

1931

Kenya

No. 11185/A

SUBJECT

CO 533/411

Native Lands Trust Ordinance.

Previous

16010/30

Subsequent

Sub-files A - C

+ 18061/32

See figure 168 to back  
submit comments on rules and amendments  
to them and include copy of rules as finally  
adopted by District Board request decision by  
the public

\* See all  
had been  
shown to  
Dell earlier  
/W/

There was no comment on meeting  
as it had unfortunately been  
overlooked and a telegraphic copy  
was asked for as it had been  
waiting for papers. However  
as Mr Parkinson has pointed out  
in previous minutes this subject  
has been urgent for the last  
three years.

I attach a brief note  
containing comments on four  
of the Rules. There are the  
only points in the revised edition  
on which further comment  
seems necessary. Apart from  
those points, the rules seem  
satisfactory. But in 1937  
1600/37, the S. Ct. made it quite  
clear that he ~~respected~~  
had only given preliminary comment  
to the rules & that he reserved  
the right to criticize the Rules  
after they had been referred to the

See page 168 25 March  
submit comments on Rules and amendments  
to them and enclose copy of Rules as first  
adopted by Central Board. request decision by  
telegraph

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containing comments on four  
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only points in the revised edition  
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seems necessary. Apart from  
those points the Rules seem  
satisfactory. But in 1927 or  
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clear that he reserved his  
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the right to criticize the Rules  
after they had been referred to the

The 5-9-31 & 2-9-31  
have not in fact seen the  
Draft Rules - see Sir C.B. Rowley  
minutes of 10.9.30

(by telegraph)  
I appreciate the issue  
of the Rules subject to  
comment on the four points in  
my note.

J. Duncan  
8.8.31

Mr. Allen

We discussed the  
ending of Rules 4 & 5 & I now  
submit a revised edition of my  
note enclosing what we agreed  
with one or two other additions

J. Duncan  
12.5.31

For convenience of reference I  
put up a copy of the original rules  
showing in red ink the amendments  
made & indicated in black ink  
the further amendments or suggestions.  
Mr. Duncan will no doubt be able  
to improve on the wording of that to  
Rule 16 as to the friend, so will  
be advising as required & regard to

No 2.

No 7.

What Mr. Duncan has  
in mind in relation to  
the effect of these I  
have now enclosed in  
pencil. With this kind of  
help that can be  
left. (The Gov. 1931) (2)

Rule 11

Mr. Allen  
13/5/31

Subject to what I say below, the rules  
as now amended in red and black seem to be satisfactory

(1) Having regard to the amendment made in the  
last two lines of Section 4, it appears that certain  
consequential amendments will be necessary in Sections  
5 and 6, because the "vota" and the "recommendation"  
may be of the "persons having the customary authority  
over the land", and not of the "heads of the families"

On the whole, I think that the form of the  
lease, as now amended, regarding rent (and the revision  
thereof) and compensation complies sufficiently with  
the requirements of Section 9(2)(a) and (b) of the  
Ordinance. It would conform still more with Section  
9(2)(a) if the following words were inserted after the  
words "revisable on,.....":-

"and thereafter of such annual rent as may be fixed  
on such revision,....."; but I doubt if this  
amendment is necessary, and I should leave it to the  
Governor to insert it or not, as he pleases.

(3) Mr. Allen's wording about the "friend" at  
the end of Section 18(3) appears to say what the  
Secretary of State has in mind. I understand that  
it is desired for certain reasons to exclude  
barristers and solicitors; but it would not seem to  
be necessary to insert an express provision to this  
effect, because the permission of the Board has to be  
obtained for a friend to accompany the deputation as  
spokesman, and it would presumably be open to the  
Board to object to a barrister or solicitor being  
brought as a friend.

14th May, 1931.

H. Duncan.



6. No. 348 - 1. Approved - 22 MAY 1931  
(By the Staff)

7. No. 348 - 2. Approved - 22/5/31  
No. 348 - 3. Approved - 22/5/31

8. Extracts from Official Gazette No. 32 of 16 June 1931.

Agreed for reasons in accordance with minutes of 31/4/31 in 1705/31.

Minister 13/7/31

? put 4.  
(Sutton) 13/8/31

1/11/31  
13/8/31  
at 11

9

8. Rules extracted from Supplement to Official Gazette No. 145 of 8 September 1931.

9. No. 342 - 14 Sept. 31  
No. 342 - 14 Sept. 31

The Rules have been amended as requested by the SPS in no 5 & have been approved by the

The only point on which I have any comment is the drafting of Rule 5. I think the drafting of Rule 5 is sufficiently good to make it worth while to add the proposed amendments to the draft. It is a convenient opportunity of amending these Rules as shown in pencil.

(Sutton) 15.11.31

16/10/31

Yes. If Mr. Duncan thinks the amendments worth while.

1/11/31

16/10/31

The point raised seems to be the same as that referred to in 10 of the minutes of 14/5/31. The "vote" and the "recommendation" for the land are intended to be the "vote" and the "recommendation" of the native people of the land. The land of the natives having the customary authority over such land, then the Eastwood proposed amendments would appear to be desirable.

20/10/31 H. Duncan

Then draft accordingly, putting it that

as the rule recommendations  
are frequently embodied in the  
rule

amended  
2/10  
at all

10 To 40734. (9. Amended) 23 OCT 1931

11 Copy of deed to Pt. Kenya, No 7, 6/1/32  
as sent on 16/6/32  
(See case of exclusion of land from the Reserve)  
Registered for record.

~~for~~ Pt. Kenya — 112 — 10/3/32

DESTROYED UNDER STATUTE

Has approved the amendment  
Rule 5 of Rules issued under  
Section 22 of the N.L.T. Ordinance  
The amendment has now been  
repealed

2. 7. 1932

W.S. Price

6/4/32

G. H. ...  
5/11/32

X See Extract from Supplement No 9  
to 18 on file

Copies of Deed as sent on 17/3/1932  
Registered for record

as the ~~the~~ recommendation  
is presumably intended to  
etc

11/11/32  
21/10  
abace

10 To 40734. (4 Amrod) 23 OCT 1931

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as sent on 16/6/32  
(the case of exclusion of land from the Reserve)  
Registered for record.

for Fr. Kenya — 112 — 19/1/32

DESTROYED UNDER STATUTE

has approved the amendment  
Rule 5 of Rules issued under  
Section 22 of the N.L.T. Ordinance.  
The amendment has now been  
granted

? P. M. M.

W. P. M. M.

5/4/32

G. M. M.  
S. P. M. M.

X See Extract from Supplement No 9  
to 18 on file

Copy of Digest sent on 17/3/32  
Rego for record

Sent on  
17/19/31

20/ NLT P.P

KENYA

DOWNING STREET

No. 138

17th February 1932.

Sir,

I have the honour to refer to your despatch, No. 467 of the 13th August 1931, regarding the question of the grant of a mining lease to Major P.H. Lathbury on behalf of the Gold Mining Syndicate Limited, and also to your despatch No. 565 of the 20th November, 1931, with regard to the general question of the grant of mining leases in Native Reserves.

2. I regret the delay in replying to your despatches, but the questions involved called for full and careful examination.

3. The proposals in your despatches are based on the assumption that the Native Lands Trust Ordinance contemplates no other method of dealing with land required for mining purposes in Native Reserves than by excision under section 15 with the addition of an equivalent area to the reserve. You point out the difficulties involved and suggest:-

- (a) That in the case of the Gold Mining Syndicate Limited, the lease should be allowed to proceed, the addition of land to the reserve being left over for later consideration.
- (b) On the general question, that at some convenient date the Native Lands Trust Ordinance should be amended by providing in the case of excision for mining purposes, for the payment of a lump sum compensation to Local Native Council funds in lieu of addition of land to the reserve. You further suggest that in the meantime the question of compensation arising from the issue of a mining lease should be dealt with administratively on the same lines

Section  
(17519/31)  
KENYA  
No. 138

For NLT P.P.

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lines as compensation in respect of other private land.

4. I am in full agreement with you as to the necessity for removing any unreasonable obstacles to the development of the mineral wealth of the Colony which, especially in the present economic depression, would be of benefit to the community as a whole. On the other hand I am advised that there is no legal power for me to approve any administrative action contrary to the provisions of the Native Lands Trust Ordinance, even temporarily pending an amendment of that Ordinance.

5. It has, therefore, been necessary to consider

(1) whether it is possible to find within the existing provisions of the Native Lands Trust Ordinance satisfactory means of granting leases of land for mining purposes; and, if not

(ii) what amendment of the Ordinance is called for.

6. The legal position has accordingly been examined, particularly the assumption to which I have referred at the beginning of paragraph 3 of this despatch and I enclose a note of the points which emerged in the course of that examination.

7. The first point to which I invite your attention is the procedure, alternative to section 15, offered by section 8 of the Native Lands Trust Ordinance, i.e. the grant of leases without excision from the reserve. I have no doubt that this possibility has not escaped your attention, but it is not discussed in your despatches, and I should therefore be glad if you would consider whether the situation could not be dealt with by the exercise of the power to lease conferred by section 8. I recognise that some of the requirements of section 7

and possibly section 8 may present difficulties, but if they are not insuperable it would in my opinion be preferable to proceed under those sections, and thus to avoid any amendment of the Ordinance.

