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reasonable labour requirements of farms, and the reasonable needs of squatters. Section 22 gives the right to object to any such Order and the Order has to be submitted to the Commissioner of Local Government for the approval of the Standing Committee. "Local authority is defined as meaning the District Council, or if there is no District Council the District Commissioner, so that the administration has got a say, ^{and the thing has then to be published in the Gazette and approved by the Council.} but the administration has not got a final say. Objections under Section 22 would come, of course, from various occupiers and not from squatters, but that is not a serious matter, because no one is bound to employ squatters if he does not want to. ~~that~~ ^{one} thing to which I see possible objection is giving the local authority power to prescribe the number of days in which a squatter shall work, since this might be regarded in practice as enabling the local authority to start 365 days a year work. Of course, in practice, there would be objections to that because the occupier would have to pay wages and have to find work for the period in question, and would probably not wish to do so. The Governor is evidently not too happy about it, though he recommends the adoption of the principle

and

5) X There is also this: if the Ordinance as drafted comes into force a 'local authority' might decide to remove all squatters from an area. There might be nowhere to which they could go and what is to be done? Govt. would have to withhold approval, and this would be trouble. We should mention this as a point of difficulty

and points out that the Order will not come into force unless approved by the Governor in Council. This should of itself show that the number of such Orders is not expected to be very great, and things being as they are in Kenya, I think the principle may be accepted, subject to control.

The list of squatters' crimes under section 25 is extended by adding:-

(1) Growing crops which are prohibited by this contract.

(2) Failing to get off the farm when told to, subject to safeguards for quarantine, or for short notice.

Section 26 deals with the more serious ^{offences} ~~agreements~~ for which the fine is £7.10.0. or imprisonment up to six months in default of payment. The term used to be two months; and we might ask why the time has been raised. Offences by the employer are set out in Section 27, where the penalty is a fine of £10 with imprisonment in default of payment for not exceeding one month or both fine and imprisonment. It might be as well to suggest here as in the case of the squatter the imprisonment should be in default of payment, and should be up to two months instead of one. If the squatter can get six months or two for being drunk, it seems only

reasonable

(6)
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reasonable that the employer should have at least the same penalty for not paying him his wages.

Clause 27(2) gives the Magistrate wide discretionary powers to arbitrate and rescind the contract and seems generally satisfactory.

I think then that the Resident Native Labourers Ordinance may be approved for enactment. It is not a very satisfactory thing in itself, and in theory it is objectionable, but its main principles have been in force in Kenya for some time, and if order is to be kept in the country the Governor and its advisers are convinced that it is necessary. As long as we keep fairly before ourselves the fact that this legislation is designed not to deal with natives living on their own land, but to deal with the native who comes along offering himself as a labourer for the European occupier, and who, therefore, can properly be regulated and restricted in his occupation of land, we are all right.

I have some doubt about the provision allowing the Magistrate to order the removal of natives to which objection has been made before, and I do not feel altogether happy with the Governor's reasons. However, the Committee which dealt with the Ordinance included Canon Burns who signed the report and if he did I think it can fairly be assumed that it is not unobjectionable in local conditions.

I have numbered the points on which I think we should comment. (5) is the most important & I think we should say that no order should be approved unless the Gov. is satisfied that this is land for the squatters to be moved into. *J. I. O. Flinn*
18th July, 1936.

W.C.B.

(5) I doubt whether the order as drafted will give the local authority power to order ~~any~~ squatters to be removed from an area. Clause 21 says

- (a) prohibit the engagement of squatters
- (b) limit the number

But we may as well ask about it.

Then on two further points:

1. Clause 12 says the opposite of what it means "for less than" should be "for at least".
2. I presume that when a native comes under this order he does not come under the Employment of Servants Act. If this is intended, it ought to be expressly provided.

W.C.B.

AIR MAIL

KENYA

No. 136

CONFIDENTIAL.



20/25/34
11
GOVERNMENT HOUSE

NAIROBI

KENYA

29 October 1935.

RECEIVED

11 NOV 1935

C. O. REGY

Sir,

4/23/25/34

With reference to my despatch No. 212 of the 20th April 1934, I have the honour to transmit two copies of the Report of the Committee on the Working of the Resident Native Labourers' Ordinance, 1925, containing a draft bill entitled "A Bill to Regulate the residence of Native Labourers on farms", together with a Comparative Table prepared by the Attorney General, and a copy of the Resident Native Labourers' Ordinance, 1925, amended so as to show the effect of the bill.

In 26227/25

I should be glad to receive your views on the bill before it is submitted to my Executive Council with a view to publication for introduction into Legislative Council.

Answer (2)

2. The two draft bills to amend the Employment of Natives Ordinance and the Native Registration Ordinance, forwarded with my Confidential air mail despatch No. 134 of 29th October 1935, and my Confidential air mail despatch No. 135 of 29th October 1935, are closely connected with the bill now forwarded for your consideration, and should be read in conjunction with this despatch.

38221/35
38222/35
Copy 1/2 sent to Kenya
10 on 39 file

3. Clauses 21 and 22 introduce an entirely new principle, that of local option, to which reference is made in paragraph 8 of this despatch. Otherwise the bill is largely a consolidated re-enactment of the Resident ...

THE RIGHT HONOURABLE
MALCOLM MACDONALD, P.C., M.P.,
SECRETARY OF STATE FOR THE COLONIES,
DOWING STREET,
LONDON, S. W. 1.

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Resident Native Labourers' Ordinance 1925, with certain provisions, detailed below, designed to secure more effective means of control of the occupier, the squatter and his cattle than were inherent in that Ordinance, which in fact, experience has shown to be so unsatisfactory as to be unworkable, with the result that it has been mainly honoured in the breach.

4. In order to facilitate examination of the Bill now transmitted, I enclose a Memorandum showing the points of difference between the Bill and the Resident Native Labourers' Ordinance 1925, and I propose to comment more fully in the body of this despatch on any Clauses of the Bill which involve a change from existing policy or which I consider require elucidation.

5. Clause 5 (7), empowers a magistrate for any good and sufficient reason to order the removal of a native or Somali or a squatter and/or his stock from any farm, forest area, Railway land or unalienated Crown Land and provides that the magistrate shall assess the costs of such removal and determine by whom such costs shall be paid. This provision is necessary in order to enable Government to deal effectively with cases which rise from time to time of natives who are unlawfully squatting on unoccupied farms or who are found squatting on outlying parts of occupied farms without permission. Furthermore, it is considered desirable to make the necessary provision to enable the immediate removal of squatters whose presence on a farm may have resulted, or may be likely to result, in the commission of any crime or breach of the peace. It will be noted that the magistrate is given wide powers of discretion under this Clause and I am satisfied that these powers are necessary and would be exercised in a reasonable and just manner.

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6. Clauses 7, 8 and 9, apply certain provisions of the Native Registration Ordinance to occupiers and squatters, particularly in respect of the endorsement of squatters' Registration Certificates by the occupiers, and the consequential maintenance of records and the submission of monthly Labour Returns.

I consider that the squatter problem as it exists today renders it imperative that a greater measure of control shall be exercised over both occupiers and squatters, and that there shall be available for inspection, by properly appointed officers, reliable records such as will unequivocally fix the identity of all natives on farms and of their cattle. There exists no better means of attaining this than by the use of the native Registration Certificate for the native squatter, and of a number brand for his cattle. I would refer to the memorandum prepared by the Chief Native Commissioner, Mr. G. V. Maxwell, in 1924, which was enclosed with Sir Robert Coryndon's despatch No. 1196 of the 4th September 1924. There is no doubt that the views then held by the Chief Native Commissioner apply with even greater force today than they did in 1924.

19069/24

During the past eleven years the natives of this Colony have evolved rapidly and certain tribes, the Kikuyu in particular, who constitute the majority of squatters, are straining to obtain land rights in the area now definitely assigned to European occupation, and the tendency is definitely to break away, not only from tribal control but from any form of control. The return of some 110,000 of these Kikuyu to their Reserves would create enormous difficulties for Government and untold hardships to the natives concerned.

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At the same time, it is most undesirable to leave them as they are on European farms when, owing to faulty legislation neither the occupier of the farm nor the tribal authorities, nor in fact, Government, can exercise any effective authority over them.

7. It was the intention of the Committee that squatters should cease to be regarded as tenants and that they should take on the status of servants. I am in entire agreement with this view, the main reasons for which are as follows:-

(a) primarily the native squatters generally consider themselves quite definitely to be servants, and under this Bill it is intended that they shall enjoy all the privileges to which servants are entitled under the employment of Natives Ordinance;

(b) the generally admitted failure of the existing Ordinance to lend an appearance of tenancy to a contract which is regarded by both parties thereto as nothing but a labour contract;

(c) the fact that since the promulgation of the Resident Native Labourers' Ordinance, 1925, the Kenya Land Commission has issued its report in which the squatter problem is dealt with in extenso (see paragraphs 498, 1498, 1499, 1860-1863 and 1976 of the Report). This Report has materially altered the position as regards native rights to the occupation of land in the European Highlands. It is, in fact, specifically laid down in paragraph 1976 of the report, that natives have no rights to land in this area and as they are not permitted to lease land there, it follows that they cannot be tenants. The Commission emphasised this point when they expressed the view in

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paragraph 1976 of the report that "care should be taken to ensure that the essence of the contract is a labour contract, the employee being allowed, for his greater comfort, to keep the number of cattle which are necessary for his use. But if he is allowed to keep more than that number the character of the contract changes in effect, until it is predominantly a tenancy contract, which in our opinion, ought to be prevented, as being contrary to the purposes for which the European Highlands have been reserved".

The Bill now submitted conforms strictly to the recommendations of the Land Commission in this respect.

8. Clauses 21 and 22, of the Bill introduce an entirely new principle in this type of legislation, namely, that of local option. The reasons for this innovation are detailed at pages 4 and 5 of the report of the Committee enclosed, and, in view of the general desire for local option, I agree that the principle should be adopted. It will be noted that the position is safeguarded by the fact that the procedure proposed will ensure the fullest publicity being given to an order of the local authority and that the order will not come into force until it has been approved by the Governor-in-Council. Furthermore, provision has been made for wide powers of inspection to be vested in inspectors.

9. It will be observed that it is proposed that the Bill should not be applied to the Coast Province for the reasons stated at page 6 of the report of the Committee.

10. The Provincial Commissioners have been fully consulted, and advised that it was neither necessary nor desirable to submit the proposal to Local Native Councils. Certain points of detail raised by the

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Provincial Commissioners will be considered when the
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I have the honour to be,

Sir,

Your most obedient, humble servant,



BRIGADIER-GENERAL.

G O V E R N O R.

COLONY AND PROTECTORATE OF KENYA



**Report of Committee on the Working
of the Resident Native Labourers
Ordinance, 1925**

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PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

REPORT OF COMMITTEE ON THE RESIDENT
NATIVE LABOURERS ORDINANCE, 1925

Report of Committee on the Working of the Resident Native Labourers Ordinance, 1925

To—

HIS EXCELLENCY BRIGADIER-GENERAL SIR JOSEPH ALOYSIUS
BYRNE, G.C.M.G., K.B.E., C.B.,
*Governor and Commander-in-Chief,
Colony and Protectorate of Kenya.*

Your Excellency,

We, the members of the Committee appointed by Your Excellency to review the working of the Resident Native Labourers' Ordinance No. 5 of 1925, and to report what amendments are necessary for its improvement have the honour to submit the following report.

* The following gentlemen signified their acceptance of Your Excellency's nomination :—

The Hon. Attorney General (*Chairman*),

The Hon. Chief Native Commissioner,

C. Kenneth Archer, Esq.,

The Ven. Archdeacon The Hon. G. Burns, O.B.E., M.L.C.,

The Hon. Mrs. Grant.

The Hon. H. E. Welby, M.L.C.,

The Hon. Conway Harvey, M.L.C.,

with Dr. V. M. Fisher, Principal Labour Inspector, as Secretary.

Captain F. O'B. Wilson, C.M.G., D.S.O., R.N., who was also invited to serve upon the Committee, was unable to do so and the vacancy thus created was offered to and accepted by Captain Caswell Long. Owing, however, to an accident, that gentleman was not able to attend any of the meetings of the Committee and Mr. S. H. Carlin was nominated in his stead, in May 1934, and attended all meetings thereafter.

The first meeting of this Committee was held in the Chief Native Commissioner's Office on the 18th of September, 1933, since when it has met upon nine further occasions, terminating with the meeting held on the 29th of October, 1934, when the Bill which forms an appendix to this report was finally considered.

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The history of the progress made by the Committee and of its meetings is as follows:—

Like most subsequent meetings, except the second and last, the first was of two days' duration and extended over the 18th and 19th of September. During that meeting the following business was carried out:—

A.—Considering and deciding the procedure to be followed by the Committee in its deliberations and whether its meetings should be held publicly, or otherwise. It was decided that the meetings should not be held publicly.

