. Secretary 2 hrs \_\_\_\_\_ 12 Sept 33.

Trans 12 printed copies of Ordinance No 28/1933.

This seems to be a very reasonable measure. It is to be subject of study of the District Council & Land Forces. Provisions: 500

What is the question of existing roads & access? S3 says the Order shall not apply to them (unless there is an official application) but I don't think...

that section is sufficient: to  
provide for existing roads S. 14  
of the Principal Order, which  
is repealed by S. 2.

This is, of course, mainly  
Kinyas own affair, though if  
the Dept. <sup>may</sup> think it worth while  
just to mention the point without  
asking for discussion.

*John G. Way.*

23.10.

Pl. dft. comm.

*W. B. Smith*

24/10 1953

*Printed  
files  
5  
Relief (Case)  
to note (5)*

To Kenya 817, (3 annual) 27 OCT 1953

C. O.

3203/33 Kenya

PC 5

Mr. Davies. 2 J. G. W.

Mr. Freeman 25/2

Mr.

Mr. Parkinson.

Mr. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DOWNING STREET,

27 October, 1933.

25 OCT  
D 76 Sir

I have, etc., to acknowledge the

receipt of your despatch No. 526 of the

9th of September and to inform you that

His Majesty will not be advised to

exercise his power of disallowance in

respect of Ordinance No. XLII of 1933

entitled "An Ordinance to Amend the

Public Travel and Access Road Ordinance

DRAFT: Comm.

(3)

KENYA

NO. 617

O.A.G.

2. I note that, subject to a

proviso, Section 3 <sup>(under clause)</sup> of the amending

Ordinance provides that it shall ~~apply~~

<sup>only</sup> apply to roads of access constituted

after the <sup>(date of its)</sup> coming into operation <sup>AR</sup> of the

<sup>the same time</sup> Ordinance. Section 14 of the Principal

Ordinance, which would otherwise govern

the position with regard to existing

roads of access, is, however, repealed

by Section 2 of the amending Ordinance,

**FURTHER ACTION.**

and

Mr. Davies.

Mr. Freeman

Mr.

Mr. Parkinson.

Mr. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DOWNING STREET,

27 October, 1933.

25 OCT  
D 76 Sir

**DRAFT.** *Clown*

KENYA

NO. 817

O.A.G.

I have, etc., to acknowledge the receipt of your despatch No. 526 of the 9th of September and to inform you that His Majesty will not be advised to exercise his power of disallowance in respect of Ordinance No. XLII of 1933 entitled "An Ordinance to Amend the Public Travel and Access Road Ordinance".

2. I note that, subject to proviso, Section <sup>(amendment)</sup> 3 of the amending Ordinance provides that it shall ~~only~~ apply <sup>only</sup> to roads of access constituted after the <sup>(date of its)</sup> coming into operation <sup>AR</sup> of the Ordinance. Section 14 of the Principal Ordinance, which would otherwise govern the position with regard to existing roads of access, is, however, repealed by Section 2 of the amending Ordinance.

**FURTHER ACTION.**

and as a consequence I am  
advised that there <sup>may be</sup> some

room for doubt whether *the wording of the amending*

Section 3 is sufficient  
to preserve the provisions of the  
repealed Section 14 in respect  
of existing access roads.

I have, etc.,

(Sgd.) P. CUNLIFFE-LISTER.



THE SECRETARIAT,  
NAIROBI,  
KENYA.

4

WHEN REPLYING  
PLEASE QUOTE  
NO. & DATE

RDS. 1/1/2/60.

RECEIVED  
- 2007155  
O. O. REGY

1/2 September, 1935.

No 3

The Acting Colonial Secretary of the Colony and Protectorate of Kenya presents his compliments to the Under Secretary of State for the Colonies, and with reference to Kenya despatch No. 526 of the 9th September, 1935, has the honour to forward twelve printed copies of Ordinance No. XLII of 1935 entitled An Ordinance to Amend the Public Travel and Access Roads Ordinance.

h

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Colony and Protectorate of Kenya.