8. On the other hand, if you are satisfied that resort to section 8 is not practicable, I should be prepared to consider an amendment of the Ordinance for the specific purpose of enabling the Government to deal with this matter. In that case I am of opinion that the most suitable amendment would be an addition to section 15 providing that where land is excised from a Native Reserve with a view to the granting of a lease for the purpose of working Crown minerals, a temporary excision may be made, the compensation being (in view of the temporary nature of the excision) paid in money instead of in the form of an addition of land to the Reserve. The amount of compensation to be paid should, of course, be no less than that payable in similar circumstances to any holder of private land outside the Reserves, and if necessary the law should be further amended to secure this object beyond all doubt.

9. This question of mining leases is not the only matter in which practical difficulties have arisen in applying the provisions of the Native Lands Trust Ordinance, and in the circumstances I think that a review of the working of the Ordinance might well be included in the terms of reference of any commission entrusted with the enquiry recommended in paragraph 105 (ii) of the Report of the Joint Select Committee. I have been considering means for giving effect to that recommendation and I hope shortly to be in a position to announce my decision. As such a

review

9

review would naturally include the whole question of leases of land for mining purposes in Native Reserves. I wish to make it clear that any amendment of the Ordinance on the lines indicated in the preceding paragraph should be regarded as a purely interim measure adopted solely for the purpose of dealing with immediate practical difficulties which may operate to retard the development of Crown minerals and would be without prejudice to any recommendations made by the suggested Commission for dealing with the problem as a whole.

I have etc.

(Sgd) P. CUNLIFFE-LISTER.

GOVERNOR

BRIGADIER-GENERAL,

SIR JOSEPH A. BYRNE, K.C.M.G., K.B.E., C.B.

etc.,

etc.,

etc.

Kenya Gazette - 27/10/1931

GOVERNMENT NOTICE No. 644.

THE NATIVE LANDS TRUST ORDINANCE,  
1930.

CENTRAL BOARD.

BY VIRTUE of and in exercise of the powers conferred upon him by section 8 (1) of the Native Lands Trust Ordinance, 1930, His Excellency the Governor has been pleased to nominate the person named in the Schedule hereto to be a member of the Central Board established under the Native Lands Trust Ordinance.

Government Notice No. 545 of the 6th day of October, 1929, is hereby amended accordingly.

By Command of His Excellency the Governor.

Nairobi,

This 28th day of October, 1931.

A. A. SELDON,

for Acting Colonial Secretary.

SCHEDULE.

ROBERT WILLIAM HEMSTED, ESQUIRE, O.B.E.,  
vice the REVEREND CANON GEORGE BURNS, O.B.E.

Supplement No 9. - Kenya Gazette 1/2/32

GOVERNMENT NOTICE No. 144.

THE NATIVE LANDS TRUST ORDINANCE, 1930.

RULES.

IN EXERCISE of the powers conferred upon him by section 23 of the Native Lands Trust Ordinance, 1930, His Excellency the Governor, with the advice and consent of the Central Board, has been pleased to make the following Rules:

1. These Rules may be cited as "the Native Lands Trust (Amendment) Rules, 1932" and shall be read as one with the Native Lands Trust Rules, 1930 (hereinafter called "the Principal Rules").

2. Rule 6 of the Principal Rules is hereby repealed and the following Rule substituted therefor:-

"6. A majority vote of the natives present at the meeting shall decide whether the application is approved or rejected by the meeting. The votes cast shall be carefully recorded by the officer presiding. The officer presiding at such meeting shall postpone the meeting if he considers that it is not representative of the heads of the families occupying the land concerned and of the natives having the customary authority over such land."

By Command of His Excellency the Governor.

Nairobi,

This 22nd day of February, 1932.

H. M. M. MOORE,

Colonial Secretary.

16.006/31 Kenya

1/11

Kenya  
No. 7

OWNING STREET,

6 January, 1932.

Sir,

I have the honour to acknowledge the receipt of your despatch No. 658 of the 18th November, reporting the action taken in regard to the grant to the East Africa Power and Lighting Company Limited of an area of 21.05 acres (of which 17.25 acres is Crown Land, and the balance of 3.80 acres lies within the Fort Hall native reserve) for facilities for further development of electric power.

2. Your despatch does not state that the proposed exclusion of land from the reserve was discussed by the Local Native Trust Board, but I assume that the Central Board was satisfied itself as required by the first proviso to Section 15 of the Native Lands Trust Ordinance.

3. The concession of a power station on the banks of the Tana River must not be held to imply any expectation that the use of the water of that river will be conceded at a future date, and I trust that this is clear to the Company. If there is any room for doubt on the matter, you will no doubt consider whether some further communication should not be sent to them on the subject.

I have the honour to be,

Sir,

Your most obedient,

Humble servant,

(Sgd.) P. CUNLIFFE-LISTER.

GOVERNOR,  
BRIGADIER GENERAL,  
SIR JOSEPH A. BYRNE, K.C.M.G., K.B.E.,  
C.B.,

cc., cc., cc.

C. O.

Mr. Eastwood 12/10/31

*J*

- Mr. ~~Tomlinson~~
- Mr. Tomlinson
- Sir C. Bottomley
- Sir J. Shackburp
- Sir G. Grindle
- Perml. U.S. of B.
- Parly. U.S. of S.
- Secretary of State

Downing Street

C.D. 11  
 R 22083  
 D 22

October, 1931

Sir,

I have the honour to

*See  
Ann. 12*

**DRAFT.**

KENYA

No. 734

Gov.

acknowledge the receipt of your despatch No. 542 of the 14th September, in which you forwarded for my information a copy of the Rules issued

under Section 22 of the Native Lands Trust Ordinance. *S* I note that amendments have been made in accordance with the comments made on the draft Rules by my predecessor

It would seem, however, that the drafting of Rule 5 is not altogether free from obscurity.

*As* ~~the~~ *the* vote and *refused to* ~~the~~ *in* ~~the~~ *at* ~~the~~ *Rule* recommendation *is* ~~the~~ *an* ~~the~~ *and* ~~the~~ *are* ~~the~~ *intended* to be the vote and ~~the~~ *are* recommendation of the native heads

of families occupying the land and

of the natives having the customary authority over such land, ~~as is~~ ~~presumably the intention~~, I would suggest that a convenient opportunity should be taken of amending the

Rule to read as follows:-

"A majority vote of the natives present at the meeting shall decide whether the application is approved or rejected by the meeting. The votes cast shall be carefully recorded by the officer presiding. The officer presiding at such meeting shall postpone the meeting if he considers that it is not representative of the heads of the families occupying the land concerned, and of the natives having the customary authority over such land".

I have, etc.,

(SIGNED) J. H. THOMAS.

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postpone the meeting if he con-  
siders that it is not represen-  
tative of the heads of the  
families occupying the land con-  
cerned, and of the natives having  
the customary authority over such  
land".

I have, etc.,

(SIGNED) J. H. THOMAS.

9<sup>13</sup>

KENYA

No. 542



GOVERNMENT HOUSE,  
NAIROBI,  
KENYA.

RECEIVED  
17 OCT 1951  
COL OFFICE

14<sup>th</sup> September, 1951.

5

Received 23/10/51

Sir,

With reference to Lord Passfield's despatch No. 548 of the 22nd May, 1951, on the subject of Rules under §. 22 of the Native Lands Trust Ordinance, 1950, I have the honour to transmit for your information a copy of the Rules, amended in accordance with the comments contained in the despatch under reference, and approved by the Central Board.

I have the honour to be,

Sir,

Your most obedient, humble  
servant.

BRIGADIER GENERAL.  
GOVERNOR.

THE RIGHT HONOURABLE

J. H. THOMAS, P.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWLING STREET,

LONDON, S.W. 1.

9<sup>15</sup>

KENYA.

No. 542



GOVERNMENT HOUSE,  
NAIROBI,  
KENYA.

RECEIVED  
12 OCT 1951  
GOV. OFFICE

14<sup>th</sup> September, 1951.

Sir,

With reference to Lord Passfield's despatch No. 548 of the 22nd May, 1951, on the subject of Rules under S. 22 of the Native Lands Trust Ordinance, 1950, I have the honour to transmit for your information a copy of the Rules, amended in accordance with the comments contained in the despatch under reference, and approved by the Central Board.

5

Received 23rd Oct 1951

I have the honour to be,

Sir,

Your most obedient, humble  
servant.

BRIGADIER GENERAL,  
GOVERNOR.

THE RIGHT HONOURABLE  
J. H. THOMAS, P.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S.W. 1.



of families present] shall be carefully recorded by the Officer presiding. The Officer presiding at such meeting shall postpone the meeting if he considers that it is not heads of the families occupying or having the customary authority over [the] land [concerned].

6. As soon as may be thereafter the District Commissioner shall refer the application together with the recommendation of the <sup>native</sup> ~~RESIDENTS OF THE AREA~~ concerned to the Local Native Council of the area for its recommendation, and shall communicate the report of the Local Native Council to the Local Board at its next meeting. The report of the Local Board shall be forwarded without delay to the Central Board.