B.—Laying down principles as to the desirability of continuing the squatter system, the nature of squatters' contracts, the status of squatters, whether tenants or employees, the limitation of squatters' cattle, the retention or removal of penal sanctions from the Resident Native Labourers' Ordinance; and

C.—The first reading of a Bill drafted by the Attorney General.

The next meeting called for the 3rd of October, had unavoidably to be postponed and it was held on the 11th of October, during which the oral evidence of Major Ashford and Messrs. H. Morton, John Boyes, Dehp and Montgomery was heard.

Numerous letters received from the Convention of Associations, various public bodies and the general public were read and considered, and several consequential amendments were incorporated in the draft Bill. The desirability of having the Bill printed and circulated was discussed and it was decided to request Government to sanction its printing and circulation to all Provincial Commissioners, Heads of Departments, to the Press and to members of the Committee, with a view to their consulting representative opinion as to the provisions of the Bill.

The Committee then adjourned *sine die*.

In November, 1933, the printed draft Bill was circulated to the members of the Committee, and to various officials and farmers' and planters' associations, for their comments and criticisms.

In forwarding the Bill for the views of the addressees, Dr. Fisher expressed an opinion that the Committee would probably not meet until early in 1934, and requested that all

comments upon the Bill should be forwarded to him at an early date, to permit of their analysis and circulation before the end of the year. The response to this request was not, however, as rapid as was expected, the bulk of the replies not being received until the middle of February and in some cases not until May.

By the middle of February, Dr. Fisher, the original Secretary, had become ill, and he was invalided out of the Service, leaving the Colony on the 1st of April, 1934.

Mr. G. R. B. Brown, District Officer, was then appointed Secretary in Dr. Fisher's place, but unfortunately within six weeks of his appointment the exigencies of the service necessitated his transfer from Nairobi.

During his tenure of office, Mr. Brown tabulated the various sections of the Kenya Land Commission Report dealing with the problem of squatters and their cattle and very ably compiled a digest of the comments, criticisms and suggestions received in connection with the proposed Bill.

Practically all farmers' and planters' associations in the Colony submitted their views, also all Provincial Commissioners, Heads of Departments having dealings with squatters, most District Commissioners, Magistrates and Labour Officers.

This digest necessitated the study of 123 communications, as follows:—

Administration	...	...	36
Other Government Departments	...	...	23
Associations	...	...	28
General Public	...	...	36

This compilation was circulated on the 5th of May and communications thereon continued to be received until late June.

On the 16th of May, Mr. A. E. T. Imbert, Chief Registrar of Natives, was appointed Secretary, *vice* Mr. Brown, transferred.

The meetings of the Committee were then resumed and it met on three occasions, each meeting lasting for two days, i.e.—

- 28th and 29th of May,
- 5th and 6th of June, and the
- 25th and 26th of June,

to consider the replies received and, as far as possible, to consolidate the Bill, in accordance with the views expressed.

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Administration	36
Other Government Departments	23
Associations	28
General Public	36

This compilation was circulated on the 5th of May and communications thereon continued to be received until late June.

On the 16th of May, Mr. A. E. T. Imbert, Chief Registrar of Natives, was appointed Secretary, *vice* Mr. Brown, transferred.

The meetings of the Committee were then resumed and it met on three occasions, each meeting lasting for two days, i.e.—

28th and 29th of May,
5th and 6th of June, and the
25th and 26th of June.

to consider the replies received and, as far as possible, to consolidate the Bill, in accordance with the views expressed.

During these three meetings the Committee invited the attendance of the following gentlemen, who expressed their views on those aspects of the squatter problem which particularly concerned the interests they represent—

The Acting General Manager, Kenya and Uganda Railways and Harbours.

The Deputy Director of Agriculture (Animal Division).

The Conservator of Forests.

The Rev. Dr. Arthur, O.B.E.

The resultant amended Bill was circulated to the members of the Committee on the 16th of September.

The draft Bill, together with a further memorandum received from the Conservator of Forests, and various amendments suggested by the Provincial Commissioner, Rift Valley was finally considered at the last meeting of the Committee held on the 29th of October, 1934.

It is evident from the criticisms received that there is a very definite difference of opinion, both non-official and official, as to the desirability or otherwise of having squatters and as to the method of legislating for their employment.

The planters in the main desire to have the squatter and his cattle, i.e. his labour and the manure produced by his cattle. The stock owners generally are opposed to the squatter; they do not need his labour, and fear the illicit movements of his cattle.

In so far as the legal provisions for the regulation of the native resident labour was concerned, there appeared to be a considerable body of opinion in favour of abolishing the Resident Native Labourers Ordinance, 1925, and incorporating *ad hoc* provisions in the Employment of Natives Ordinance. While agreeing that the moment may be inopportune for this amalgamation, it was generally considered desirable by the Committee that all legislation affecting native employment should be ultimately incorporated within a comprehensive Labour Code.

One fact emerged, however, and that was the general desire for local option in matters relating to the employment of squatters, although the Kenya Land Commission in para-

graph 2039 of their report considered that the question of squatter stock "is not one which should be left entirely to local opinion".

In view of this general desire, we recommend the acceptance of the principle of local option in matters relating to the employment or non-employment of squatters in the different farming areas and we have made provision in the Bill to that effect.

We realize that by so doing we are vesting wide powers in local authorities but these bodies now occupy a position of considerable responsibility and are unlikely to abuse such power; while the proposed procedure will ensure the fullest publicity being given to an order of the local authority, and the order will not come into force until it has been approved by Your Excellency in Council.

We desire particularly to stress the fact that, in our opinion, the success of this measure, if it becomes law, will depend to a very great extent upon effective inspection and we have therefore provided for wide powers of inspection to be vested in inspectors.

It became evident also, during the deliberations of the Committee, that there is a very considerable body of opinion which is anxious to see the provisions of the Ordinance applied very strictly, not only to farmers, but also to all Government Departments owning land or employing squatters. Provision has therefore been made for certain Government Departments to be bound by the Ordinance, in a similar manner to other occupiers.

We have also accepted the Conservator of Forests' definition of Forest Areas and have made special provision for the retention of the rights enjoyed by the Kamasia in Lembus Forest and the Elgonyi in the Mt. Elgon Forest.

The Committee is unanimously of the opinion that squatters should be made to work for a period of not less than 180 days per annum, and that, in the event of the occupier not being able to employ his squatters for that minimum period, he should allow them to work on neighbouring farms for the uncompleted portion of the 180 days. Some of the members considered this minimum period of compulsory labour insufficient, and desired it extended to 270 days. Provision has, however, been made for 180 days and power has been vested in the Provincial Commissioner to reduce the number of days' work for any good and sufficient reason.

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We have been informed that, owing to a well established form of land tenure operating at the Coast, much of the land is rightfully occupied by natives who are not the owners or the lessees in chief of the land so held, and, in the circumstances, we recommend that the Bill should not be applied to that area.

The chief points of difference between the draft Bill and the Resident Native Labourers' Ordinance, 1925, are as follows:—

1. The Ordinance will only apply to such areas and from such dates as the Governor may appoint.

2. *Definitions*.—Definition of forest area, local authority, attesting officer, and railway land have been added; and the definition of occupier has been extended in consequence of the inclusion of Crown land, railway land and forest areas.

3. Clause 5 (A).—Under the existing law the head of the family is the principal native contracting party; the draft Bill proposes that the actual squatter should be the principal native contracting party.

(B).—The maximum period of the contract has been extended from three to five years.

(C) The period of notice of the termination of the contract has been reduced from six months to three months, as it is felt that, in the event of a disagreement between the parties the shorter period would be naturally advantageous to both parties.

(D).—The remainder of the section defines more clearly the squatter's duties and privileges.

4. Clauses 7, 8 and 9.—These clauses apply various provisions of the Native Registration Ordinance to occupiers and to squatters, as is done in the case of the Employment of Natives Ordinance.

5. Clause 10.—Provides for the release into the labour market of any squatter who, having performed 180 days' work for the occupier, wishes to work elsewhere and for a certificate to that effect to be given to him.

6. Clause 12.—Provides for the compulsory employment of the squatter for the full period of employment,

with a proviso enabling a Provincial Commissioner to reduce the number of days' work if he considers that course desirable.

7. Clause 15.—Embodies section 10 of the Resident Native Labourers' Ordinance, 1925, but extends its provisions and generally tightens up the regulations for the control of squatters' cattle.

8. Clause 17 amplifies the provisions of section 9 of the Resident Native Labourers' Ordinance, enlarges the powers of inspection, and increases the number of persons by whom such inspection may lawfully be carried out.

9. Clause 18 provides machinery for the removal of squatters from areas which are not considered to be under effective control.

10. Clause 19 reproduces the corresponding section in the existing law and, in addition, provides for the disposal of the manure produced on a farm by a squatter's stock.

11. Clauses 21 and 22 introduce an entirely new principle in this type of legislation, that of local option.

12. In Clause 23 the Governor in Council is given powers in respect of forest areas, unalienated Crown land and Railway land, similar to those given to local authorities in Clause 21, in respect of alienated Crown land. This clause was included in the Bill in order to secure conformity in those areas and at the same time to meet the views expressed by the Conservator of Forests and the General Manager of Railways.

13. Clauses 25, 26, 27 and 28.—These penal clauses have been enlarged owing to the additional duties imposed upon both the occupier and the squatter.

Clause 25 deals with minor offences committed by squatters.

Clause 26 deals with more serious offences committed by squatters.

Clause 27 deals with offences committed by occupiers.

We have provided varying punishments, based, where possible, upon the punishments provided for in the Employment of Natives Ordinance.

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We have provided varying punishments, based, where possible, upon the punishments provided for in the Employment of Natives Ordinance.

14. Clause 29.—This clause constitutes a departure from the existing law, and is based upon a similar provision in the Employment of Natives Ordinance.

15. Clause 32.—The payment of an attestation fee provided for in the Stamp Ordinance is considered to be onerous in the case of squatters' contracts and provision has therefore been made to exempt all such contracts from the payment of stamp duty.

We wish particularly to emphasize that throughout our deliberations we have borne in mind the recommendations of the Kenya Land Commission dealing with squatters and have endeavoured to follow those recommendations as closely as circumstances have permitted.

In conclusion we would like to place on record our appreciation of the industry and efficiency which has characterised the work of our Secretary, Mr. Imbert.

We have the honour to be,

Your Excellency's Obedient Servants,

ELEANOR L. GRANT

S. H. LA FONTAINE

H. E. WELBY

CONWAY HARVEY.

SIDNEY CARLIN

GEORGE BURNS

C. KENNETH ARCHER

Members.

W HARRAGIN, *Chairman.*

A Bill to Regulate the Residence of Native Labourers on Farms.

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

1. This Ordinance may be cited as the Resident Native Labourers Ordinance, 1935. Short title.

2. This Ordinance or any part thereof shall apply to such districts or areas, and from such date or dates, as the Governor in Council may, from time to time, by proclamation in the Gazette appoint. Application of Ordinance.

3. In this Ordinance—
"attesting officer" means a person appointed as such by the Governor in Council under the provisions of section 31 of this Ordinance; Interpretation.

"cattle" means any bull, cow, steer, heifer or calf or any other animal which the Governor may, by order, declare to be cattle for the purposes of this Ordinance.

"family" means the wife or wives and the unmarried children, if any, of a native or Somali;

"farm" means any area of land (other than an area of land situated in a municipality, township or trading centre) which has been leased or sold by His Majesty or by the Governor and shall include any area of land set apart by the Government of the Colony for the purpose of experimental farming;

"forest area" means any forest area not situated in and forming part of a native reserve.

"local authority" means a district council established under the Local Government (District Councils) Ordinance, 1928, in respect of the area of jurisdiction so conferred upon it, and, where there is no district council, means the district commissioner acting in consultation with the body known as the district committee where such exists; No. 21 of 1928.

"mission" means any mission recognized as such by the Governor;

"occupier" means the owner or lessee or any other person having a legal right to occupy a farm, a forest area, unalienated Crown land or Railway land, and includes any manager or agent of such occupier, and in respect of forest areas, unalienated Crown land and Railway land, includes the Conservator of Forests, the Commissioner of Lands and the General Manager of the Kenya and Uganda Railways and Harbours respectively;

"Railway land" means any land the ownership of which or the control over which vests in the High Commissioner for Transport;

"squatter" means a native or a Somali who has entered into a contract under section 5 of this Ordinance or under the Resident Native Labourers Ordinance, 1925;

No. 5 of 1925.

"standing committee" means the Standing Departmental Committee established under the Local Government (Municipalities) Ordinance, 1928;

No. 19 of 1928.

"stock" includes cattle, sheep, goats, and such other animals or birds as the Governor may, by order, declare to be stock for the purposes of this Ordinance.