IN THE TWENTY-FOURTH YEAR OF THE REIGN OF  
**HIS MAJESTY KING GEORGE V.**  
**HENRY MONCK-MASON MOORE, O.M.G.,**  
*Acting Governor.*

Assented to in His Majesty's  
name this 6<sup>th</sup> day of *September*  
1933.

**H. M. M. MOORE**

*Acting Governor.*

**AN ORDINANCE TO AMEND THE PUBLIC  
TRAVEL AND ACCESS ROADS ORDINANCE**

## ORDINANCE No. XLII of 1933

### An Ordinance to Amend the Public Travel and Access Roads 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 Public Travel and Access Roads (Amendment) Ordinance, 1933," and shall be read as one with the Public Travel and Access Roads Ordinance (Chapter 113 of the Revised Edition), hereinafter called "the Principal Ordinance."

2. Section 14 of the Principal Ordinance as amended by the Revised Edition of the Laws (Operation) Ordinance, 1926, is hereby repealed and the following is substituted therefor:—

Repeal and replacement of section 14 of the Principal Ordinance, No. 7 of 1926

14. (1) When the said road of access has been granted and constructed the applicant, which term shall for the purposes of this section include the successor in title, shall have leave at all times to use the said road of access.

Right of way over road of access.

(2) Save for the purposes of section 11 of this Ordinance the said road of access shall not be deemed to be a public road, provided that the applicant shall at his own cost erect, at the point where the road of access joins a public road, a notice board, of a design approved by the district board, bearing the words "private road" legibly painted or inscribed thereon, and shall maintain the same efficiently to the satisfaction of the district board.

(3) Should the said road of access pass through an existing fenced enclosure the district board in its discretion may require the applicant to provide, erect and maintain to its satisfaction a fence or fence of approved design, and shall apportion the cost of such fencing and its maintenance between the parties interested as it shall deem fit.

(4) If the said road of access shall pass through any wall, fence or barrier existing at the date of application the district board may require the applicant to provide, erect and maintain to its satisfaction a gate of approved design where the road passes through the wall, fence or barrier.

(5) The applicant shall at all times maintain the said road of access, and all works ancillary thereto, in a good and efficient state of repair to the satisfaction of the district board, and, for the purpose of such maintenance, the applicant, his servants or his agents shall have leave to enter at all times upon the said road of access: Provided always, that as little damage or inconvenience as possible shall be caused by such entry to the owner or occupier of the land over which the said road of access passes, and that such right of entry shall be subject to such conditions as the district board may impose in granting the order for constructing the said road of access.

(6) If the applicant shall fail or neglect to carry out the requirements of the district board under sub-sections (2), (3), (4) and (5), of this section, the district board may carry out the necessary work and recover the cost from the applicant in any competent court.

(7) The owner or occupier of any land through which the road of access passes shall have the right to use the road of access at all times:

Provided that the district board may at its sole discretion require such owner or occupier to pay to the applicant a proportionate share of the cost of the maintenance of the road.

(8) If the owner or occupier of land, other than an owner or occupier through which the road of access passes, desires to use the road of access, he may apply to the district board for authority to use it, and the district board may grant such application on such terms and conditions as it may see fit, or may refuse the application.

8. (1) This Ordinance shall only apply to roads of access constituted after the coming into operation of this Ordinance: Provided that, where a road of access is in existence at the time of the coming into operation of this Ordinance, the district board may, on the application of the applicant or his successor in title or of any of the owners or occupiers of land over which

Application  
of  
Ordinance.

the said road of access passes, give notice in three consecutive issues of the Gazette, and in three consecutive issues of a newspaper circulating in the Colony, that the provisions of this Ordinance shall apply to such road of access as from a date to be named in such notice, not being less than one month from the date of the first publication of such notice, and thereupon all the provisions of this Ordinance shall apply accordingly. Such notice shall clearly describe the position of such road of access, and shall give a clear and accurate description thereof.