7. When any application for a lease has been duly approved by the Central Board notification to that effect shall be sent to the District Commissioner stating the terms on which approval has been accorded and the District Commissioner shall forthwith inform the applicant.

8. The applicant shall thereupon arrange for the survey of the land and shall furnish plans and descriptions in triplicate to the Surveyor General; Provided that in special cases the Surveyor General may, if the boundaries of the land are demarcated in such manner as is deemed by him to be sufficient for the purposes of the proposed lease, dispense with the survey of the land.

9. If in the opinion of the Provincial Commissioner it is desirable that a specific area in a Native Reserve should be set apart for the purpose of a trading centre or for a school, hospital or other institution for the benefit of the natives residing in the Reserve, or for a Government camp or station, or for a police or military post, or for afforestation, water supply or for any other purpose which in his opinion is likely to benefit the natives resident in the Reserve he shall cause a proposal to that effect to be

*Handwritten note in a circle:*  
 Consider a  
 trading centre  
 hospital or other  
 institution for the  
 benefit of the  
 natives of the  
 Reserve.

9(a) For the purposes of Rule 9 a school means 16  
(i) an institution which falls within the definition of  
'school' in the Education Ordinance, 1931; and  
(ii) provides instruction beyond the first standard  
of syllabus approved by the Director of  
Education or an inspector of school.

5

laid before the Local Native Council, and before the natives concerned, whose recommendations shall be communicated to the Local Board at its next meeting. The report of the Local Board shall be forwarded without delay to the Central Board for their consideration.

10. When any area has been duly approved and set apart by the Central Board for the purpose of a trading centre it shall be marked out into plots in such manner as the District Commissioner (subject to the directions of the Provincial Commissioner) may direct, and in such case it shall not be necessary to obtain the further sanction of the natives concerned to the grant of any individual lease or licence in respect of a plot situate in such area.

11. Every lease shall be substantially in the form contained in the schedule hereto and shall be executed on behalf of the Governor by the Chief Native Commissioner.

12. Every lease issued under these Rules shall be registered in accordance with any Ordinance for the time being in force relating to the registration of leases.

13. In cases where land in a Native Reserve has been occupied in good faith by non-natives with the consent of the Natives concerned and of the Government before the making of these Rules, the Chief Native Commissioner on the recommendation of the Local Native Council concerned and of the Local Board may authorise the issue of a lease under these Rules.

#### LICENCES.

14. Subject to prior reference to the Local Native Council, to the natives concerned, and to the Local Board the Governor may grant licences to or enter into contracts with persons not being members of the tribe for which the land has been set aside relating to

- (a) the grazing of cattle in a native reserve;
- (b) the removal of timber or other forest produce from a native reserve; or
- (c) the taking of sand, lime, stone or other common minerals (excluding salt) from a native reserve for periods not exceeding twelve months at any one time.

CD to  
as  
Rule 9<sup>th</sup>

This rule  
to be  
inserted

14. XIX. Subject to the provisions of the Native Lands Trust Ordinance, 1930, licences shall be in such form as may be from time to time approved by the Central Board.

15. XX. A copy of every licence issued under these Rules shall be filed in the office of the District Commissioner.

16. XXI. No lease, licence or contract relating to any of the matters dealt with in these Rules shall be valid unless duly approved and executed under the provisions of these Rules, and any person who shall enter into any such contract or execute any lease or licence otherwise than under the provisions of these Rules shall be guilty of an offence and shall be liable on conviction to a fine not exceeding thirty pounds.

17. XXII. (1) Where reference is made by the Central Board or a Local Board to a Local Native Council such reference shall be made in writing to the President of such Council who shall communicate such reference to the Local Native Council and shall thereafter certify in writing to the Central Board or the Local Board, as the case may be, that he has fully explained such reference and that the members of such Local Native Council appeared fully to understand the same.

(2) The President shall thereafter in due course forward to the Central Board or Local Board, as the case may be, a copy of any Resolution passed by the Local Native Council in regard to such reference together with a report setting forth the reasons adduced by the members of such Council for or against the Resolution.

(3) Where any Local Native Council is desirous of being heard orally in respect of any matter relating to land within ...

within the area in respect of which such Council has been established it shall appoint a deputation of one or more of its members, but not exceeding three in number, and such deputation shall be heard by the Local Board concerned and may by the consent of the Central Board thereafter be heard by the Central Board. X.

BY Command of His Excellency the Governor.

NAIROBI.

This day of \_\_\_\_\_ 1931. COLONIAL SECRETARY.

X.  
Such deputation may with the permission of the Local Board concerned be accompanied by some person not a member of the Local Native Council to speak on their behalf as a "friend" and may also with the consent of the Central Board be similarly accompanied when heard by the Central Board.

SCHEDULE,  
THE REGISTRATION OF TITLES ORDINANCE  
AND  
THE NATIVE LANDS TRUST ORDINANCE, 1930.  
GRANT OF LAND.

Register of Titles .....Vol.....Folio.....  
 Registration District no.....  
 Annual Rent .....

Know all men by these presents that the Governor of the Colony of Kenya, hereby under and by virtue of the powers vested in him by the Native Lands Trust Ordinance, 1930, grants unto .....  
 all that piece of land situate at .....  
 containing by measurement .....acres,  
 more or less, that is to say .....  
 .....  
 which said piece of land, with the dimensions, abuttals, and boundaries thereof, is delineated on the plan drawn on these presents and more particularly on Cadastral Survey No..... deposited in.....  
 TO HOLD FOR.....  
 years, subject to the payment therefore of the annual rent of shillings .....cents ..... revisable on .....  
 ..... and to the provisions and conditions contained in the said Native Lands Trust Ordinance, 1930, and subject to the payment of such compensation as the Central Board may assess for any damage or disturbance whatsoever caused to native individuals or communities in the exercise of the rights granted hereunder.  
 and...  
 X. and thereafter of such annual rent as may be fixed on such revision,

and also to the special conditions hereunder written.

**SPECIAL CONDITIONS.**

In witness whereof, I, the  
Chief Native Commissioner  
for and on behalf of the  
Governor, have hereunto  
set my hand  
at .....

this.....

day of .....

One thousand nine hundred and  
.....

Registered at : .....  
this.....day of .....19 .....

No. ....

Presentation No. ....

**REGISTRAR OF TITLES.**

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## GOVERNMENT NOTICE NO. 531.

## THE NATIVE LANDS TRUST ORDINANCE, 1930.

## RULES.

IN EXERCISE of the powers conferred upon him by section 22 of the Native Lands Trust Ordinance, 1930, His Excellency the Governor with the advice and consent of the Central Board has been pleased to make the following Rules:—

1. These Rules may be cited as "the Native Lands Trust Rules, 1930."

2. In these Rules the term "cattle" includes horses, donkeys, mules, camels, sheep, goats or swine.

## LEASES.

3. Every application to lease land within a native reserve shall be made in the first instance to the District Commissioner of the District in which the land is situated and shall set forth the description of the land required, the period of the desired lease, and the purpose for which the land is to be used. The District Commissioner shall forthwith report such application to the Provincial Commissioner.

4. The Provincial Commissioner, if satisfied that the conditions of paragraphs (b) and (c) of section 7 of the Native Lands Trust Ordinance, 1930, are complied with, shall cause the application to be laid by a District Commissioner or District Officer before a meeting of the heads of the families occupying the land concerned and the natives having the customary authority over such land.

5. A majority vote of the native heads of families present at the meeting shall decide whether the application is approved or rejected by the meeting. The votes of heads of families present shall be carefully recorded by the Officer presiding. The Officer presiding at such meeting shall postpone the meeting if he considers that it is not representative of the heads of the families occupying the land concerned and the natives having the customary authority over such land.

6. As soon as may be thereafter the District Commissioner shall refer the application together with the recommendation of the natives concerned to the Local Native Council of

22-8

## GOVERNMENT NOTICE NO. 531

## THE NATIVE LANDS TRUST ORDINANCE, 1930.

## RULES.

IN EXERCISE of the powers conferred upon him by section 22 of the Native Lands Trust Ordinance, 1930, His Excellency the Governor with the advice and consent of the Central Board has been pleased to make the following Rules:—

1. These Rules may be cited as "the Native Lands Trust Rules, 1930."
2. In these Rules the term "cattle" includes horses, donkeys, mules, camels, sheep, goats or swine.

## LEASES.

3. Every application to lease land within a native reserve shall be made in the first instance to the District Commissioner of the District in which the land is situated and shall set forth the description of the land required, the period of the desired lease, and the purpose for which the land is to be used. The District Commissioner shall forthwith report such application to the Provincial Commissioner.

4. The Provincial Commissioner, if satisfied that the conditions of paragraphs (b) and (c) of section 7 of the Native Lands Trust Ordinance, 1930, are complied with, shall cause the application to be laid by a District Commissioner or District Officer before a meeting of the heads of the families occupying the land concerned and the natives having the customary authority over such land.

5. A majority vote of the native heads of families present at the meeting shall decide whether the application is approved or rejected by the meeting. The votes of heads of families present shall be carefully recorded by the Officer presiding. The Officer presiding at such meeting shall postpone the meeting if he considers that it is not representative of the heads of the families occupying the land concerned and the natives having the customary authority over such land.