When natives or Somalis may reside on a farm.

4. (1) No native or Somali shall reside on or remain for a longer ~~period~~ period than forty-eight hours on any farm or in any forest area, or on any unalienated Crown land, or on any Railway land, unless he—

- (a) is the occupier thereof or a member of the family of the occupier thereof; or
- (b) has duly entered into a contract, still unexpired, under section 5 of this Ordinance or under the Resident Native Labourers Ordinance, 1925; or
- (c) is in actual employment on such farm, forest area, unalienated Crown land or Railway land, in pursuance of a contract made under the provisions of any law for the time being in force in the Colony relating to master and servant, or is a member of the family of a native or Somali so employed; or
- (d) is a native or a Somali who, from age or infirmity, is incapable of continuous employment and is closely related to a family lawfully residing on such farm, and who has obtained written permission from a magistrate or attesting officer by endorsement on a squatter's contract or otherwise; or

No. 5 of 1925.

(e) is the holder of a permit in writing in that behalf given to him by the occupier and, in the case of a permit authorizing residence for a period of more than fourteen days, is also the holder of a permit from the district commissioner;

Provided that the provisions of this sub-section shall not apply to a native residing by right in the Lembus and Mt. Elgon forest areas.

(2) It shall be a sufficient defence for a native or Somali charged with an offence against the provisions of this section to produce a permit issued to him under the provisions of paragraph (e) of sub-section (1) of this section.

5. (1) When a native or Somali has entered into a contract, as in this section provided, the members of his family may also reside on the farm, forest area, unalienated Crown land or Railway land, as the case may be.

Contract of service to work on a farm.

(2) A contract under this section shall be in writing, shall be executed by the occupier and by the native or Somali and by all the male members of native's or Somali's family over the apparent age of sixteen years, shall be attested by a magistrate or by an attesting officer, shall be in the form of the agreement set out in the first Schedule to this Ordinance, and shall provide—

- (a) for a term of not less than one year and not exceeding five years, notwithstanding anything to the contrary contained in any law for the time being in force in the Colony relating to master and servant;
- (b) for the renewal or variation of the contract, by endorsement by the parties thereto, with the approval of a magistrate or attesting officer;
- (c) for the native or Somali and any male member of his family resident on the farm who is of the apparent age of sixteen years or over, and who is not working under any law for the time being in force in the Colony relating to master and servant, to work for the occupier for not less than 180 days at the election of the occupier in any one year during the term of such contract, and for the occupier to provide employment and to pay wages to each such person for the number of days specified in the contract;
- (d) for the occupier to give notice in writing to every male member of such family who, during the continuance of the contract, may attain the age of sixteen years,

"mission" means any mission recognized as such by the Governor;

"occupier" means the owner or lessee or any other person having a legal right to occupy a farm, a forest area, unalienated Crown land or Railway land, and includes any manager or agent of such occupier, and in respect of forest areas, unalienated Crown land and Railway land, includes the Conservator of Forests, the Commissioner of Lands and the General Manager of the Kenya and Uganda Railways and Harbours respectively;

"Railway land" means any land the ownership of which or the control over which vests in the High Commissioner for Transport;

"squatter" means a native or a Somali who has entered into a contract under section 5 of this Ordinance or under the Resident Native Labourers Ordinance, 1925;

"standing committee" means the Standing Departmental Committee established under the Local Government (Municipalities) Ordinance, 1928;

"stock" includes cattle, sheep, goats, and such other animals or birds as the Governor may, by order, declare to be stock for the purposes of this Ordinance.

4. (1) No native or Somali shall reside on or remain for a longer ~~period~~ period than forty-eight hours on any farm or in any forest area, or on any unalienated Crown land, or on any Railway land, unless he—

- (a) is the occupier thereof or a member of the family of the occupier thereof; or
- (b) has duly entered into a contract, still unexpired, under section 5 of this Ordinance or under the Resident Native Labourers Ordinance, 1925; or
- (c) is in actual employment on such farm, forest area, unalienated Crown land or Railway land, in pursuance of a contract made under the provisions of any law for the time being in force in the Colony relating to master and servant, or is a member of the family of a native or Somali so employed; or
- (d) is a native or a Somali who, from age or infirmity, is incapable of continuous employment and is closely related to a family lawfully residing on such farm, and who has obtained written permission from a magistrate or attesting officer by endorsement on a squatter's contract or otherwise; or

No. 5 of 1925.

No. 19 of 1928.

When natives or Somalis may reside on a farm.

No. 5 of 1925.

(e) is the holder of a permit in writing in that behalf given to him by the occupier and, in the case of a permit authorizing residence for a period of more than fourteen days, is also the holder of a permit from the district commissioner;

Provided that the provisions of this sub-section shall not apply to a native residing by right in the Lembus and Mt. Elgon forest areas.

(2) It shall be a sufficient defence for a native or Somali charged with an offence against the provisions of this section to produce a permit issued to him under the provisions of paragraph (e) of sub-section (1) of this section.

5. (1) When a native or Somali has entered into a contract, as in this section provided, the members of his family may also reside on the farm, forest area, unalienated Crown land or Railway land, as the case may be.

Contract of service to work on a farm.

(2) A contract under this section shall be in writing, shall be executed by the occupier and by the native or Somali and by all the male members of native's or Somali's family over the apparent age of sixteen years, shall be attested by a magistrate or by an attesting officer, shall be in the form of the agreement set out in the first Schedule to this Ordinance, and shall provide—

- (a) for a term of not less than one year and not exceeding five years, notwithstanding anything to the contrary contained in any law for the time being in force in the Colony relating to master and servant;
- (b) for the renewal or variation of the contract, by endorsement by the parties thereto, with the approval of a magistrate or attesting officer;
- (c) for the native or Somali and any male member of his family resident on the farm who is of the apparent age of sixteen years or over, and who is not working under any law for the time being in force in the Colony relating to master and servant, to work for the occupier for not less than 180 days at the election of the occupier in any one year during the term of such contract, and for the occupier to provide employment and to pay wages to each such person for the number of days specified in the contract;
- (d) for the occupier to give notice in writing to every male member of such family who, during the continuance of the contract, may attain the age of sixteen years,

to the effect that, on the expiration of three months from the date of receiving such notice such male member will be required either (i) to enter into a contract under this Ordinance with the occupier; or (ii) to enter, under any law for the time being in force in the Colony relating to master and servant, into a contract with the occupier or some other employer in the vicinity; or (iii) to cease to reside on the occupier's farm;

- (e) for the female members of the family who are willing and able to work to serve the occupier if he offers suitable work at a reasonable rate of wages;
- (f) for the supply by the occupier of building material for the family's huts;
- (g) for the use by the family of land for cultivation and, when agreed upon, for grazing;
- (h) for the kinds of crops which the native or Somali or his family may not grow on the farm;
- (i) for the number of stock which the native or Somali may graze on the farm;
- (j) for the rates of pay and other consideration to be paid or given to the native or Somali and any member of his family for the period of actual employment;
- (k) for the termination of the contract by not less than three months' notice on either side: Provided that the term of residence on a farm shall in no case be less than one year except with the approval of a magistrate;
- (l) in the event of termination of the contract in accordance with the last preceding paragraph, for the removal by the family of crops cultivated by such family or for payment by the occupier of compensation in lieu thereof: Provided that no crop shall be planted after notice of termination has been given by either party;
- (m) in the case of missions, for the regular attendance of the children of the family at school for the purpose of education within the meaning of section 20 of this Ordinance.

(3) Any contract under this section may, with the consent of the parties thereto, relate to a group of farms in the same district or in contiguous districts, provided all the farms in the group are in the same ownership or occupation, and

provided a magistrate certifies that he is satisfied that proper control can be exercised over the squatters resident on such farms as are not in the personal occupation of a European.

(4) The original of every contract made under this section shall be filed in the office of the district commissioner in which the parties reside and one copy of the contract shall be handed to the occupier and one copy to the head of the contracting native family.

(5) A magistrate or attesting officer may refuse to attest any contract which does not provide for a fair remuneration in money, having regard to the local rates of wages, or any contract which, in his opinion, is likely to lead to a breach of the provisions of this Ordinance.

(6) A magistrate or attesting officer may, in his discretion, refuse to attest any contract entered into by a native or Somali whom he considers to be an undesirable.

(7) It shall be lawful for any magistrate for any good and sufficient reason to order the removal of a native or Somali, or of a squatter, and/or his stock from any farm, forest area, Railway land or unalienated Crown land. It shall further be lawful for such magistrate to assess the costs of such removal and to determine by whom such costs shall be paid.

(8) (a) A magistrate or attesting officer may, when he deems it necessary before attesting any contract under this section, require the occupier to give security for the payment of the wages of the squatter with whom the contract is to be made.

(b) Such security may be given by a bond in the form set out in the Second Schedule hereto, or to the like effect, with one or more sureties approved by the magistrate or attesting officer.

(9) When notice of termination of a contract has been given by either party thereto the occupier shall forthwith notify the district commissioner accordingly.

(10) On a change of occupancy of a farm the contract shall be deemed to have been assigned to the new occupier and to be a contract between the new occupier and the squatter.

6. No occupier shall allow any native or Somali to reside on a farm in contravention of the provisions of this Ordinance. When natives may not reside on farms.

to the effect that, on the expiration of three months from the date of receiving such notice such male member will be required either (i) to enter into a contract under this Ordinance with the occupier; or (ii) to enter, under any law for the time being in force in the Colony relating to master and servant, into a contract with the occupier or some other employer in the vicinity; or (iii) to cease to reside on the occupier's farm;

- (e) for the female members of the family who are willing and able to work to serve the occupier if he offers suitable work at a reasonable rate of wages;
- (f) for the supply by the occupier of building material for the family's huts;
- (g) for the use by the family of land for cultivation and, when agreed upon, for grazing;
- (h) for the kinds of crops which the native or Somali or his family may not grow on the farm;
- (i) for the number of stock which the native or Somali may graze on the farm;
- (j) for the rates of pay and other consideration to be paid or given to the native or Somali and any member of his family for the period of actual employment;
- (k) for the termination of the contract by not less than three months' notice on either side: Provided that the term of residence on a farm shall in no case be less than one year except with the approval of a magistrate;
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(6) A magistrate or attesting officer may, in his discretion, refuse to attest any contract entered into by a native or Somali whom he considers to be an undesirable.

(7) It shall be lawful for any magistrate for any good and sufficient reason to order the removal of a native or Somali, or of a squatter, and/or his stock from any farm, forest area, Railway land or unalienated Crown land. It shall further be lawful for such magistrate to assess the costs of such removal and to determine by whom such costs shall be paid.

(8) (a) A magistrate or attesting officer may, when he deems it necessary before attesting any contract under this section, require the occupier to give security for the payment of the wages of the squatter with whom the contract is to be made.

(b) Such security may be given by a bond in the form set out in the Second Schedule hereto, or to the like effect, with one or more sureties approved by the magistrate or attesting officer.

(9) When notice of termination of a contract has been given by either party thereto the occupier shall forthwith notify the district commissioner accordingly.

(10) On a change of occupancy of a farm the contract shall be deemed to have been assigned to the new occupier and to be a contract between the new occupier and the squatter.

6. No occupier shall allow any native or Somali to reside on a farm in contravention of the provisions of this Ordinance. When natives may not reside on farms.

Squatters' contracts to be endorsed on registration certificate.

7. (1) When a native has entered into a contract of service under the provisions of section 5 of this Ordinance, it shall be the duty of the occupier forthwith to endorse in black ink upon such native's Registration Certificate, in the columns respectively provided therefor, the following particulars—

- (a) the name of the employer and district in which the native is employed;
- (b) the nature of the native's employment, preceded by a capital letter S, to denote that he is a squatter;
- (c) the date of the commencement of the contract; and
- (d) the rate of wages in cash.

(2) On the termination of such contract the occupier shall endorse in black ink the date of such termination in the column provided in the squatter's registration certificate for the date of discharge.

(3) It shall be the duty of the squatter, on the termination of the contract, to request the occupier to make such endorsement, but failure on the part of the squatter to make the request shall not relieve the occupier of the responsibility for making such endorsement.

(4) In the event of the occupier refusing or omitting to make such endorsement, the squatter shall forthwith report to the district commissioner in whose office the contract is filed; and such district commissioner may, if he is satisfied from the information at his disposal that the endorsement has been omitted through ignorance or mistake or wilfully by the occupier and through no fault of the squatter, after inquiry complete in black ink such endorsement on the registration certificate affixing such date for the date of discharge as may appear to him to be consistent with the circumstances.

(5) Any occupier who refuses or omits to endorse a registration certificate in accordance with the provisions of this section shall be deemed to have committed a breach of the provisions of this Ordinance.