(2) The district board shall apportion all costs incidental to such application between the parties concerned.

4. Notwithstanding anything in this Ordinance contained, where a road of access granted either before or after the commencement of this Ordinance passes over, in whole or in part, any right of way over which the public are entitled to pass, such public right of way shall not be extinguished by the granting of such road of access.

Passed in the Legislative Council the twelfth day of August, in the year of Our Lord one thousand nine hundred and thirty-three.

This printed impression has been carefully compared by me with the Bill which passed the Legislative Council and is presented for authentication and assent as a true and correct copy of the said Bill.

**H. E. BADER**

*Acting Clerk of the Legislative Council.*

KENYA.

No. 536.



GOVERNMENT HOUSE,  
NAIROBI,  
KENYA.

3

RECEIVED  
O. O. REGISTRY  
September, 1953.

Sir,

Ordinance (57)

I have the honour to transmit two authenticated copies of Ordinance No. XLIII of 1953 entitled An Ordinance to Amend the Public Travel and Access Road Ordinance, which passed its third reading in the Legislative Council on the 19th August and was assented to in His Majesty's name on the 6th September last, together with the Legal Report in duplicate, which explains the object of the measure.

2. Further printed copies of the Ordinance are being transmitted under separate cover.

I have the honour to be,

Sir,

Your most obedient, humble servant,

*W. H. H. H. H.*

ACTING GOVERNOR'S DEPUTY.

THE RIGHT HONOURABLE

MAJOR SIR PHILIP COWLING-LIMON, P.C., C.B.E., M.C., M.P.  
SECRETARY OF STATE FOR THE COLONIES,  
LONDON STREET,  
LONDON, E.C.4.

LEGAL REPORT.

THE PUBLIC TRAVEL AND ACCESS ROADS (AMENDMENT) BILL,  
1933.

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As the law now stands, a road of access constructed under the Public Travel and Access Roads Ordinance (Cap. 113 of the Revised Edition) can be used by the public generally as well as by the applicant. On representations being made to Government that this is inequitable and undesirable, District Councils and District Road Boards were circulated to obtain their views, and the Councils and Boards were almost unanimously of opinion that the right of use of roads of access should not be allowed to the public. This Bill has been drafted to achieve that object.

In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

Nairobi.

16th August, 1933.

  
A. H. H. CAMPBELL,  
ATTORNEY GENERAL.

2

REPORT OF  
THE SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL  
APPOINTED TO CONSIDER AND REPORT UPON THE  
PROVISIONS OF A BILL TO AMEND THE PUBLIC TRAVEL  
AND ACCESS ROADS ORDINANCE.

Your Excellency,

We, the members of the Select Committee of the Legislative Council appointed by Your Excellency to examine and report upon the provisions of the above Bill, have the honour to recommend that the Bill be amended in the following respects :-

1. That clause 2 be amended to read as follows :-

"14. (1) When the said road of access has been granted and constructed the applicant, which term shall for the purposes of this section include his successor in title, shall have leave at all times to use the said road of access.

(2) Save for the purposes of section 11 of this Ordinance the said road of access shall not be deemed to be a public road, provided that the applicant shall at his own cost erect, at the point where the road of access joins a public road, a notice board, of a design approved by the district board, bearing the words "private road" legibly painted or inscribed thereon, and shall maintain the same efficiently to the satisfaction of the district board.

(3) Should the said road of access pass through an existing fenced enclosure the district board in its discretion may require the applicant to provide, erect and maintain to its satisfaction a fence or fences of approved design, and shall apportion the cost of such fencing and its maintenance between the parties interested as it shall deem fit.

(4) If the said road of access shall pass through any wall, fence or barrier existing at the date of application the district board may require the applicant to provide, erect and maintain to its satisfaction a gate of approved design where the road passes through the wall, fence or barrier.