6. As soon as may be thereafter the District Commissioner shall refer the application together with the recommendation of the natives concerned to the Local Native Council of

22. The hide or skin, fat and offal of every animal slaughtered shall be removed from the slaughter-house within twenty-four hours after the completion of the slaughtering of such animal.

23. Blood, manure and gut contents shall only be deposited in such receptacles as are provided for the purpose.

24. No dogs shall be allowed in or near the slaughter-house.

25. No unauthorized person shall be admitted into the slaughter-house.

26. No person shall, directly or indirectly, obstruct or resist any examination or inspection referred to in these Rules or refuse to answer or knowingly make false answer to any inquiry in connexion therewith.

27. The following fees shall be charged for each animal slaughtered or inspected at the slaughter-house.

Sh. cts.

For each head of cattle . . . . . 2 00

For each sheep or goat . . . . . 50

28. Any person who shall contravene or fail to comply with any of the provisions of these Rules shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding twenty pounds or to imprisonment for a period not exceeding two months or to both.

29. Rules 43 and 44 of the Naivasha Township Rules (Chapter 63 of the Revised Subsidiary Legislation) in so far as they apply to the Kitale Township are hereby revoked.

By Command of His Excellency the Governor.

Nairobi,

The 31st day of August, 1931.

W. M. LOGAN,

for Acting Colonial Secretary.

the area for its recommendation, and shall communicate the report of the Local Native Council to the Local Board at its next meeting. The report of the Local Board shall be forwarded without delay to the Central Board.

7. When any application for a lease has been duly approved by the Central Board notification to that effect shall be sent to the District Commissioner stating the terms on which approval has been accorded and the District Commissioner shall forthwith inform the applicant.

8. The applicant shall thereupon arrange for the survey of the land and shall furnish plans and descriptions in triplicate to the Surveyor General; provided that in special cases the Surveyor General may, if the boundaries of the land are demarcated in such manner as is deemed by him to be sufficient for the purposes of the proposed lease, dispense with the survey of the land.

9. If in the opinion of the Provincial Commissioner it is desirable that a specific area in a Native Reserve should be set apart for the purpose of a trading centre or for a school, hospital or other institution for the benefit of the natives residing in the Reserve, or for a Government camp or station, or for a police or military post, or for afforestation, water supply or for any other purpose which in his opinion is likely to benefit the natives resident in the Reserve, he shall cause a proposal to that effect to be laid before the Local Native Council, and before the natives concerned, whose recommendations shall be communicated to the Local Board at its next meeting. The report of the Local Board shall be forwarded without delay to the Central Board for their consideration.

10. When any area has been duly approved and set apart by the Central Board for the purpose of a trading centre it shall be marked out into plots in such manner as the District Commissioner (subject to the directions of the Provincial Commissioner) may direct, and in such case it shall not be necessary to obtain the further sanction of the natives concerned to the grant of any individual lease or licence in respect of a plot situated in such area.

11. Every lease shall be substantially in the form contained in the schedule hereto and shall be executed on behalf of the Governor by the Chief Native Commissioner.

22. The hide or skin, fat and offal of every animal slaughtered shall be removed from the slaughter-house within twenty-four hours after the completion of the slaughtering of such animal.

23. Blood, manure and gut contents shall only be deposited in such receptacles as are provided for the purpose.

24. No dogs shall be allowed in or near the slaughter-house.

25. No unauthorized person shall be admitted into the slaughter-house.

26. No person shall, directly or indirectly, obstruct or resist any examination or inspection referred to in these Rules or refuse to answer or knowingly make false answer to any inquiry in connexion therewith.

27. The following fees shall be charged for each animal slaughtered or inspected at the slaughter-house.

	Sh. cts.
For each head of cattle	2 00
For each sheep or goat	60

28. Any person who shall contravene or fail to comply with any of the provisions of these Rules shall be guilty of an offence and shall be liable on conviction to a penalty not exceeding twenty pounds or to imprisonment for a period not exceeding two months or to both.

29. Rules 43 and 44 of the Naivasha Township Rules (Chapter 62 of the Revised Subsidiary Legislation) in so far as they apply to the Kitale Township are hereby revoked.

By Command of His Excellency the Governor.

Nairobi,

The 31st day of August, 1931.

W. M. LOGAN,  
for Acting Colonial Secretary.

the area for its recommendation, and shall communicate the report of the Local Native Council to the Local Board at its next meeting. The report of the Local Board shall be forwarded without delay to the Central Board.

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10. When any area has been duly approved and set apart by the Central Board for the purpose of a trading centre it shall be marked out into plots in such manner as the District Commissioner (subject to the directions of the Provincial Commissioner) may direct, and in such case it shall not be necessary to obtain the further sanction of the natives concerned to the grant of any individual lease or licence in respect of a plot situated in such area.

11. Every lease shall be substantially in the form contained in the schedule hereto and shall be executed on behalf of the Governor by the Chief Native Commissioner.

12. Every lease issued under these Rules shall be registered in accordance with any Ordinance for the time being in force relating to the registration of leases.

13. In cases where land in a Native Reserve has been occupied in good faith by non-natives with the consent of the Natives concerned and of the Government before the making of these Rules, the Chief Native Commissioner on the recommendation of the Local Native Council concerned and of the Local Board may authorize the issue of a lease under these Rules.

14. Subject to the provisions of the Native Lands Trust Ordinance, 1930, licences shall be in such form as may be from time to time approved by the Central Board.

15. A copy of every licence issued under these Rules shall be filed in the office of the District Commissioner.

16. No lease, licence or contract relating to any of the matters dealt with in these Rules shall be valid unless duly approved and executed under the provisions of these Rules, and any person who shall enter into any such contract or execute any lease or licence otherwise than under the provisions of these Rules shall be guilty of an offence and shall be liable on conviction to a fine not exceeding thirty pounds.

17. (1) Where reference is made by the Central Board or a Local Board to a Local Native Council such reference shall be made in writing to the President of such Council who shall communicate such reference to the Local Native Council and shall thereafter certify in writing to the Central Board or the Local Board, as the case may be, that he has fully explained such reference and that the members of such Local Native Council appeared fully to understand the same.

(2) The President shall thereafter in due course forward to the Central Board or Local Board, as the case may be, a copy of any resolution passed by the Local Native Council in regard to such reference together with a report setting forth the reasons adduced by the members of such Council for or against the resolution.

(3) Where any Local Native Council is desirous of being heard orally in respect of any matter relating to land within the area in respect of which such Council has been established it shall appoint a deputation of one or more of its members, but not exceeding three in number, and such deputation shall be heard by the Local Board concerned and may by the consent of

the Central Board thereafter be heard by the Central Board. Such deputation may with the permission of the Local Board concerned be accompanied by some person not a member of the Local Native Council to speak on their behalf as a "friend" and may also with the consent of the Central Board be similarly accompanied when heard by the Central Board.

By Command of His Excellency the Governor.

Nairobi,

This 31st day of August, 1981.

H. T. MARTIN,  
Acting Colonial Secretary.

#### SCHEDULE

#### THE REGISTRATION OF TITLES ORDINANCE

AND

#### THE NATIVE LANDS TRUST ORDINANCE, 1930

GRANT OF LAND.

Register of Titles..... Vol..... Folio.....  
Registration District No.....  
Annual Rent.....

Know all men by these presents that the Governor of the Colony of Kenya hereby under and by virtue of the powers vested in him by the Native Lands Trust Ordinance, 1930, grants unto

.....  
all that piece of land situate at.....  
containing by measurement..... acres  
more or less, that is to say.....

.....  
which said piece of land, with the dimensions, abutments, and boundaries thereof, is delineated on the plan drawn on these presents and more particularly on Cadastral Survey No.....  
deposited in..... to hold for.....  
years, subject to the payment thereof of the annual rent of shillings..... cents..... revisable on

.....  
and thereafter of such annual rent as may be fixed on such revision, and to the provisions and conditions contained in the said Native Lands Trust Ordinance, 1930; and subject to the

12. Every lease issued under these Rules shall be registered in accordance with any Ordinance for the time being in force relating to the registration of leases.

13. In cases where land in a Native Reserve has been occupied in good faith by non-natives with the consent of the Natives concerned and of the Government before the making of these Rules, the Chief Native Commissioner on the recommendation of the Local Native Council concerned and of the Local Board may authorize the issue of a lease under these Rules.

14. Subject to the provisions of the Native Lands Trust Ordinance, 1930, licences shall be in such form as may be from time to time approved by the Central Board.

15. A copy of every licence issued under these Rules shall be filed in the office of the District Commissioner.

16. No lease, licence or contract relating to any of the matters dealt with in these Rules shall be valid unless duly approved and executed under the provisions of these Rules, and any person who shall enter into any such contract or execute any lease or licence otherwise than under the provisions of these Rules shall be guilty of an offence and shall be liable on conviction to a fine not exceeding thirty pounds.

17. (1) Where reference is made by the Central Board or a Local Board to a Local Native Council such reference shall be made in writing to the President of such Council who shall communicate such reference to the Local Native Council and shall thereafter certify in writing to the Central Board or the Local Board, as the case may be, that he has fully explained such reference and that the members of such Local Native Council appeared fully to understand the same.