8. (1) Every male native, ~~other than a female~~, who is a party to a contract made under the provisions of the Resident Native Labourers Ordinance, 1925, shall, within one month after the date of the application of this Ordinance to the area in which he is residing under such contract, produce his registration certificate to the occupier.

Endorsement of existing contracts.
No. 5 of 1925.

(2) Such occupier shall thereupon make an endorsement upon the registration certificate as is required by sub-section (1) of the last preceding section and shall forthwith render a return to the Chief Registrar of Natives, as required under section 9 of the Native Registration Ordinance, showing the registration numbers and the names of every registered native resident upon his farm.

Cap. 127.

9. Any occupier entering into a contract with a native under section 5 of this Ordinance shall be deemed to have engaged such native within the meaning of the Native Registration Ordinance, and sections 9, 10, 17, 18 and 20 of the Native Registration Ordinance, and such Rules made under the said Ordinance as the Governor in Council may by notice prescribe, shall apply to such occupier and native as if the contract were an agreement within the meaning of the said Ordinance.

Application of certain provisions of Native Registration Ordinance.
Cap. 127.

10. When a squatter has, within any twelve-monthly period, completed the number of days' work specified in such contract, the occupier shall, if so required by such squatter, deliver to him a squatter's certificate to that effect in the form set out in the Third Schedule hereto, specifying the date on which the squatter's obligation to work under such contract recommences.

Squatters' certificates.

11. Notwithstanding anything containing in sub-section (3) of section 13 of the Native Registration Ordinance it shall not be an offence to employ a person holding a squatter's certificate during the period shown on such certificate as the period in which the squatter is under no obligation to work for the occupier.

Saving of offence under section 13 of the Native Registration Ordinance.
Cap. 127.

12. Any occupier shall be liable to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding two months or to both such fine and such imprisonment, if he fails in any one year to provide employment for less than the number of days specified in the contract for each person for whom, under the terms of any contract made under this Ordinance or under the Resident Native Labourers Ordinance, 1925, he is under an obligation to provide such employment: Provided that notwithstanding the terms of any such contract, a Provincial Commissioner shall have power, for any good and sufficient reason, to reduce the minimum number of days work required from squatters in any area within his province.

Occupier to provide employment contracted for.

No. 5 of 1925.

Squatters' contracts to be endorsed on registration certificate.

7. (1) When a native has entered into a contract of service under the provisions of section 5 of this Ordinance, it shall be the duty of the occupier forthwith to endorse in black ink upon such native's Registration Certificate, in the columns respectively provided therefor, the following particulars—

- (a) the name of the employer and district in which the native is employed;
- (b) the nature of the native's employment, preceded by a capital letter S, to denote that he is a squatter;
- (c) the date of the commencement of the contract; and
- (d) the rate of wages in cash.

(2) On the termination of such contract the occupier shall endorse in black ink the date of such termination in the column provided in the squatter's registration certificate for the date of discharge.

(3) It shall be the duty of the squatter, on the termination of the contract, to request the occupier to make such endorsement, but failure on the part of the squatter to make the request shall not relieve the occupier of the responsibility for making such endorsement.

(4) In the event of the occupier refusing or omitting to make such endorsement, the squatter shall forthwith report to the district commissioner in whose office the contract is filed; and such district commissioner may, if he is satisfied from the information at his disposal that the endorsement has been omitted through ignorance or mistake or wilfully by the occupier and through no fault of the squatter, after inquiry complete in black ink such endorsement on the registration certificate affixing such date for the date of discharge as may appear to him to be consistent with the circumstances.

(5) Any occupier who refuses or omits to endorse a registration certificate in accordance with the provisions of this section shall be deemed to have committed a breach of the provisions of this Ordinance.

Endorsement of existing contracts.
No. 5 of 1925.

8. (1) Every male native, other than a ~~Squatter~~, who is a party to a contract made under the provisions of the Resident Native Labourers Ordinance, 1925, shall, within one month after the date of the application of this Ordinance to the area in which he is residing under such contract, produce his registration certificate to the occupier.

(2) Such occupier shall thereupon make an endorsement upon the registration certificate as is required by sub-section (1) of the last preceding section and shall forthwith render a return to the Chief Registrar of Natives, as required under section 9 of the Native Registration Ordinance, showing the registration numbers and the names of every registered native resident upon his farm.

Cap. 127

9. Any occupier entering into a contract with a native under section 5 of this Ordinance shall be deemed to have engaged such native within the meaning of the Native Registration Ordinance, and sections 9, 10, 17, 18 and 20 of the Native Registration Ordinance, and such Rules made under the said Ordinance as the Governor in Council may by notice prescribe, shall apply to such occupier and native as if the contract were an agreement within the meaning of the said Ordinance.

Application of certain provisions of Native Registration Ordinance. Cap. 127.

10. When a squatter has, within any twelve-monthly period, completed the number of days' work specified in such contract, the occupier shall, if so required by such squatter, deliver to him a squatter's certificate to that effect in the form set out in the Third Schedule hereto, specifying the date on which the squatter's obligation to work under such contract recommences.

Squatters' certificates.

11. Notwithstanding anything containing in sub-section (3) of section 13 of the Native Registration Ordinance it shall not be an offence to employ a person holding a squatter's certificate during the period shown on such certificate as the period in which the squatter is under no obligation to work for the occupier.

Saving of offence under section 13 of the Native Registration Ordinance. Cap. 127.

12. Any occupier shall be liable to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding two months or to both such fine and such imprisonment, if he fails in any one year to provide employment for less than the number of days specified in the contract for each person for whom, under the terms of any contract made under this Ordinance or under the Resident Native Labourers Ordinance, 1925, he is under an obligation to provide such employment: Provided that notwithstanding the terms of any such contract, a Provincial Commissioner shall have power, for any good and sufficient reason, to reduce the minimum number of days work required from squatters in any area within his province.

Occupier to provide employment contracted for.

No. 5 of 1925.

Contract to be produced.

13. Any magistrate, or any person duly authorized in writing in that behalf by a magistrate, or any police officer of and above the rank of assistant sub-inspector, or a justice of the peace may demand from any occupier the production of any contract entered into by such occupier under the provisions of section 5 of this Ordinance or under the Resident Native Labourers Ordinance, 1925, and such occupier shall forthwith produce such contract.

No. 5 of 1925.

Record of squatters.

14. Every occupier shall keep records sufficient to show the date of the contract of each squatter, the number of days on which such squatter has worked and the wages paid.

Register of squatters' stock.

15. (1) Every occupier shall keep an up-to-date register of all cattle eligible for branding, and of such other stock in respect of which a register may be required to be kept by an order made under the provisions of section 21 of this Ordinance, kept on his farm and owned by natives or Somalis lawfully residing thereon.

(2) Such register shall be in the form set out in the Fifth Schedule to this Ordinance.

Squatters' stock on farms.

16. (1) No native or Somali other than an occupier or a member of the family of such occupier, shall graze any stock on any farm unless—

- (a) he is lawfully residing on such farm under the provisions of paragraphs (b), (c), (d) or (e) of sub-section (1) of section 4 of this Ordinance; and
- (b) such stock is his own personal property; and
- (c) if residing under the provisions of paragraph (d) or paragraph (e) of sub-section (1) of section 4 of this Ordinance, he has received the written consent of the occupier and the written approval of the district commissioner or the attestation officer for keeping such stock on the farm; and
- (d) every head of cattle over the age of six months kept by such native or Somali on the farm is legibly branded by the occupier at his own expense with his brand together with the letter "S" and the farm number allocated to the native or Somali and shown in the register required to be kept under the provisions of section 15 of this Ordinance.

(2) (a) The written consent of the occupier and the written approval of a magistrate or attesting officer required by paragraph (c) of sub-section (1) of this section shall specify the number of stock which such native or Somali may keep on the farm.

(b) In arriving at such number the occupier and the magistrate or attesting officer shall have regard—

(i) to any order, made under the provisions of section 21 of this Ordinance, in force in the area in which the farm is situated; and

(ii) to the reasonable needs of the native or Somali and of the members of his family residing with him.

(3) Any native or Somali—

- (a) who keeps upon a farm any stock which is not his own personal property; or
- (b) who, if residing under the provisions of paragraph (d) or paragraph (e) of sub-section (1) of section 4 of this Ordinance, keeps upon a farm any stock in respect of which he has not received the written consent of the occupier and the written approval of a magistrate or attesting officer; or
- (c) who keeps on a farm any stock in excess of the number which he is authorized to keep in pursuance of such written consent of the occupier and such approval of the district commissioner or an attesting officer; or
- (d) who keeps on a farm any head of cattle which is not branded in accordance with the provisions of this section,

shall be guilty of an offence against this Ordinance.

(4) The provisions of sub-sections (2) and (3) of this section relating to the number of stock which a native or a Somali may lawfully keep upon a farm shall not apply to the stock of a native or Somali who before the commencement of this Ordinance has entered into a contract, which is still unexpired, under section 5 of the Resident Native Labourers Ordinance, 1925, and who, under the provisions of sub-section (1) of this section, lawfully has such stock on the farm: Provided that every such native or Somali shall, within three months after the date of the application of this Ordinance to

Contract to
be produced.

13. Any magistrate, or any person duly authorized in writing in that behalf by a magistrate, or any police officer of and above the rank of assistant sub-inspector, or a justice of the peace may demand from any occupier the production of any contract entered into by such occupier under the provisions of section 5 of this Ordinance or under the Resident Native Labourers Ordinance, 1925, and such occupier shall forthwith produce such contract.

No. 5 of 1925.

Record of
squatters.

14. Every occupier shall keep records sufficient to show the date of the contract of each squatter, the number of days on which such squatter has worked, and the wages paid.

Register of
squatters'
stock.

15. (1) Every occupier shall keep an up-to-date register of all cattle eligible for branding, and of such other stock in respect of which a register may be required to be kept by an order made under the provisions of section 21 of this Ordinance, kept on his farm and owned by natives or Somalis lawfully residing thereon.

(2) Such register shall be in the form set out in the Fifth Schedule to this Ordinance.

Squatters'
stock on
farms.

16. (1) No native or Somali other than an occupier or a member of the family of such occupier, shall graze any stock on any farm unless—

- (a) he is lawfully residing on such farm under the provisions of paragraphs (b), (c), (d) or (e) of sub-section (1) of section 4 of this Ordinance; and
- (b) such stock is his own personal property; and
- (c) if residing under the provisions of paragraph (d) or paragraph (e) of sub-section (1) of section 4 of this Ordinance, he has received the written consent of the occupier and the written approval of the district commissioner or the attestation officer for keeping such stock on the farm; and
- (d) every head of cattle over the age of six months kept by such native or Somali on the farm is legibly branded by the occupier at his own expense with his brand together with the letter "S" and the farm number allocated to the native or Somali and shown in the register required to be kept under the provisions of section 15 of this Ordinance.

(2) (a) The written consent of the occupier and the written approval of a magistrate or attesting officer required by paragraph (c) of sub-section (1) of this section shall specify the number of stock which such native or Somali may keep on the farm.

(b) In arriving at such number the occupier and the magistrate or attesting officer shall have regard—

(i) to any order, made under the provisions of section 21 of this Ordinance, in force in the area in which the farm is situated; and

(ii) to the reasonable needs of the native or Somali and of the members of his family residing with him.

(3) Any native or Somali—

- (a) who keeps upon a farm any stock which is not his own personal property; or
- (b) who, if residing under the provisions of paragraph (d) or paragraph (e) of sub-section (1) of section 4 of this Ordinance, keeps upon a farm any stock in respect of which he has not received the written consent of the occupier and the written approval of a magistrate or attesting officer; or
- (c) who keeps on a farm any stock in excess of the number which he is authorized to keep in pursuance of such written consent of the occupier and such approval of the district commissioner or an attesting officer; or
- (d) who keeps on a farm any head of cattle which is not branded in accordance with the provisions of this section,

shall be guilty of an offence against this Ordinance.

(4) The provisions of sub-sections (2) and (3) of this section relating to the number of stock which a native or a Somali may lawfully keep upon a farm shall not apply to the stock of a native or Somali who before the commencement of this Ordinance has entered into a contract, which is still unexpired, under section 5 of the Resident Native Labourers Ordinance, 1925, and who, under the provisions of sub-section (1) of this section, lawfully has such stock on the farm: Provided that every such native or Somali shall, within three months after the date of the application of this Ordinance to

the area in which he is residing, furnish a record to the occupier who shall forward a return to a magistrate or attesting officer, specifying the number of each kind of stock which such native or Somali is keeping on such farm.

(5) In assessing the number of cattle, sheep and goats kept on a farm no account shall be taken of stock under the age of six months.

(6) No occupier shall, after the expiration of a period of six months from the date of the application of this Ordinance to the area in which such occupier's farm is situate, brand any head of cattle kept on his farm by a native or Somali lawfully residing thereon if such head of cattle is already branded with any recent registered brand denoting ownership unless and until such cattle have been re-branded as provided for in sub-section (10) of this section.