(5) The applicant shall at all times maintain the said road of access, and all works ancillary thereto, in a good and efficient state of repair to the satisfaction of the district board, and, for the purpose of such maintenance, the applicant, his servants or his agents shall have leave to enter at all times upon the said road of access: Provided always, that as little damage or inconvenience as possible shall be caused by such entry to the owner or occupier

of the land over which the said road of access passes, and that such right of entry shall be subject to such conditions as the district board may impose in granting the order for constructing the said road of access.

(6) If the applicant shall fail or neglect to carry out the requirements of the district board under sub-sections (2), (3), (4) and (5), of this section, the district board may carry out the necessary work and recover the cost from the applicant in any competent court.

(7) The owner or occupier of any land through which the road of access passes shall have the right to use the road of access at all times:

Provided that the district board may at its sole discretion require such owner or occupier to pay to the applicant a proportionate share of the cost of the maintenance of the road.

(8) If the owner or occupier of land, other than an owner or occupier through which the road of access passes, desires to use the road of access, he may apply to the district board for authority to use it, and the district board may grant such application on such terms and conditions as it may see fit, or may refuse the application.

2. That the following new clause be inserted as clause 3 :-

"3 (1) This Ordinance shall only apply to roads of access constituted after the coming into operation of this Ordinance: Provided that, where a road of access is in existence at the time of the coming into operation of this Ordinance, the district board may, on the application of the applicant or his successor in title or of any of the owners or occupiers of land over which the said road of access passes, give notice in three consecutive issues of the Gazette, and in three consecutive issues of a newspaper circulating in the Colony, that the provisions of this Ordinance shall apply to such road of access as from a date to be named in such notice, not being less than one month from the date of the first publication of such notice, and thereupon all the provisions of this Ordinance shall apply accordingly. Such notice shall clearly describe the position of such road of access, and shall give a clear and accurate description thereof.

(2) The ---

(2) The district board shall apportion all costs incidental to such application between the parties concerned".

3. That Clause 3 be renumbered 4.

We have the honour to be,  
Your Excellency's most obedient servants.

F.M. LOGAN.  
H.L. SIKES.  
CONWAY HARVEY.  
C.G. DURHAM.  
R.W.B. ROBERTSON-EUSTACE.  
J.G. KIRKWOOD.

(CHAIRMAN)  
(MEMBER)  
"  
"  
"

NAIROBI

2nd August, 1933.

14

REPORT  
OF  
THE SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL  
APPOINTED TO CONSIDER AND REPORT UPON THE  
PROVISIONS OF A BILL TO AMEND THE PUBLIC  
TRAVEL AND ACCESS ROADS ORDINANCE.

Your Excellency,

We, the members of the Select Committee of the Legislative Council appointed by Your Excellency to examine and report upon the provisions of the above Bill, have the honour to recommend that the Bill be amended in the following respects :-

1. That Clause 2 be amended by the insertion of the words "and any person duly authorised by them or any of them" after the word "passes" which occurs in the ninth line thereof, and by the addition of the following new sub-clauses, to be numbered (4) and (5) after sub-clause (3) :-

"(4) The proportionate share aforesaid to be paid shall be fixed by the district board with due regard both to the extent of road used and the nature and amount of traffic likely to pass thereover.

(5) If the said road of access shall pass through any wall, fence or barrier existing at the date of application, the applicant shall provide and maintain suitable gates for the closing of the aperture occasioned by the said road of access".

2. That the following new clause be inserted as Clause 5 :-

"5 (1) This Ordinance shall only apply to roads of access constituted after the coming into operation of this Ordinance: Provided that, where a road of access is in existence at the time of the coming into operation of this Ordinance, the district board may, on the application of the applicant or his successor, in title or of any of the owners or occupiers of land over which the said road of access passes, give notice in three consecutive issues of the Gazette, and in three consecutive issues of a newspaper circulating in the Colony, that the provisions of this Ordinance shall apply to such road of access as from a date to be named in such notice, not being less than one month from the date of the first publication of such notice, and thereupon all the provisions of this Ordinance shall apply accordingly. Such notice shall clearly describe the position of such road of access, and shall give a clear and accurate description thereof.