(2) The President shall thereafter in due course forward to the Central Board or Local Board, as the case may be, a copy of any resolution passed by the Local Native Council in regard to such reference together with a report setting forth the reasons adduced by the members of such Council for or against the resolution.

(3) Where any Local Native Council is desirous of being heard orally in respect of any matter relating to land within the area in respect of which such Council has been established it shall appoint a deputation of one or more of its members, but not exceeding three in number, and such deputation shall be heard by the Local Board concerned and may by the consent of

the Central Board thereafter be heard by the Central Board. Such deputation may with the permission of the Local Board concerned be accompanied by some person not a member of the Local Native Council to speak on their behalf as a "friend" and may also with the consent of the Central Board be similarly accompanied when heard by the Central Board.

By Command of His Excellency the Governor

Nairobi,

This 31st day of August, 1931.

H. T. MARTIN,  
Acting Colonial Secretary.

### SCHEDULE

#### THE REGISTRATION OF TITLES ORDINANCE

AND

#### THE NATIVE LANDS TRUST ORDINANCE, 1930.

##### GRANT OF LAND.

Register of Titles..... Vol..... Folio.....  
Registration District No.....  
Annual Rent.....

Know all men by these presents that the Governor of the Colony of Kenya hereby under and by virtue of the powers vested in him by the Native Lands Trust Ordinance, 1930, grants unto.....

all that piece of land situate at.....  
containing by measurement..... acres  
more or less, that is to say.....

which said piece of land, with the dimensions, abutments, and boundaries thereof, is delineated on the plan drawn on these presents and more particularly on Cadastral Survey No.....

deposited in..... to hold for.....  
years, subject to the payment thereof of the annual rent of shillings..... cents..... revisable on

and thereafter of such annual rent as may be fixed on such revision; and to the provisions and conditions contained in the said Native Lands Trust Ordinance, 1930, and subject to the

payment of such compensation as the Central Board may assess for any damage or disturbance whatsoever caused to native individuals or communities in the exercise of the rights granted hereunder and also to the special conditions hereunder written.

## SPECIAL CONDITIONS.

In witness whereof I, the Chief Native Commissioner for and on behalf of the Governor, have hereunto set my hand

at .....  
 this .....  
 day of .....  
 One thousand nine hundred and .....

Registered at .....  
 this ..... day of ..... 19.....  
 No. ....  
 Presentation No. ....

Registrar of Titles.

## GOVERNMENT NOTICE No. 532.

## THE AIR NAVIGATION DIRECTIONS (No. 3), 1931.

Issued by the Governor under Article 50 of the Air Navigation (Colonies, Protectorates and Mandated Territories) Order, 1927.

1. These Directions may be cited as "the Air Navigation Directions (No. 3), 1931"; and shall be read as one with the Air Navigation Directions, 1931.

2. The Certificate of Airworthiness issued by the Governor under Article 3 of Schedule II of the Air Navigation (Colonies, Protectorates and Mandated Territories) Order, 1927, shall be in the form as set out in the Schedule hereto.

Issued at Nairobi this 30th day of August, 1931.

J. BYRNE,  
 Governor

## SCHEDULE.

C. A. (K) 3A

COLONY AND PROTECTORATE OF KENYA

Photograph of Aircraft  
 (in profile)

CERTIFICATE OF AIRWORTHINESS No. ....

(Heavier than Air)

## FIRST PART.

FULL NAME, ADDRESS AND NATIONALITY OF OWNER OR OF OWNING COMPANY.

1. Surname of Owner (or Name of Company) .....
2. Christian Name .....
3. Address .....
4. Nationality .....

## NAME OF CONSTRUCTOR.

5. Name .....

## NATIONALITY AND REGISTRATION MARKS.

6. ....

## DESCRIPTION OF AIRCRAFT.

7. Type ..... Series ..... Constructor's No. ....
8. Place and year of construction of aircraft .....

- |                                  |  |
|----------------------------------|--|
| Class of aircraft .....          | 9. Land and/or Marine .....  |
|                                  | 10. Number of planes .....   |
|                                  | 11. Number of engines .....  |
|                                  | 12. Maximum number of persons to be carried (including crew) ..... |
| Classification of aircraft ..... | 13. Category .....   |
|                                  | 14. Subdivision .....  |

15. Max. span (in flying position) .....
16. Max. length (in flying position) .....
17. Total height (with and without tail in case of sesiplanes) .....

18. Number installed \_\_\_\_\_
19. Makes \_\_\_\_\_
20. Types \_\_\_\_\_
21. International or special power of the engine or engines:—  
 (a) \_\_\_\_\_ H.P. at \_\_\_\_\_ revolutions per minute.  
 (International or special number of revolutions.)  
 (b) \_\_\_\_\_ H.P. at \_\_\_\_\_ revolutions per minute.  
 (International or special number of revolutions.)
- Hourly consumption at ground-level at above-mentioned power (per engine):—
22. Fuel (a) \_\_\_\_\_ (b) \_\_\_\_\_
23. Oil (a) \_\_\_\_\_ (b) \_\_\_\_\_
- Number fitted (a) \_\_\_\_\_ Types (a) \_\_\_\_\_ Design No. (a) \_\_\_\_\_  
 (b) \_\_\_\_\_ (b) \_\_\_\_\_ (b) \_\_\_\_\_
24. Airscrews:— Pitch (a) \_\_\_\_\_ Diameter (a) \_\_\_\_\_  
 (b) \_\_\_\_\_ (b) \_\_\_\_\_

25. Weight (if known) of aircraft empty, including the water in the radiators \_\_\_\_\_  
 Weight of fuel and oil (tanks full):— 26. Fuel \_\_\_\_\_ 27. Oil \_\_\_\_\_
28. Weight allowed for crew \_\_\_\_\_
29. Weight allowed for equipment, excluding wireless apparatus \_\_\_\_\_
30. Weight of wireless apparatus \_\_\_\_\_
31. Maximum commercial load (passengers-goods) authorized when the fuel and oil tanks are full \_\_\_\_\_
32. Maximum total weight authorized \_\_\_\_\_

#### COMPULSORY CONDITIONS.

33. Maximum total weight authorized (write in full). The total weight of the aircraft, including all items of load, is not to exceed \_\_\_\_\_ lb.
34. Minimum crew necessary \_\_\_\_\_
35. Inspections and overhauls:—  
 (a) The aircraft must be examined before flight in accordance with the Orders in Council and Directions for the time being in force.  
 (b) The aircraft, each engine and its reduction gear, if any, must undergo overhauls of such nature and at such times as may be directed by the authorized Ground Engineers.
36. Stowage.—The load must be safely distributed and suitably secured.
37. Distribution of the load.—The aircraft must always be so loaded that the centre of gravity is in the following position:—  
 (a) In the plane of symmetry of the aircraft and in a plane at \_\_\_\_\_ of the chord behind the plane containing the leading-edges of the main planes. The permissible limits of variation are from \_\_\_\_\_ inches forward to \_\_\_\_\_ inches behind the chord.  
 (b) In the plane of symmetry of the aircraft, and in a transverse plane normal to the chord of the lower main plane and at \_\_\_\_\_ inches behind the leading-edge of the centre section lower main plane. The permissible limits of variation are from \_\_\_\_\_ inches to \_\_\_\_\_ inches behind the leading edge.

38. The number of passengers carried must not, in any circumstances, exceed the number for which seating accommodation is provided.
39. The speed of the engine must not exceed \_\_\_\_\_ r.p.m. except for short periods; it must never exceed \_\_\_\_\_ r.p.m. and must not be maintained at that figure for more than five minutes at a time.

**IMPORTANT NOTICE.**—The maximum total weight authorized is the sum of the weights and loads mentioned under 25 to 31 inclusive.

The maximum total weight authorized corresponds to the case of the aircraft flying in dry air, at an atmospheric pressure of 760 mm. mercury, and at a temperature of 15° Centigrade. This weight must not in any circumstances be exceeded.

The Governor, having regard to the Reports furnished to him, issues the present Certificate of Airworthiness dated \_\_\_\_\_ in respect of the above-mentioned aircraft in accordance with the Convention for the Regulation of Aerial Navigation, dated 13th October, 1919, Annex. B, and with the Air Navigation Act, 1920, and the Orders in Council and Directions in force thereunder.

This Certificate is only valid subject to the above compulsory conditions being fulfilled and until the date shown on page 4 hereof.

Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Colonial Secretary.

#### SECOND PART.

#### PRECAUTIONS TO BE TAKEN FOR SAFETY IN NAVIGATION.

- A.—Description and position of instruments and material with which the aircraft must be equipped for navigation and which must be in perfect working order:
- B.—Equipment essential for preventing or dealing with fire whilst in flight:
- C.—Equipment essential for rendering first-aid in case of accident:

Attention is drawn to the requirement of the Air Navigation Directions that the owner of an aircraft, in respect of which a certificate of airworthiness is in force, shall not carry out any modifications which affect the safety of the aircraft without first obtaining the approval of the Governor.

## PERIODICAL OVERHAULS

Date and Place of Overhaul	Result of Overhaul (1)	Certificate Valid until	Signature of Experts

(1) The periods of and reasons for suspensions and withdrawals of certificates of airworthiness will in particular be indicated in this column.