(7) It shall be the duty of an occupier to maintain his brand on every head of cattle in a legible condition.

(8) Any occupier who commits a breach of sub-sections (6) or (7) of this section or who suffers any stock to be kept on his farm in contravention of the provisions of this Ordinance shall be guilty of an offence.

(9) (a) Nothing in this section contained shall be construed as entitling any person to move or to compel the movement of stock in contravention of any restrictions in force under any law for the time being in force in the Colony relating to diseases of animals.

(b) If, at the time of the termination of any contract made under section 5 of this Ordinance or under the Resident Native Labourers Ordinance, 1925, or of any agreement or engagement between an occupier and a native or a Somali under the law for the time being in force in the Colony relating to master and servant, any such restrictions are in force prohibiting the movement of stock from such farm, such stock shall remain on the farm without charge, and the owner of such stock may also remain on such farm until such restrictions are removed or unless other arrangements are made for the care or disposal of such stock to the satisfaction of the parties and of a magistrate; and in any such case any such contract shall be deemed to remain in force until such restrictions are removed or until such other arrangements are made, as the case may be.

No. 5 of 1925.

(10) (a) No cattle over the age of six months owned by a native or a Somali and kept on a farm in accordance with the provisions of this Ordinance shall be removed from a farm unless the owner has first produced them to the occupier who shall, at his own expense, cause such cattle to be re-branded with his own brand reversed.

(b) Any owner of cattle who moves from a farm any such cattle which have not been so re-branded, and any occupier who on request refuses or fails so to re-brand any cattle, shall be guilty of an offence.

(11) Where the owner of any stock has committed a breach of the provisions of this section, or where a person in possession of any stock has, with the connivance and consent of the owner of the stock, committed a breach of the provisions of this section, a magistrate may, in addition to imposing any other penalty provided in this Ordinance, order that the stock in respect of which the offence has been committed be confiscated.

(12) All stock kept on a farm by a native or a Somali shall be deemed for all purposes to be the personal property of such native or Somali.

17. (1) A magistrate, or a veterinary officer authorized in writing by the Chief Veterinary Officer, or a police officer of and above the rank of assistant sub-inspector, or any person duly authorized by a magistrate in that behalf may—

Registers to be produced.

(a) enter upon a farm and demand from the occupier the production of any register or records which are required to be kept under the provisions of this Ordinance;

(b) take all reasonable and proper steps to satisfy himself as to the correctness of any particulars entered therein; and

(c) demand from such occupier an explanation of any apparent discrepancies therein.

(2) Any occupier who knowingly makes a false entry in any register or records or who refuses to produce any register or records or to furnish any explanation when lawfully called upon to do so, or who shall knowingly furnish a false explanation, shall be guilty of an offence.

18. A magistrate may by notice served upon the occupier or, if the occupier has no address in the Colony or if such address is unknown, by notice published in the Gazette,

Removal of squatters from undeveloped farms.

the area in which he is residing, furnish a record to the occupier who shall forward a return to a magistrate or attesting officer specifying the number of each kind of stock which such native or Somali is keeping on such farm.

(5) In assessing the number of cattle, sheep and goats kept on a farm no account shall be taken of stock under the age of six months.

(6) No occupier shall, after the expiration of a period of six months from the date of the application of this Ordinance to the area in which such occupier's farm is situate, brand any head of cattle kept on his farm by a native or Somali lawfully residing thereon if such head of cattle is already branded with any recent registered brand denoting ownership unless and until such cattle have been re-branded as provided for in sub-section (10) of this section.

(7) It shall be the duty of an occupier to maintain his brand on every head of cattle in a legible condition.

(8) Any occupier who commits a breach of sub-sections (6) or (7) of this section or who suffers any stock to be kept on his farm in contravention of the provisions of this Ordinance shall be guilty of an offence.

(9) (a) Nothing in this section contained shall be construed as entitling any person to move or to compel the movement of stock in contravention of any restrictions in force under any law for the time being in force in the Colony relating to diseases of animals.

(b) If, at the time of the termination of any contract made under section 5 of this Ordinance or under the Resident Native Labourers Ordinance, 1925, or of any agreement or engagement between an occupier and a native or a Somali under the law for the time being in force in the Colony relating to master and servant, any such restrictions are in force prohibiting the movement of stock from such farm, such stock shall remain on the farm without charge, and the owner of such stock may also remain on such farm until such restrictions are removed or unless other arrangements are made for the care or disposal of such stock to the satisfaction of the parties and of a magistrate; and in any such case any such contract shall be deemed to remain in force until such restrictions are removed or until such other arrangements are made, as the case may be.

No. 5 of 1925.

(10) (a) No cattle over the age of six months owned by a native or a Somali and kept on a farm in accordance with the provisions of this Ordinance shall be removed from a farm unless the owner has first produced them to the occupier who shall, at his own expense, cause such cattle to be re-branded with his own brand reversed.

(b) Any owner of cattle who moves from a farm any such cattle which have not been so re-branded, and any occupier who on request refuses or fails so to re-brand any cattle, shall be guilty of an offence.

(11) Where the owner of any stock has committed a breach of the provisions of this section, or where a person in possession of any stock has, with the connivance and consent of the owner of the stock, committed a breach of the provisions of this section, a magistrate may, in addition to imposing any other penalty provided in this Ordinance, order that the stock in respect of which the offence has been committed be confiscated.

(12) All stock kept on a farm by a native or a Somali shall be deemed for all purposes to be the personal property of such native or Somali.

17. (1) A magistrate, or a veterinary officer authorized in writing by the Chief Veterinary Officer, or a police officer of and above the rank of assistant sub-inspector, or any person duly authorized by a magistrate in that behalf may—

Registers to be produced.

(a) enter upon a farm and demand from the occupier the production of any register or records which are required to be kept under the provisions of this Ordinance;

(b) take all reasonable and proper steps to satisfy himself as to the correctness of any particulars entered therein; and

(c) demand from such occupier an explanation of any apparent discrepancies therein.

(2) Any occupier who knowingly makes a false entry in any register or records or who refuses to produce any register or records or to furnish any explanation when lawfully called upon to do so, or who shall knowingly furnish a false explanation, shall be guilty of an offence.

18. A magistrate may by notice served upon the occupier or, if the occupier has no address in the Colony or if such address is unknown, by notice published in the Gazette,

Removal of squatters from undeveloped farms.

require the occupier of a farm, which is not being developed, and which is not, in his opinion, under such occupation as to ensure the observance of the provisions of this Ordinance, to remove any native or Somali, found residing on such farm, within twenty-eight days from the date of the service of such notice or from the date of the publication of the notice in the Gazette, as the case may be; and if such native or Somali is not so removed then a magistrate, or such other person as he may authorize in that behalf, shall remove such native or Somali and send him to a native reserve or to such other place as the magistrate may determine: Provided that, when the magistrate is satisfied that such native or Somali, although residing on a farm that is not being developed, is employed by the occupier of such farm on another farm in the same occupation or ownership under a contract of service or under a squatter's contract, he shall allow such native or Somali to remain on such farm.

19. (1) (a) No payment in money or in kind shall be demanded or taken from any native or Somali lawfully residing on a farm for the right to reside on or to cultivate any land or to graze any stock, or for the use of salt-licks, fuel or water on such farm.

(b) No occupier shall enter into a contract with a native or Somali lawfully residing on his farm whereby the occupier shares any profit derived by such native or Somali from his cultivation or from the increase or produce of his stock on the farm of such occupier.

(2) Manure produced on a farm by a squatter's stock shall be the property of the squatter during the period of his contract: Provided that, if such manure is not reasonably required for the purposes of the squatter's cultivation on such farm, the occupier may use such manure for the purpose of his own cultivation free of cost other than the cost of transporting the manure from one place on the farm to another.

(3) Nothing in this section contained shall be deemed to render illegal the purchase by an occupier at a reasonable price of the stock of a squatter or the produce of a squatter's stock or cultivation.

20. Natives or Somalis employed on farms in the occupation of missions and engaged in receiving or imparting industrial or technical instruction with or without literary or theological instruction or training for not less than one hundred and eighty days in each year shall be exempt from the pro-

Prohibition
against
payment by
natives or
Somalis.

Natives or
Somalis
employed on
mission lands.

visions of section 4 of this Ordinance if such instruction or training is under proper and responsible control to the satisfaction of a magistrate.

21. (1) Subject to the provisions of section 2 and of section 22 of this Ordinance a local authority may, in respect of any farm or group of farms within the area of its jurisdiction, by order published in the Gazette and in a newspaper circulating within such area—

- (a) prohibit the engagement of squatters on any farm, or group of farms;
- (b) limit the number of squatters to be engaged on any farm or group of farms;
- (c) prohibit the keeping of stock by natives or Somalis on any farm, either generally or in respect of any specified kind of stock, or limit the numbers of any specified kind of stock which may be kept on a farm by squatters, or prescribe the conditions under which native or Somali stock shall be kept;
- (d) prescribe the number of days in a year on which a squatter shall work and for which he shall receive wages, such number of days in no case to be less than one hundred and eighty.

(2) In making any order as aforesaid the local authority shall have regard—

- (a) to the wishes of the occupiers of farms within the area of its jurisdiction, so far as such wishes can be reasonably and conveniently ascertained;
- (b) to the reasonable labour requirements of farms; and
- (c) to the reasonable needs of squatters on such farms.

(3) When such an order has been made it shall be the duty of the occupier of a farm to which such order applies, within one month after the date of the publication of the order in the Gazette in accordance with the provisions of sub-section (7) of section 22 of this Ordinance, to give notice of termination of such contracts as may be necessary to make the said order effective, and failure to give such notice shall be an offence against the provisions of this Ordinance.

(4) The Governor in Council if he is satisfied that, contrary to the wishes of the majority of the occupiers in any areas so far as such wishes can reasonably and conveniently be ascertained, a local authority has neglected or refused to make any order as aforesaid or that circumstances obtaining in any area are such that an order under this section should be made, may

Local option.
Power to make
orders.

require the occupier of a farm, which is not being developed, and which is not, in his opinion, under such occupation as to ensure the observance of the provisions of this Ordinance, to remove any native or Somali, found residing on such farm, within twenty-eight days from the date of the service of such notice or from the date of the publication of the notice in the Gazette, as the case may be; and if such native or Somali is not so removed then a magistrate, or such other person as he may authorize in that behalf, shall remove such native or Somali and send him to a native reserve or to such other place as the magistrate may determine: Provided that, when the magistrate is satisfied that such native or Somali, although residing on a farm that is not being developed, is employed by the occupier of such farm on another farm in the same occupation or ownership under a contract of service or under a squatter's contract, he shall allow such native or Somali to remain on such farm.

19. (1) (a) No payment in money or in kind shall be demanded or taken from any native or Somali lawfully residing on a farm for the right to reside on or to cultivate any land or to graze any stock, or for the use of salt-licks, fuel or water on such farm.

(b) No occupier shall enter into a contract with a native or Somali lawfully residing on his farm whereby the occupier shares any profit derived by such native or Somali from his cultivation or from the increase or produce of his stock on the farm of such occupier.

(2) Manure produced on a farm by a squatter's stock shall be the property of the squatter during the period of his contract: Provided that, if such manure is not reasonably required for the purposes of the squatter's cultivation on such farm, the occupier may use such manure for the purpose of his own cultivation free of cost other than the cost of transporting the manure from one place on the farm to another.

(3) Nothing in this section contained shall be deemed to render illegal the purchase by an occupier at a reasonable price of the stock of a squatter or the produce of a squatter's stock or cultivation.

20. Natives or Somalis employed on farms in the occupation of missions and engaged in receiving or imparting industrial or technical instruction with or without literary or theological instruction or training for not less than one hundred and eighty days in each year shall be exempt from the pro-

Prohibition
against
payment by
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Somalis.

Natives or
Somalis
employed on
mission lands.

visions of section 4 of this Ordinance if such instruction or training is under proper and responsible control to the satisfaction of a magistrate.

21. (1) Subject to the provisions of section 2 and of section 22 of this Ordinance a local authority may, in respect of any farm or group of farms within the area of its jurisdiction, by order published in the Gazette and in a newspaper circulating within such area—

- (a) prohibit the engagement of squatters on any farm, or group of farms;
- (b) limit the number of squatters to be engaged on any farm or group of farms;
- (c) prohibit the keeping of stock by natives or Somalis on any farm, either generally or in respect of any specified kind of stock, or limit the numbers of any specified kind of stock which may be kept on a farm by squatters, or prescribe the conditions under which native or Somali stock shall be kept;
- (d) prescribe the number of days in a year on which a squatter shall work and for which he shall receive wages, such number of days in no case to be less than one hundred and eighty.