## NOTES.

No entries or endorsements may be made on this Certificate except in the manner and by the persons authorized for that purpose by the Governor.

If this Certificate is lost the Registrar of Aircraft, Nairobi, should be informed at once, the Certificate No. being quoted.

Any person finding this Certificate should forward it immediately to the Registrar of Aircraft, Nairobi.

## GOVERNMENT NOTICE No. 377.

## THE NATIVE LANDS TRUST ORDINANCE

(No. 9 of 1930)

## DELEGATION OF POWERS:

IN EXERCISE of the Powers thereunto enabling me, I Joseph Aloysius Byrne, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Most Excellent Order of the British Empire, Companion of the Most Honourable Order of the Bath, having the honorary rank of Brigadier General in His Majesty's Army, Governor and Commander-in-Chief of the Colony and Protectorate of Kenya, hereby authorize Provincial Commissioners, District Officers and their agents and officers of the Public Works Department and their agents to exercise any of the powers conferred upon the Governor by section 16 of the Native Lands Trust Ordinance, provided that no officer of the Public Works Department or his agent shall exercise such powers without the written authority of the District Commissioner concerned being first had and obtained.

Nairobi.

Dated this 7th day of June, 1931.

J. BYRNE  
Governor

## GOVERNMENT NOTICE No. 378.

## CONFIRMATION OF ORDINANCE

The Secretary of State for the Colonies has been pleased to notify that His Majesty's power of disallowance will not be exercised in respect of Ordinance No. XXV of 1930, entitled An Ordinance to Amend the Local Government (Rating) Ordinance, 1928.

By Command of His Excellency the Governor

Nairobi.

10th June, 1931.

W. M. LOGAN  
for Colonial Secretary

## SCHEDULE D.

Acetic acid glacial.

Acetone and other inflammable organic compounds.

Aniline oil.

Acetylene, compressed or liquid, in cylinders filled with a porous substance.

Alcohol.

Ammonia.

Acids, in bulk or otherwise.

Celluloid and its compounds.

Chlorate of potash and other chlorates.

Collodian.

Chloroform, in bulk or otherwise.

All Explosives which include:—

(a) Gunpowder, nitro-glycerine, dynamite, gun cotton, blasting powders, fulminates, coloured fires, fire-works or any other substance used or manufactured to produce an explosive or pyrotechnic effect.

(b) For signals, fireworks, fuses, rockets, percussion caps, detonators, cartridges, ammunition and every adaptation or preparation of an explosive as above defined.

(c) Compressed or liquid acetylene in cylinders not filled with a porous substance.

Gases, compressed and liquid.

Hydrofluoric acid.

Matches.

Motor spirit and all other inflammable liquids, including turpentine.

Potassium cyanide and other poisonous compounds.

Phosphorus.

All inflammable solids, such as resin, sulphur, camphor, naphthalene, and any others.

All solids liable to spontaneous combustion, such as coal, hay, cotton waste, and any others.

Solids which take up water with production of heat, such as caustic soda, caustic potash, zinc chloride, unslaked lime, etc. These must be either in metal drums or protected from water.

Solids giving off highly inflammable gases in contact with moisture, such as carbides, and mixtures containing the same.

Vitriol.

17185(A)/AI

578

C.O.

Mr. Allen. 15/3

Mr. [unclear] 15/3

Mr. [unclear]

X Sir C. Bottomley. 18.5

J. Shuckburgh.

Sir G. Grindle.

X Pres. U.S. of S. 19.5.31

X Parly. U.S. of S. 19.5.31

X Secretary of State. 20/5 (No.1)

For air mail 22 May

Amnd No. 9

DOWNING STREET.

C.O.  
R 20 MAY  
D 10

22 May, 1931.

Sir

DRAFT. Cas

KENYA

No. 348

minutes

*[Handwritten signature]*

Gov.

I have, etc., to acknowledge the receipt of your despatch No. 166 of the 25th March, submitting the draft Rules under Section 23 of the Native Lands Trust Ordinance, 1930, in the form finally adopted by the Central Board. As the Rules in certain respects do not fully comply with my intentions and in other respects seem to call for further consideration, I informed you in my telegram of the 20<sup>th</sup> May that I was replying by despatch and I now have to offer the following comments on the Rules which I have in mind.

(i) Rules 4, 5 and 6.

Unless the heads of the families occupy the land concerned are identical with the definite resident native authorities

having

Lab

O.O.

22 May

Mr. Allen. 19/5

Mr. ~~McCarthy~~ 19/5

Mr.

~~Mr. Tomlinson~~

X Sir C. Bottomley. 18/5

● J. Shackburgh.

Sir G. Grindle.

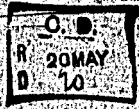
X Perm. U.S. of S. 19.5.31

X Party. U.S. of S. 19.5.31

X Secretary of State. 20/5 (No.1)

Amnd  
No. 9

DOWNING STREET,



22 May, 1931.

Sir

**DRAFT.** *Caus*

KENYA

*k. minutes*

No. 348

Gov.

*Plx*

I have, etc., to acknowledge the receipt of your despatch No. 168 of the 25th March, submitting the draft Rules under Section 22 of the Native Lands Trust Ordinance, 1930, in the form finally adopted by the Central Board. (As the Rules in certain respects do not fully comply with my intentions and in other respects seem to call for further consideration, I informed you in my telegram of the 20<sup>th</sup> May that I was replying by despatch and I now have to offer the following comments on the Rules which I have in mind.

(i) Rules 4, 5 and 6.

Unless the heads of the families occupy the land concerned are identical with the definite resident native authority having

*Lab*

having customary authority over it, ~~and the~~ amendment of the latter part of both Rules 4 and 5 would appear necessary to make it clear that the meetings should be representative <sup>not only</sup> of the heads of the families occupying the ~~land concerned~~ <sup>but also, where necessary, of the</sup> persons exercising the customary authority over it. In that case ~~however~~ <sup>rather</sup>, consequential amendments would be required in Rules 5 and 5.

(ii) Rule 14.

The words "with the advice and consent of the Central Board"

should be inserted after "Governor". *And as this Rule appears merely to reproduce*

(iii) Rule 18.

Provision should be added to the third paragraph of this Rule to the effect that ~~the~~ a deputation ~~selected~~ <sup>selected</sup> to may with the permission of the Board concerned be accompanied by some person not a member of the Local Native Council to speak on their behalf as a "friend".

*And as this Rule appears merely to reproduce Section A (1) (b) of the O.A. it is not clear that it need be retained in the Rules now to be made.*

(iv) Schedule.

It is advised that the term of the lease, as now amended, regarding rent (and the revision thereof)



thereof) and compensation, complies sufficiently with the requirements of Section 9(2) (a) and (b) of the Ordinance, but that it would conform still more with Section 9 (2) (a) if the words "and thereafter of such annual rent as may be fixed on such revision....." were inserted after the words "revisable on ....."

B. I attach importance to the (if it is retained) and to Rule amendments to Rules 14 and 18 and 1 As amended, the Rule or Rules ~~request that they should be amended~~ request should accordingly and be re-submitted to the

Central Board together with any further amendments that you may think necessary in the light of my remarks on Rules 4, 5 and 6 and the Schedule.

If the Central Board adopts the (if retained) or to Rule amendments to Rules 14 and 18 I approve of Rules as amended being made, with those amendments together with any amendments to Rules 4, 5 and 6 and the Schedule which may also be submitted and adopted by the Board.

I have, etc.,

(Signed) PASSFIELD

3

THE NATIVE LANDS TRUST ORDINANCE, 1930.

RULES.

*Section 22 of*  
IN EXERCISE of the powers conferred upon him by the Native Lands Trust Ordinance, 1930, His Excellency the Governor with the advice and consent of the Central Board has been pleased to make the following Rules:-

1. These Rules may be cited as "the Native Lands Trust Rules, 1930."
2. In these Rules the term "stock" includes <sup>"Cattle"</sup> horses, donkeys, mules, camels, cattle, sheep, goats or swine.

Leases.

3. Every application to lease land within a native reserve shall be made in the first instance to the District Commissioner of the District in which the land is situated and shall set forth the description of the land required, the period of the desired lease, the rental offered and the purposes for which the land is to be used. The District Commissioner shall forthwith report such application to the Provincial Commissioner.

4. The Provincial Commissioner, if satisfied <sup>conditions of paragraphs (b) and (c) of Section 7 of the Native Lands Trust Ordinance, 1930, are complied with</sup> that the proposal is one likely to benefit the natives resident in the reserve, shall cause the application to be laid by a District Commissioner or District Officer before a meeting of the heads of <sup>the families concerned at the heads of the families</sup> the families occupying or having the customary right to occupy <sup>the land concerned</sup> the land concerned.

5. A majority vote of the native heads of <sup>the families concerned at the meeting</sup> families present at the meeting shall decide whether the application is approved or rejected by the meeting. <sup>or persons having the customary authority in the law</sup> The votes <sup>of heads of families present</sup> shall be cast <sup>fully</sup> fully ...

4. Eastwood  
1930  
1930

fully reviewed by the officer presiding

The officer presiding at each meeting shall designate the members of the committee that will be representative of the community occupying the land concerned.

6. As soon as may be thereafter the District Commissioner shall refer the application together with the recommendation of the Local Native Council of the area for its recommendation, and shall communicate the report of the Local Native Council to the Local Board at its next meeting. The report of the Local Board shall be forwarded without delay to the Central Board.

7. When any application for a lease has been duly approved by the Central Board notification to that effect shall be sent to the District Commissioner stating the terms on which approval has been accorded and the District Commissioner shall forthwith inform the applicant.

8. The applicant shall throughout arrange for the survey of the land and shall furnish plans and descriptions in triplicate to the Surveyor General.

Provided that in special cases the Surveyor General may, if the boundaries of the land are demarcated in such manner as is deemed by him to be sufficient for the purpose of the proposed lease, dispense with the survey of the land.

9. If in the opinion of the Provincial Commissioner it is desirable that a specific area in a Native Reserve should be set apart for the purpose of a trading centre or for a school, hospital or other institution for the benefit of the natives residing in the Reserve, or for a Government or other purpose, or for a public or charitable purpose, or for any other purpose, the Provincial Commissioner may, subject to the approval of the Secretary of State, declare that area to be a special area and may, subject to the approval of the Secretary of State, make such regulations as he may think fit for the purpose of the special area.



with the advice & consent of the Central Board  
 special directions of the District Commissioner, a  
 District Commissioner may grant licenses to or enter  
 into agreements with persons not being members of the  
 tribe for which the land has been set aside relating  
 to

- (a) the grazing of stock in a native reserve;
- (b) the removal of timber or other forest produce from a native reserve; or
- (c) the taking of sand, lime stone or other common minerals (excluding gold) from a native reserve for purposes not including working mines or any one

*Subject to the provision of the Native Lands Trust Ordinance, 1920*

14. Licenses shall be in such form as may be from time to time approved by the Central Board.

15. A copy of every license issued under these Rules shall be filed in the office of the District Commissioner.

16. No lease, license or contract relating to any of the matters dealt with in these Rules shall be valid unless duly approved and executed under the provisions of these Rules, and any person who shall enter into any such contract or execute any lease or license otherwise than under the provisions of these Rules shall be guilty of an offence and shall be liable on conviction to a fine not exceeding thirty pounds [£30].

18. (1) Where reference is made by the Central Board of a Local Board to a Local Native Council such reference shall be made in writing to the President of such Council who shall communicate such references to the Local Native Council and shall thereafter certify in writing to the Central Board or the Local Board, as the case may be, that he has fully explained and referred to the members of such Local Native Council, or to the members of such Local Native Council, as the case may be, to understand the same.

(2) The President shall thereafter in due order forward to the Central Board or Local Board, as the case may be, a copy of any resolution passed

REGISTRATION OF TITLES ORDINANCE

AND

NATIVE LANDS TRUST ORDINANCE, 1930.

Grant for Land.

Register of Titles..... Vol. .... Folio .....

Registration District NO. ....

Annual Rent .....

Know all men by these presents that I <sup>the Governor</sup> ~~Chief Native Commissioner~~ <sup>of the Colony of Kenya,</sup> on behalf of

the Governor of the Colony of Kenya, do hereby under and by virtue of the powers vested in <sup>me</sup> by the Native Lands Trust Ordinance, 1930, grant unto .....

..... all that piece of land situate at ..... containing by measurement ..... acres, more or less, that is to say .....

..... which said piece of land, with the dimensions, abutments, and boundaries thereof, is delineated on the plan drawn on these presents and more particularly on Cadastral Survey No. .... deposited in .....

To hold for ..... years, subject to the payment therefor of the annual rent of Shillings ..... Cents .....

and to the provisions and conditions contained in the said Native Lands Trust Ordinance <sup>1930</sup> and also to the special conditions hereunder written.

SPECIAL CONDITIONS

In witness whereof I, the ~~Chief Native Commissioner~~ <sup>Governor</sup>, have hereunto set my hand at ..... day of ..... 1930  
..... and nine hundred and .....

Registered at ..... this ..... day of ..... 19..

No. ....

Registration No. ....

and subject to the payment of such compensation as the Council shall think fit to award for any damage or disturbance whatsoever caused to the land by the exercise of the rights conferred hereunder.

For and on behalf of the Governor

2

NOTE.

Rule 5. One can quite see the Governor's point that it would be impossible to be sure that a definite percentage of the land holders affected were present at the Meeting. It is for consideration whether as an alternative it should not be required that a 2/3rds majority of those present must vote for the lease. This would be an addition to the safeguard that the officer presiding shall postpone the Meeting if he does not think it representative.

*The suggestion was not made originally but it was brought up at the meeting. JND*

The only argument against asking for a 2/3rds majority is that in the case of the Fencing Ordinance, to which reference was made in the Secretary of State's despatch under reply, the suggestion was that a bare majority rather than a 2/3rds majority was all that was necessary (see paragraph 4 of despatch of which a copy is registered as No. 3 on 16010/30 below). That, however, was rather a different matter, as in that case natives were not concerned.

*As to the relevant section of the Ordinance applicable to native reserves. JND*

The intention of the Kenya Government in amending Rules 4 and 5 by substituting the words "authority over" for the words "right to occupy" seems all right, but something has gone wrong with the wording ~~that~~ it would be necessary in the last two lines of Rule 4 and Rule 5 to read "of the families occupying the land concerned or of the persons having the customary authority over it".

Rule 11. The Legal Advisors will, no doubt, say whether they consider that the draft lease appearing in the Schedule is now in conformity with the Ordinance

(especially

(especially Section 9 (2) ) - Ought it to contain  
<sup>Section 10</sup>  
some provision for revision of rent? See Section  
8(1)(a) of the Ordinance. *Has the provision as to compensation  
adequate? as the said Clause 11 & 15 of para 3, 4 & 5 of (Govt) 20*  
Rule 14. The whole rule seems to be a

survival from the earlier draft prepared before the  
Native Lands Trust Ordinance became law. It merely  
repeats Section 8(1) (b) of the Ordinance with the  
omission of one safeguard - namely, that the Governor  
should act with the advice and consent of the  
Central Board. If the omission of the whole Rule  
is not thought possible (though I can see no reason  
why it should not be), the words "With the advice and  
consent of the Central Board" must be inserted after  
the word "Governor".

Rule 18. This embodies the draft Rule which the  
Secretary of State considered <sup>satisfactory</sup> ~~comprehensive~~ but the  
S. of S. wished <sup>an</sup> ~~to~~ addition to be made to provide  
that the Local Native Council should be able, with  
the permission of the Board concerned, to bring  
someone to speak on their behalf as a "friend". This  
addition must presumably be directed.

*I do not think provision  
can be put in at this  
stage.  
but it is very  
good to find  
the Ord. just  
copied like this.  
see*

*J.M.P.*

1601/30

37

KENYA

No. 168



GOVERNMENT HOUSE,  
NAIROBI,  
KENYA.

RECEIVED  
20 APR 1951  
COL. OFFICE

25<sup>th</sup> March 1951

My Lord,

With reference to Your Lordship's despatch No. 699 of the 11th September last relating to draft Rules under the Native Lands Trust Ordinance, 1930, I have the honour to report that the Rules have now been considered by the Central Native Lands Trust Board in the light of Your Lordship's despatch and that several amendments have been made.

2. I now submit the following comments on Your Lordship's suggestions and upon the amendments made.

Rule 3.

The words "the rental offered" have been deleted in view of the provisions of sections 8 (a) and 10 of the Ordinance, which provide for the fixation and revision of rentals.

Rule 4.

This rule has now been redrafted in order to bring it into full conformity with the provisions of section 7 of the Ordinance, and the words "authority over" have been substituted for the words "right to occupy" for the reasons which are explained in my comments under rule 5.

- Rule 5 -

THE RIGHT HONOURABLE  
LORD PASSFIELD, P.C.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET, LONDON, S.W.

*no. 27 on 16010/30  
Aust. Tel No 167. 20/5/51  
Arthur Howard - 5/18 - 22 MAY 1951*

*Int. sec.  
memo. +  
2/22/51*

Rule 5.

In the absence of complete records of all the separate family holdings in every native reserve, and of all the families having an interest in each, it would not be possible to administer any provision specifying a fixed percentage in the manner suggested by Your Lordship. On the other hand, the enquiries which have been conducted into the native systems of land tenure in the Kikuyu and North Kavirondo Native Reserves respectively have shown that in those areas each unit of land has a definite resident native authority in whom, subject to consultation with other resident elders, the management of the land is vested by native law and custom. In this connection I would refer Your Lordship to the Report on Native Land Tenure in Kikuyu Province Chapter I, paragraph 19 and Chapter II paragraphs 7, 8 and 9; also to the Report on Native Land Tenure in the North Kavirondo Native Reserve paragraph 15. There is reason to believe that similar organisations will be found to exist among other tribes whereby the interests of the whole family, including those who may be temporarily absent from the Reserve in employment or for other reasons, are left in the hands of a recognised tribal authority. For the above reasons the words "authority over" have been substituted for the words "right to occupy" in Rule 4 and the following words have been added to Rule 5 .-

"The officer presiding at such meeting shall postpone the meeting if he considers that it is not representative of the families comprising or having the customary authority over the land concerned."