(2) In making any order as aforesaid the local authority shall have regard—

- (a) to the wishes of the occupiers of farms within the area of its jurisdiction, so far as such wishes can be reasonably and conveniently ascertained;
- (b) to the reasonable labour requirements of farms; and
- (c) to the reasonable needs of squatters on such farms.

(3) When such an order has been made it shall be the duty of the occupier of a farm to which such order applies, within one month after the date of the publication of the order in the Gazette in accordance with the provisions of sub-section (7) of section 22 of this Ordinance, to give notice of termination of such contracts as may be necessary to make the said order effective, and failure to give such notice shall be an offence against the provisions of this Ordinance.

(4) The Governor in Council if he is satisfied that, contrary to the wishes of the majority of the occupiers in any areas so far as such wishes can reasonably and conveniently be ascertained, a local authority has neglected or refused to make any order as aforesaid or that circumstances obtaining in any area are such that an order under this section should be made, may

Local option.
Power to make
orders.

call upon such local authority to make such order as in the circumstances may be just and expedient, and, if the local authority within a reasonable time after being so called upon refuses or neglects to make an order, the Governor in Council may in respect of the area of jurisdiction of such local authority or any part thereof by order exercise any of the powers conferred upon a local authority by sub-section (1) of this section.

22. (1) No order shall be made or amended by a local authority unless and until a copy of such proposed order or amending order has been deposited at the office of the local authority for inspection by any person at all reasonable times, and unless and until a notice, setting forth the general purport of the proposed order and stating that a copy thereof is open to inspection, shall have been published in the Gazette and in some newspaper circulating in the district and exhibited in a conspicuous place at or near the public entrance to the local authority's offices fourteen days prior to the meeting of the local authority to be held for the purpose of making such order or such amending order.

(2) Any objection to any such order shall be lodged with the clerk to the local authority within thirteen days after the date of the publication of the notice as aforesaid.

(3) After any order has been made or amended by a local authority such order or amending order shall be submitted to the Commissioner for Local Government through the Provincial Commissioner for the approval of the Standing Committee, together with—

- (a) a copy of the minutes of the meeting of the local authority at which the order or amending order was adopted;
- (b) a certificate by the clerk to the authority that the provisions of sub-section (1) of this section have been complied with; and
- (c) copies of any objections against the adoption of the order which may have been lodged in writing with the clerk, or, if no objections have been lodged, a statement to that effect.

(4) When the standing committee has approved of any order, with or without amendment, such order shall be published in the Gazette.

(5) Any person aggrieved by such order may within one month from the date of publication under sub-section (4) of this section submit to the Governor in Council a written objection to the order.

Orders by local authorities, how to be made.

Submission of orders for approval of Standing Committee.

(6) As soon as possible after the expiration of a period of one month from the date of publication of the order under sub-section (4) of this section, the Governor in Council shall, after considering such written objections, if any, as may have been made under the last preceding sub-section, confirm, vary or reject such order.

(7) If the Governor in Council confirms, with or without amendment, any such order he shall cause the order to be so certified by the clerk to the Executive Council who shall then cause the order to be published in the Gazette, and as and from the date of such publication such order shall have the full force of law in the area to which it relates.

23. The Governor in Council may make orders of a similar nature to those which a local authority is empowered to make under section 21 of this Ordinance in respect of forest areas, unalienated Crown land or Railway land, and, in making such order, shall have regard—

- (a) to the reasonable labour requirements of the Railway Administration or of any department of Government concerned;
- (b) to the reasonable needs of such natives and Somalis; and
- (c) to the terms of any order made under section 21 of this Ordinance in force in any area adjacent to such forest area, unalienated Crown land or Railway land.

24. (1) Proceedings in respect of any offences against the provisions of sections 4, 6, 13, 14, 15, 16, 17 and 19 of this Ordinance may be instituted by the Police or by any person authorized in writing by a magistrate.

- (2) A magistrate may, in his discretion—
 - (a) rescind any contract made under this Ordinance where it has been proved to his satisfaction that there has been a breach of the terms thereof, or, on the application of either party to the contract, when the other party has been convicted of a criminal offence against him or of a criminal offence involving serious moral turpitude; and
 - (b) cancel any permit given by an occupier in contravention of the provisions of this Ordinance.

Provided that in any such case the native or Somali shall retain his rights over growing crops unless the occupier elects to give him reasonable compensation therefor. In the event

Governor in Council to confirm or vary order.

Governor in Council shall make orders regarding Forest, Railway or unalienated Crown lands.

Institution of proceedings for offences.

of any dispute as to the amount of compensation payable the magistrate shall determine the amount thereof.

(3) Compensation payable under this section may be paid to the magistrate by an occupier, but if proceedings have been instituted by the occupier for damages against the native or Somali, the magistrate shall not pay out the compensation to the native or Somali until the liability of the native or Somali to pay damages has been determined; and if the native or Somali is found to be liable to damages, such damages may be set off against the amount paid to the magistrate by the occupier.

Penalties for offences committed by squatters.

25. A squatter shall on conviction be liable to a fine of one hundred shillings or in default of payment to imprisonment for any term not exceeding one month—

- (1) if he, after having entered into an agreement under this Ordinance, fails or refuses without lawful cause to enter upon his duties on the farm at the stipulated time;
- (2) if he, without lawful cause, absents himself from the place proper and appointed for the performance of his work on any day when the occupier may lawfully require him to work;
- (3) if he, during any time when he is lawfully required to work, is intoxicated and thus unfit to perform his work;
- (4) if he neglects or refuses to perform any work which it was his duty to have performed, or if he carelessly or improperly performs any work which from its nature it was his duty under his agreement to have performed carefully and properly;
- (5) if he, without leave and for his own purposes, makes use of any horse, vehicle or other property belonging to the occupier;
- (6) if he uses any abusive or insulting language or is guilty of insulting behaviour to the occupier or to any person lawfully placed by the occupier in authority over him, calculated to provoke a breach of the peace;
- (7) if he refuses to obey any command of the occupier, or of any person lawfully placed by the occupier in authority over him, which command it was his duty to obey;

- (8) if he grows upon the farm any crop which by his contract he is prohibited from growing;
- (9) if he, after the termination of his contract and subject to the provisions of section 5 (2) (k) and section 16 (9) of this Ordinance, fails within a reasonable and specified time to leave the farm and to remove his family and stock therefrom.

26. A squatter shall be liable to a fine not exceeding one hundred and fifty shillings and in default of payment to imprisonment for any term not exceeding six months—

Penalties for more serious offences committed by squatters.

- (1) if he wilfully or by wilful breach of duty or through drunkenness does any act tending to the immediate loss, damage or serious risk of any property placed by any other person in his charge for delivery to or on account of his occupier;
- (2) if, by wilful breach of duty or by neglect of duty or through drunkenness, he refuses or omits to do any lawful act proper and requisite to be done by him for preserving in safety any property placed by the occupier in his charge, or placed by any other person in his charge for delivery to or on account of his occupier;
- (3) if, being employed as a herdsman—
 - (a) he fails to report to the occupier the death or loss of any animal placed in his charge (which animal he alleges to have died or to have been lost) at the earliest opportunity after he has discovered, or at the earliest opportunity after he should in the ordinary course of duty have discovered, such death or loss;
 - (b) he fails, after having received an order from the occupier to preserve for the use or inspection of the occupier any part or parts of an animal which such squatter alleges to have died, to preserve such part or parts and is unable to prove to the satisfaction of the court the death of the animal which he alleges to have died;
 - (c) he alleges the loss of any animal placed in his charge and it is proved by the occupier to the satisfaction of the court that such animal could not, in the circumstances of the case, have become irrevocably lost without the act or default of the squatter.

of any dispute as to the amount of compensation payable the magistrate shall determine the amount thereof.

(3) Compensation payable under this section may be paid to the magistrate by an occupier, but if proceedings have been instituted by the occupier for damages against the native or Somali, the magistrate shall not pay out the compensation to the native or Somali until the liability of the native or Somali to pay damages has been determined; and if the native or Somali is found to be liable to damages, such damages may be set off against the amount paid to the magistrate by the occupier.

25. A squatter shall on conviction be liable to a fine of one hundred shillings or in default of payment to imprisonment for any term not exceeding one month—

- (1) if he, after having entered into an agreement under this Ordinance, fails or refuses without lawful cause to enter upon his duties on the farm at the stipulated time;
- (2) if he, without lawful cause, absents himself from the place proper and appointed for the performance of his work on any day when the occupier may lawfully require him to work;
- (3) if he, during any time when he is lawfully required to work, is intoxicated and thus unfit to perform his work;
- (4) if he neglects or refuses to perform any work which it was his duty to have performed, or if he carelessly or improperly performs any work which from its nature it was his duty under his agreement to have performed carefully and properly;
- (5) if he, without leave and for his own purposes, makes use of any horse, vehicle or other property belonging to the occupier;
- (6) if he uses any abusive or insulting language or is guilty of insulting behaviour to the occupier or to any person lawfully placed by the occupier in authority over him, calculated to provoke a breach of the peace;
- (7) if he refuses to obey any command of the occupier, or of any person lawfully placed by the occupier in authority over him, which command it was his duty to obey;

Penalties for offences committed by squatters.

- (8) if he grows upon the farm any crop which by his contract he is prohibited from growing;
- (9) if he, after the termination of his contract and subject to the provisions of section 5 (2) (k) and section 16 (9) of this Ordinance, fails within a reasonable and specified time to leave the farm and to remove his family and stock therefrom.

26. A squatter shall be liable to a fine not exceeding one hundred and fifty shillings and in default of payment to imprisonment for any term not exceeding six months—

- (1) if he wilfully or by wilful breach of duty or through drunkenness does any act tending to the immediate loss, damage or serious risk of any property placed by any other person in his charge for delivery to or on account of his occupier;
- (2) if, by wilful breach of duty or by neglect of duty or through drunkenness, he refuses or omits to do any lawful act proper and requisite to be done by him for preserving in safety any property placed by the occupier in his charge, or placed by any other person in his charge for delivery to or on account of his occupier;
- (3) if, being employed as a herdsman—
 - (a) he fails to report to the occupier the death or loss of any animal placed in his charge (which animal he alleges to have died or to have been lost) at the earliest opportunity after he has discovered, or at the earliest opportunity after he should in the ordinary course of duty have discovered, such death or loss;
 - (b) he fails, after having received an order from the occupier to preserve for the use or inspection of the occupier any part or parts of an animal which such squatter alleges to have died, to preserve such part or parts and is unable to prove to the satisfaction of the court the death of the animal which he alleges to have died;
 - (c) he alleges the loss of any animal placed in his charge and it is proved by the occupier to the satisfaction of the court that such animal could not, in the circumstances of the case, have become irrevocably lost without the act or default of the squatter.

Penalties for more serious offences committed by squatters.

- (4) if, being employed in any capacity other than that of a herdsman, he alleges the loss of any property placed in his charge by or for the occupier and it is proved by the occupier to the satisfaction of the court that the property in question could not have been lost without the act or default of the squatter.

Penalties for offences committed by occupier.

27. (1) An occupier shall be liable to a fine not exceeding two hundred shillings and in default of payment to imprisonment for a term not exceeding one month, or to both such fine and imprisonment, if he is convicted of any of the following acts or omissions, that is to say—

- (a) if he fails to pay, on demand, the wages due to a squatter;—
- (b) if, before or after the expiration of the contract, upon demand made and without lawful cause, he refuses to deliver or to permit to be taken away any property belonging to a squatter lawfully remaining or being upon such occupier's land;
- (c) if he fails knowingly or on demand to provide his squatters with proper medicines during illness and also, if procurable, medical attendance during serious illness: Provided that an employer's liability for medical attendance during serious illness shall not extend beyond a period of forty-two days.

Discretionary powers of magistrates.

(2) Upon any complaint brought before a court under the provisions of this Ordinance the magistrate may, in addition to any jurisdiction he might have exercised if this Ordinance had not been enacted, exercise all or any of the following powers:—

To adjust and set off claims.

- (a) He may adjust and set off one against the other all such claims on the part either of the employer or of the servant arising out of, or incidental to, the relation between them as the magistrate may find to be subsisting, whether such claims are liquidated or unliquidated, and whether such claims are for wages, damages or otherwise; and he may direct the payment of such sum as he finds due by one party to the other party.
- (b) He may direct fulfilment of the contract, and, in case where he might award damages for any breach of contract, he may, in lieu either of the whole of the damages which would otherwise have been awarded or some part of the damages, direct the party com-

To direct fulfilment of the contract.

mitting such breach to find security to the satisfaction of the magistrate for the due performance of so much of the contract as remains unperformed; and if the party neglects or refuses to find security, he may commit him to prison until he finds it, but the term of imprisonment shall not exceed three months.

- (c) He may rescind the contract upon such terms as to the apportionment of wages or other sums due thereunder, and as to the payment of wages or damages or other sums due, as he thinks fit.
- (d) When no amount of compensation or damages can be assessed, or when pecuniary compensation will not in the opinion of the magistrate meet the circumstances of the case, he may, in addition to rescinding the contract and discharging the parties therefrom, impose a fine on either party of a sum not exceeding twenty pounds or in default of payment to imprisonment for a term not exceeding one month.

To rescind the contract and apportion wages, etc.

28. Any person committing or knowingly permitting a breach of the provisions of this Ordinance for which no specific penalty is provided shall be liable, on conviction, to a fine not exceeding one hundred pounds, or to a term of imprisonment not exceeding two months, or to both such fine and such imprisonment.

General penalty.

29. In any complaint under this Ordinance the process of the court for compelling the attendance of the party accused and of all necessary witnesses shall be instituted at the public charge and without any fees of court: Provided always, that, if at the trial the complaint shall appear to the magistrate to be frivolous or vexatious, the party complaining shall be liable to pay a fine not exceeding ten pounds and to defray the cost of the process and of the witnesses in the case, and in default of payment of such fine and costs, shall be liable to imprisonment for any period not exceeding one month. Such fine and costs may be imposed upon the occasion of such trial and without any fresh action or proceeding for the recovery thereof.

Costs.

30. The Governor in Council may make rules for the better carrying out of the provisions of this Ordinance.

Rules.

31. The Governor in Council may appoint any fit and proper person to be an attesting officer for the purposes of this Ordinance.

Appointment of attestation officers.

No stamp duty shall be chargeable for the attestation of any contract.

No. 5 of 1925.

32. Notwithstanding anything to the contrary contained in any law for the time being in force in the Colony, the attestation of any contract entered into under the provisions of this Ordinance, shall be exempt from all stamp duty.

33. The Resident Native Labourers Ordinance, 1925, is hereby repealed.

FIRST SCHEDULE.

Memorandum of Agreement made this day of 19..... by and between (1) of (2) (hereinafter referred to as "the occupier") and (3) registered number of (4) (hereinafter referred to as "the squatter"), whereby it is agreed:—

1. That this agreement shall have effect from the day of 19..... and shall be for a term of years ending on the day of 19..... unless lawfully determined earlier.

2. That the squatter, together with his wife or wives and children shall reside and may graze his stock on such part only of the occupier's farm at as the occupier may direct during the period of this agreement.

3. That during the period of this agreement the squatter and every male member of his family who is of the apparent age of sixteen years or over and is resident on the occupier's farm, and who is not working under any law for the time being in force in the Colony relating to master and servant, shall each work for the occupier at such times as the occupier may direct, for not less than (5) days at the election of the occupier in each period of twelve months, and that the occupier shall provide employment for the squatter and for such male members of his family for such number of days. The occupier shall give notice in writing to every male member of such family who during the continuance of the contract may attain the age of sixteen years that on the expiration of three months from the date of receiving such notice he will be required either to enter into a contract under the Resident Native Labourers Ordinance, 1925, with the occupier, or under any law for the time being in force in the Colony relating to master and servant with the occupier or some other employer in the vicinity, or to cease to reside on the occupier's farm.

4. That the time during which the squatter is required to work for the occupier shall be so arranged as to allow the squatter reasonable time to sow, cultivate and reap his own food crops.

5. That the occupier agrees to pay to the squatter and to the male members of his family wages at the rate of not less than for every (6) and (7)

6. That the occupier shall provide good and sufficient building material for the erection of huts for the accommodation of the squatter and his family.

7. That the occupier shall provide the squatter with sufficient and suitable land for the cultivation of food crops for himself and his family, and for grazing the following numbers of stock, namely (8) provided that the squatter shall not plant or cultivate any of the following crops, namely or allow them to be planted or cultivated under his control, and that he shall not cultivate land other than that allocated to him by the occupier.

8. That with the consent of a magistrate or an attesting officer this agreement may be terminated by either the occupier or the squatter giving to the other three calendar months' notice, provided that the squatter shall suffer no prejudice in regard to the care and reaping of his crops or in regard to the removal of his family or stock and provided that the occupier may demand the fulfilment by the squatter of any conditions of this agreement to which the squatter may be liable in respect of his obligation to work.

9. On the expiration or termination of this agreement from whatever cause, the squatter shall be entitled to remove all his movable property from the farm, but shall not remove any buildings. In respect of buildings or other immovable property the squatter shall be entitled to any reasonable compensation for materials contributed by him.

No stamp duty shall be chargeable for the attestation of any contract.

32. Notwithstanding anything to the contrary contained in any law for the time being in force in the Colony, the attestation of any contract entered into under the provisions of this Ordinance, shall be exempt from all stamp duty.

No. 5 of 1925.

33. The Resident Native Labourers Ordinance, 1925 is hereby repealed.

FIRST SCHEDULE.

Memorandum of Agreement made this day of 19..... by and between (A) of (B) (hereinafter referred to as "the occupier") and (C) registered number of (D) (hereinafter referred to as "the squatter"), whereby it is agreed:—

1. That this agreement shall have effect from the day of 19..... and shall be for a term of years ending on the day of 19..... unless lawfully determined earlier.

2. That the squatter, together with his wife or wives and children shall reside and may graze his stock on such part only of the occupier's farm at as the occupier may direct during the period of this agreement.

3. That during the period of this agreement the squatter and every male member of his family who is of the apparent age of sixteen years or over and is resident on the occupier's farm, and who is not working under any law for the time being in force in the Colony relating to master and servant, shall each work for the occupier at such times as the occupier may direct, for not less than (E) days at the election of the occupier in each period of twelve months, and that the occupier shall provide employment for the squatter and for such male members of his family for such number of days. The occupier shall give notice in writing to every male member of such family who during the continuance of the contract may attain the age of sixteen years that on the expiration of three months from the date of receiving such notice he will be required either to enter into a contract under the Resident Native Labourers Ordinance, 1935, with the occupier, or under any law for the time being in force in the Colony relating to master and servant with the occupier or some other employer in the vicinity, or to cease to reside on the occupier's farm.

4. That the time during which the squatter is required to work for the occupier shall be so arranged as to allow the squatter reasonable time to sow, cultivate and reap his own food crops.

5. That the occupier agrees to pay to the squatter and to the male members of his family wages at the rate of not less than for every (F) and (G)

6. That the occupier shall provide good and sufficient building material for the erection of huts for the accommodation of the squatter and his family.

7. That the occupier shall provide the squatter with sufficient and suitable land for the cultivation of food crops for himself and his family, and for grazing the following numbers of stock, namely (H) provided that the squatter shall not plant or cultivate any of the following crops, namely or allow them to be planted or cultivated under his control, and that he shall not cultivate land other than that allocated to him by the occupier.

8. That with the consent of a magistrate or an attesting officer this agreement may be terminated by either the occupier or the squatter giving to the other three calendar months' notice, provided that the squatter shall suffer no prejudice in regard to the care and reaping of his crops or in regard to the removal of his family or stock and provided that the occupier may demand the fulfilment by the squatter of any conditions of this agreement to which the squatter may be liable in respect of his obligation to work.

9. On the expiration or termination of this agreement from whatever cause, the squatter shall be entitled to remove all his movable property from the farm, but shall not remove any buildings. In respect of buildings or other immovable property the squatter shall be entitled to any reasonable compensation for materials contributed by him.

*10. That the squatter shall cause his children to attend regularly at the school provided by the occupier on the said land.

†(Any other conditions).

As witness the hand of the parties hereto:—

Witness to the signature of the occupier.

Witness to the signature or mark of the squatter.

SCHEDULE.

I/We being member(s) of the family of.....
(the squatter) do hereby agree to abide by the terms of the agreement dated.....between him and.....
.....(the occupier)

Signature(s) or Mark(s).	Registered No.	Nature of Service.	Remuneration.

I hereby certify that the contents of this agreement have been read and explained by me to the squatter signatories, and that they appear to have executed this agreement with a full knowledge of its contents.

The..... day of 19.....

.....
Magistrate or Attesting Officer.

(1) Full name of occupier.

(2) Address.

(3) Full name of native or Somali as given on registration certificate.

(4) Insert name of native's or Somali's district, location and chief.

(5) Not to be less than 180 days, but may be more if agreed.

(6) Day, month or thirty-day card worked.

(7) Insert conditions as to rations or other considerations if agreed upon or strike out if inapplicable.

(8) Number of each kind of stock to be specified.

*This clause to be inserted only in the case of missions or farms on which schools to the satisfaction of the magistrate are provided; otherwise to be struck out.

†Any other conditions agreed to by the parties which do not contravene the provisions of this or any other Ordinance. Such conditions, if any, shall be numbered consecutively.

SECOND SCHEDULE.

THE RESIDENT NATIVE LABOURERS ORDINANCE, 1935.

Form of Bond under section 5 (8).

Be it known unto all men by these presents that we
(1).....are jointly and severally bound
unto (2).....and to any one or more
of them in the sum of (3).....to be paid to
the said (4).....their and each of their
heirs, executors, administrators, and assigns. For which pay-
ment well and truly to be made as liquidated damages and not
as a penalty, we bind ourselves jointly and severally; and our
heirs, executors and administrators, and every one of them
firmly by these presents.

Sealed with our seals, dated this.....day of
.....19.....

The condition of the above written obligation is such that
if (5).....(hereinafter called
"the occupier") the employer of the said (6).....
(hereinafter called "the squatter") do pay to each of the
squatters performing their part of the agreement after-men-
tioned the several sums of money set opposite to their respective
names in the schedule to an agreement made and entered into
between the occupier and the squatter at.....on the
.....day of19.....and attested
by (7).....in regular
(8).....payments to be calculated from the
.....day of19.....and to execute,
carry out and perform his part of the said agreement in all
respects, then this obligation to be void, otherwise to be in
full force and virtue.

Signed, sealed and delivered in the presence of:—

(To be signed and sealed by each of the obligants and
attested, if practicable, by the officer attesting the relative
agreement).

(1) Insert names and description of occupier and one or more sureties
resident within the jurisdiction.

(2) Name and description of the squatter.

(3) Insert sum, not less than half the total amounts (less any advances),
due by the contract.

(4) Repeat names of squatter.

(5) Name of occupier.

(6) Name or names of squatters.

(7) Official name of officer before whom agreement is signed.

(8) Weekly or monthly, etc., as the case may be.

THIRD SCHEDULE.

THE RESIDENT NATIVE LABOURERS ORDINANCE, 1935.

*Squater's Certificate.**(Under section 9).*

I hereby certify that.....
 has during the period of twelve months commencing on the
 day of.....19..... completed
 the..... days' work stipulated in this
 contract. His obligation to work under the terms of this
 contract commences again on the..... day of
19.....

.....
Signature of Occupier and date.

FOURTH SCHEDULE.

THE RESIDENT NATIVE LABOURERS ORDINANCE, 1934.

*Permit granted under the Provisions of section 4 (1) (c) to
 Reside on Alienated Lands.*

Bearer s/o

Native Registration Certificate No.
 Somali

is hereby permitted to reside on
 for (days), i.e. from
 (to).....
 Date

.....
Signature of Occupier.

All permits to reside on any land for a period exceed-
 ing fourteen days must be countersigned by the District
 Commissioner in charge of the area in which such land
 is situated.

Approved.

.....
District Commissioner.

Date..... District.

FIFTH SCHEDULE.

Page No. 1.

THE RESIDENT NATIVE LABOURERS ORDINANCE, 1935.

Register of Cattle and Stock (section 15).

Name of Farm

Occupier's Name

Registration No. and Name of Native or Somali.....

No. of Contract

Date of Commencement..... Date of Termination.....

Occupier's Registered Brand

Farm Brand No. allocated to Native or Somali

(a separate individual number to be allocated to each Native or
 Somali and to be branded on all his cattle)

No. of cattle allowed on contract

No.	Date of Arrival of cattle or stock on farm	Sex	Description of Cattle or Stock	Date of Branding	Remarks, as to death, transfer, sale, theft, etc.,
1					
2					
3					
4					
5					
6					
7					
8					

N.B.—One page of the Register to be allocated to each Native
 or Somali.

COMPARATIVE TABLE

THE RESIDENT NATIVE LABOURERS BILL, 1935

Clause of the Bill.	Corresponding section of Ordinance No. 5 of 1925. <i>26227/25</i>	Remarks.
1.		Short title.
2.		New.
3.	2	The definition of "attesting officer" is new; the definition of "family" is amended verbally; the definition of "farm" is altered so as to include any land leased or sold, including in Native Reserves; the definition of "forest area" is new; the definition of "local authority" is new; the definition of "mission" is slightly amended; the definition of "occupier" now includes Commissioner of Lands and General Manager of Railways as owners of unalienated Crown Lands and Railway Lands respectively; the definition of "railway land" is new; the definition of "squatter" is new; the definition of "stock" is widened so as to include any animals or birds as may be declared by the Governor.
4.	3	
5. (1) (2) (a)	4	The period of contract is extended from 3 to 5 years.
(g) (h) (k)		New. New. New.
(3) (4) (5) (6) (7) (8) (9)		The second proviso new. New. New. New. New. New. New.
6.	5(1)	
7.		New.
8.		New.
9.		New.
10.		New.
11.		New.
12.		New.