16/21/30

17/139/31

> J. H. Eastwood

I am satisfied that these arrangements are in accordance with native custom and should fully safeguard the interests of the natives concerned. I trust therefore that they will now receive Your Lordship's approval.

Rule 9.

This rule has now been amended in accordance with Your Lordship's wishes.

Rule 10.

The words "subject to any special or general directions of the Provincial Commissioner or of the Central Board" have been deleted and the words "subject to the directions of the Provincial Commissioner" have been substituted therefor. It is felt that there should not be two separate authorities directing the Provincial Commissioner and that such a matter of administrative detail as that with which this rule deals should be left to the discretion of the Provincial Commissioner.

Rule 14.

The words "and subject to any general or special directions of the Provincial Commissioner, a District Commissioner" have been deleted and the words "the Governor" substituted. It was considered by the Board that all licences should be granted in the name of the Governor who may under section 15 of the Interpretation and General Clauses Ordinance (Cap. 1) delegate his authority on such terms as he may consider proper. The provisions requiring reference to the natives concerned, to the Local Native Council and to the Local Board are retained.

*Reference to Central Board also to "Governor" JPM*

Rule 15.

Your Lordship's directions are noted.

*to the point has been made by the... Rule 15... N. G. J. O. S. C. 10/11/1911*

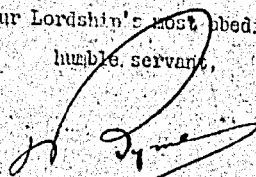
4.

Rule 18.

This rule has been inserted to meet the views expressed in the 4th paragraph of Your Lordship's despatch.

5. I now transmit to Your Lordship a copy of the Rules in the form in which they have been finally adopted by the Central Board, and in view of the urgent need for putting these rules into operation at the earliest possible date I shall be grateful if Your Lordship's decision may be communicated to me by telegraph.

I have the honour to be,  
My Lord,  
Your Lordship's most obedient,  
humble servant,



BRIGADIER-GENERAL.  
GOVERNOR.

THE NATIVE LANDS TRUST ORDINANCE, 1930.

R U L E S.

IN EXERCISE of the powers conferred upon him by Section 22 of the Native Lands Trust Ordinance, 1930, His Excellency the Governor with the advice and consent of the Central Board has been pleased to make the following Rules:-

1. These Rules may be cited as "the Native Lands Trust Rules, 1930".

2. In these Rules the term "Cattle" includes horses, donkeys, mules, camels, sheep, goats or swine.

LEASES.

3. Every application to lease land within a native reserve shall be made in the first instance to the District Commissioner of the District in which the land is situated and shall set forth the description of the land required, the period of the desired lease, and the purposes for which the land is to be used. The District Commissioner shall forthwith report such application to the Provincial Commissioner.

4. The Provincial Commissioner, if satisfied that the conditions of paragraphs (b) and (c) of section 7 of the Native Lands Trust Ordinance, 1930, are complied with, shall cause the application to be laid by a District Commissioner or District Officer before a meeting of the heads of the families occupying or of those having the customary authority over the land concerned.

5. A majority vote of the native heads of families present at the meeting shall decide whether the application is approved or rejected by the meeting. The votes of heads

of ...

of families present shall be carefully recorded by the Officer presiding. The Officer presiding at such meeting shall postpone the meeting if he considers that it is not representative of the families occupying or having the customary authority over <sup>the families</sup> ~~the~~ land concerned.

6. As soon as may be thereafter the District Commissioner shall refer the application together with the recommendation of the heads of families concerned to the Local Native Council of the area for its recommendation, and shall communicate the report of the Local Native Council to the Local Board at its next meeting. The report of the Local Board shall be forwarded without delay to the Central Board.

7. When any application for a lease has been duly approved by the Central Board notification to that effect shall be sent to the District Commissioner stating the terms on which approval has been accorded and the District Commissioner shall forthwith inform the applicant.

8. The applicant shall thereupon arrange for the survey of the land and shall furnish plans and descriptions in triplicate to the Surveyor General; Provided that in special cases the Surveyor General may, if the boundaries of the land are demarcated in such manner as is deemed by him to be sufficient for the purposes of the proposed lease, dispense with the survey of the land.

9. If in the opinion of the Provincial Commissioner it is desirable that a specific area in a Native Reserve should be set apart for the purpose of a trading centre or for a school, hospital or other institution for the benefit of the natives residing in the Reserve, or for a Government camp or station, or for a police or military post, or for afforestation, water supply or for any other purpose which in his opinion is likely to benefit the natives resident in the Reserve he shall cause a proposal to that effect to be laid.

laid before the Local Native Council, and before the natives concerned, whose recommendations shall be communicated to the Local Board at its next meeting. The report of the Local Board shall be forwarded without delay to the Central Board for their consideration.

10. When any area has been duly approved and set apart by the Central Board for the purpose of a trading centre it shall be marked out into plots in such manner as the District Commissioner (subject to the directions of the Provincial Commissioner) may direct, and in such case it shall not be necessary to obtain the further sanction of the natives concerned to the grant of any individual lease or licence in respect of a plot situate in such area.

11. Every lease shall be substantially in the form contained in the schedule hereto and shall be executed on behalf of the Governor by the Chief Native Commissioner.

12. Every lease issued under these Rules shall be registered in accordance with any Ordinance for the time being in force relating to the registration of leases.

13. In cases where land in a Native Reserve has been occupied in good faith by non-natives with the consent of the Natives concerned and of the Government before the making of these Rules, the Chief Native Commissioner on the recommendation of the Local Native Council concerned and of the Local Board may authorise the issue of a lease under these Rules.

LICENCES.

14. Subject to prior reference to the Local Native Council, to the natives concerned, and to the Local Board the Governor may grant licences to or enter into contracts with persons not being members of the tribe for which the land has been set aside relating to

- (a) the grazing of cattle in a native reserve;
- (b) the removal of timber or other forest produce from a native reserve; or
- (c) the taking of sand, lime, stone or other common minerals (excluding coal) from a native reserve for periods not exceeding twelve months at any one time.

with the advice & consent of the Central Board

15. Subject to the provisions of the Native Lands Trust Ordinance, 1930, licences shall be in such form as may be from time to time approved by the Central Board.

16. A copy of every licence issued under these Rules shall be filed in the office of the District Commissioner.

17. No lease, licence or contract relating to any of the matters dealt with in these Rules shall be valid unless duly approved and executed under the provisions of these Rules, and any person who shall enter into any such contract or execute any lease or licence otherwise than under the provisions of these Rules shall be guilty of an offence and shall be liable on conviction to a fine not exceeding thirty pounds.

18. (1) Where reference is made by the Central Board or a Local Board to a Local Native Council such reference shall be made in writing to the President of such Council who shall communicate such reference to the Local Native Council and shall thereafter certify in writing to the Central Board or the Local Board, as the case may be, that he has fully explained such reference and that the members of such Local Native Council appeared fully to understand the same.

(2) The President shall thereafter in due course forward to the Central Board or Local Board, as the case may be, a copy of any Resolution passed by the Local Native Council in regard to such reference together with a report setting forth the reasons adduced by the members of such Council for or against the Resolution.

(3) Where any Local Native Council is desirous of being heard orally in respect of any matter relating to land

within ...

within the area in respect of which such Council has been established it shall appoint a deputation of one or more of its members, but not exceeding three in number, and such deputation shall be heard by the Local Board concerned and may by the consent of the Central Board thereafter be heard by the Central Board.

BY Command of His Excellency the Governor.

NAIROBI.

This day of

1931.

COLONIAL SECRETARY.



SCHEDULE

THE REGISTRATION OF TITLES ORDINANCE

AND

THE NATIVE LANDS TRUST ORDINANCE, 1930.

GRANT OF LAND.

Register of Titles .....Vol.....Folio.....  
Registration District no.....  
Annual Rent .....

Know all men by these presents that the Governor of the Colony of Kenya, hereby under and by virtue of the powers vested in him by the Native Lands Trust Ordinance, 1930, grants unto .....

all that piece of land situate at ..... containing by measurement ..... more or less, that is to say .....

..... which said piece of land, with the dimensions, abutments, and boundaries thereof, is delineated on the plan drawn on these presents and more particularly on Cadastral Survey No..... deposited in..... TO HOLD FOR.....

..... years, subject to the payment thereof of the annual rent of shillings ..... cents ..... revisable on ..... and to the provisions and conditions contained in the said Native Lands Trust Ordinance, 1930, and subject to the payment of such compensation as the Central Board may assess for any damage or disturbance whatsoever caused to native individuals or communities in the exercise of the rights granted hereunder.

and ...

and also to the special conditions hereunder written.

**SPECIAL CONDITIONS.**

In witness whereof I, the  
Chief Native Commissioner  
for and on behalf of the  
Governor, have hereunto  
set my hand  
at .....

this.....

day of .....

One thousand nine hundred and

.....

Registered at .....

this ..... day of ..... 19 .....

No.....

Presentation No.....

**REGISTRAR OF TITLES.**

\_\_\_\_\_