Clause of the Bill.	Corresponding Section of Ordinance No. 5 of 1925.	Remarks
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13.	6	
14.	7	
15. (1) (2)	8	New.
16. New but Cf. ss. 9 and 10.		
17.	9	
18		New.
19. (1) (2) (3)	11	New. New.
20.	12	
21.		New.
22.		New.
23.		New.
24.	13	
25. (1) to (7) (8) and (9)	14	New.
26.	15.	
27. (1) (a) (b) (c)	16. 16(2)	New. New.
28.	17	
29.		New.
30.	18	
31	4(2)	
32.		New.
33.		Repeal
First Schedule	Schedule	
Second Schedule		New.
Third	"	New.
Fourth	"	New.
Fifth	"	New.

C O P Y
THE RESIDENT NATIVE LABOURERS
ORDINANCE, 1925, SHOWING IN
RED INK THE AMENDMENTS MADE
BY THE RESIDENT NATIVE LABOURERS
BILL, 1935.

to the effect that, on the expiration of three months from the date of receiving such notice such male member will be required either (i) to enter into a contract under this Ordinance with the occupier; or (ii) to enter, under any law for the time being in force in the Colony relating to master and servant, into a contract with the occupier or some other employer in the vicinity; or (iii) to cease to reside on the occupier's farm;

- (d) for the female members of the family who are willing and able to work to serve the occupier if he offers suitable work at a reasonable rate of wages;
- (e) for the supply by the occupier of building material for the family's huts;
- (f) for the use by the family of land for cultivation and, when agreed upon, for grazing;
- (g) for the kinds of crops which the native or Somali or his family may not grow on the farm;
- (h) for the number of stock which the native or Somali may graze on the farm;
- (i) for the rates of pay and other consideration to be paid or given to the native or Somali and any member of his family for the period of actual employment;
- (j) for the termination of the contract by not less than three months' notice on either side: Provided that the term of residence on a farm shall in no case be less than one year except with the approval of a magistrate;
- (k) in the event of termination of the contract in accordance with the last preceding paragraph, for the removal by the family of crops cultivated by such family or for payment by the occupier of compensation in lieu thereof: Provided that no crop shall be planted after notice of termination has been given by either party;
- (l) in the case of missions, for the regular attendance of the children of the family at school for the purpose of education within the meaning of section 20 of this Ordinance.

(3) Any contract under this section may, with the consent of the parties thereto, relate to a group of farms in the same district or in contiguous districts, provided all the farms in the group are in the same ownership or occupation, and provided a magistrate certifies that he is satisfied that proper control can be exercised over the squatters resident on such farms as are not in the personal occupation of a European.

(4) The original of every contract made under this section shall be filed in the office of the district commissioner in which the parties reside and one copy of the contract shall be handed to the occupier and one copy to the head of the contracting native family.

(5) A magistrate or attesting officer may refuse to attest any contract which does not provide for a fair remuneration in money, having regard to the local rates of wages, or any contract which, in his opinion, is likely to lead to a breach of the provisions of this Ordinance.

of the children of the family at school for the purpose of education within the meaning of section 20 of this Ordinance.

(3) Any contract under this section may, with the consent of the parties thereto, relate to a group of farms in the same district or in contiguous districts, provided all the farms in the group are in the same ownership or occupation, and

No. V. The Resident Native Labourers Ordinance

(b) For the head of any family and any male member thereof resident on the farm who is of the apparent age of sixteen years or over, and who is not working under the law relating to master and servants to work for the occupier for not less than 180 days at the election of the occupier in any one year during the term of such contract, and for the occupier to provide employment and pay wages for that number of days for each such person;

(c) For the occupier to give notice in writing to every male member of such family who during the continuance of the contract may attain the age of sixteen years, that on the expiration of six months from the date of receiving such notice he will be required either to enter into a contract under this Ordinance with the occupier or under the law relating to master and servants with the occupier or some other employer in the vicinity, or to cease to reside on the occupier's farm;

(d) For the supply by the occupier of building material for the family's huts;

(e) For the use by the family of land for cultivation and, when agreed upon, for grazing;

(f) For the rates of pay or other consideration to be paid or given to the head of the family and any member thereof for the period of actual employment;

(g) For the termination of the contract by not less than six months' notice on either side; provided that the term of residence on a farm shall in no case be less than one year except with the approval of a magistrate;

(h) For the removal by the family of crops cultivated by such family or for payment by the occupier of compensation in lieu thereof;

(i) In the case of missions, for the regular attendance of the children of the family at school for the purpose of education as defined in section 12 of this Ordinance.

(2) Any contract under this section may with the consent of the parties and of the attesting officer relate to a group of farms in the same district or in contiguous districts, provided that all the farms in the group are in the same ownership or occupation.

(4) The original of every contract made under this section shall be filed in the office of the magistrate.

(5) A magistrate or other attesting officer may refuse to attest any contract which does not provide for a fair remuneration in money having regard to the local rates of wages, or which in his opinion is likely to lead to a breach of the provisions of this Ordinance.

(6) When notice of termination of a contract has been given by either party thereto the occupier shall forthwith notify the magistrate accordingly.

(7) On change of occupancy of a farm the contract shall be deemed to have been assigned to the new occupier and to be a contract between the new occupier and the native.

When natives may not reside on farms.

6. (1) No occupier shall allow any native to reside on a farm in contravention of the provisions of this Ordinance.

(2) No native shall move his family from the jurisdiction of an official headman to a farm unless he has previously produced to the district commissioner of the area in which such family is residing a permit signed by the magistrate of the area in which the farm is situated authorising such family to reside on such farm.

The head of the family shall provide the district commissioner with full particulars as regards his name and location and his wives and children, if any, proceeding with him. Such information shall be endorsed on the permit by the district commissioner who shall also record the particulars in a register to be kept by him.

(6) A magistrate or attesting officer may, in his discretion, refuse to attest any contract entered into by a native or Somali whom he considers to be an undesirable.

(7) It shall be lawful for any magistrate for any good and sufficient reason to order the removal of a native or Somali, or of a squatter, and/or his stock from any farm, forest area, Railway land or unalienated Crown land. It shall further be lawful for such magistrate to assess the costs of such removal and to determine by whom such costs shall be paid.

(8) (a) A magistrate or attesting officer may, when he deems it necessary before attesting any contract under this section, require the occupier to give security for the payment of the wages of the squatter with whom the contract is to be made.

(b) Such security may be given by a bond in the form set out in the Second Schedule hereto, or to the like effect, with one or more sureties approved by the magistrate or attesting officer.

(9) When notice of termination of a contract has been given by either party thereto the occupier shall forthwith notify the district commissioner accordingly.

(10) On a change of occupancy of a farm the contract shall be deemed to have been assigned to the new occupier and to be a contract between the new occupier and the squatter.

Squatters' contracts to be endorsed on registration certificate.

7. (1) When a native has entered into a contract of service under the provisions of section 5 of this Ordinance, it shall be the duty of the occupier forthwith to endorse in black ink upon such native's Registration Certificate, in the columns respectively provided therefor, the following particulars—

- (a) the name of the employer and district in which the native is employed;
- (b) the nature of the native's employment, preceded by a capital letter S, to denote that he is a squatter;
- (c) the date of the commencement of the contract; and
- (d) the rate of wages in cash.

(2) On the termination of such contract the occupier shall endorse in black ink the date of such termination in the column provided in the squatter's registration certificate for the date of discharge.

(3) It shall be the duty of the squatter, on the termination of the contract, to request the occupier to make such endorsement, but failure on the part of the squatter to make the request shall not relieve the occupier of the responsibility for making such endorsement.

(4) In the event of the occupier refusing or omitting to make such endorsement, the squatter shall forthwith report to the district commissioner in whose office the contract is filed; and such district commissioner may, if he is satisfied from the information at his disposal that the endorsement has been omitted through ignorance or mistake or wilfully by the occupier and through no fault of the squatter, after inquiry complete in black ink such endorsement on the registration certificate affixing such date for the date of discharge as may appear to him to be consistent with the circumstances.

(5) Any occupier who refuses or omits to endorse a registration certificate in accordance with the provisions of this section shall be deemed to have committed a breach of the provisions of this Ordinance.

Endorsement of existing contracts. No. 5 of 1925.

8. (1) Every male native, other than a Somali, who is a party to a contract made under the provisions of the Resident Native Labourers Ordinance, 1925, shall, within one month after the date of the application of this Ordinance to the area in which he is residing under such contract, produce his registration certificate to the occupier.

lawful for such magistrate to assess the costs of such removal and to determine by whom such costs shall be paid.

(8) (a) A magistrate or attesting officer may, when he deems it necessary before attesting any contract under this section, require the occupier to give security for the payment of the wages of the squatter with whom the contract is to be made.

(b) Such security may be given by a bond in the form set out in the Second Schedule hereto, or to the like effect, with one or more sureties approved by the magistrate or attesting officer.

(9) When notice of termination of a contract has been given by either party thereto the occupier shall forthwith notify the district commissioner accordingly.

(10) On a change of occupancy of a farm the contract shall be deemed to have been assigned to the new occupier and to be a contract between the new occupier and the squatter.

6. No occupier shall allow any native or Somali to reside on a farm in contravention of the provisions of this Ordinance.

When natives may not reside on farms.

(2) Such occupier shall thereupon make an endorsement upon the registration certificate as is required by sub-section (1) of the last preceding section and shall forthwith render a return to the Chief Registrar of Natives, as required under section 9 of the Native Registration Ordinance, showing the registration numbers and the names of every registered native resident upon his farm.

Cap. 127.

9. Any occupier entering into a contract with a native under section 5 of this Ordinance shall be deemed to have engaged such native within the meaning of the Native Registration Ordinance, and sections 9, 10, 17, 18 and 20 of the Native Registration Ordinance, and such Rules made under the said Ordinance as the Governor in Council may by notice prescribe, shall apply to such occupier and native as if the contract were an agreement within the meaning of the said Ordinance.

Application of certain provisions of Native Registration Ordinance. Cap. 127.

10. When a squatter has, within any twelve-monthly period, completed the number of days' work specified in such contract, the occupier shall, if so required by such squatter, deliver to him a squatter's certificate to that effect in the form set out in the Third Schedule hereto, specifying the date on which the squatter's obligation to work under such contract recommences.

Squatters' certificates.

11. Notwithstanding anything containing in sub-section (3) of section 13 of the Native Registration Ordinance it shall not be an offence to employ a person holding a squatter's certificate during the period shown on such certificate as the period in which the squatter is under no obligation to work for the occupier.

Saving of offence under section 13 of the Native Registration Ordinance. Cap. 127.

12. Any occupier shall be liable to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding two months or to both such fine and such imprisonment, if he fails in any one year to provide employment for less than the number of days specified in the contract for each person for whom, under the terms of any contract made under this Ordinance or under the Resident Native Labourers Ordinance, 1925, he is under an obligation to provide such employment. Provided that notwithstanding the terms of any such contract, a Provincial Commissioner shall have power, for any good and sufficient reason, to reduce the minimum number of days work required from squatters in any area within his province.

Occupier to provide employment contracted for.

No. 5 of 1925.

Squatters' stock on farms.

16. (1) No native or Somali other than an occupier or a member of the family of such occupier, shall graze any stock on any farm unless—

- (a) he is lawfully residing on such farm under the provisions of paragraphs (b), (c), (d) or (e) of sub-section (1) of section 4 of this Ordinance; and
- (b) such stock is his own personal property; and
- (c) if residing under the provisions of paragraph (d) or paragraph (e) of sub-section (1) of section 4 of this Ordinance, he has received the written consent of the occupier and the written approval of the district commissioner or the attestation officer for keeping such stock on the farm; and
- (d) every head of cattle over the age of six months kept by such native or Somali on the farm is legibly branded by the occupier at his own expense with his brand together with the letter "S" and the farm number allocated to the native or Somali and shown in the register required to be kept under the provisions of section 15 of this Ordinance.

(2) (a) The written consent of the occupier and the written approval of a magistrate or attesting officer required by paragraph (c) of sub-section (1) of this section shall specify the number of stock which such native or Somali may keep on the farm.

(b) In arriving at such number the occupier and the magistrate or attesting officer shall have regard—

(i) to any order, made under the provisions of section 21 of this Ordinance, in force in the area in which the farm is situated; and

(ii) to the reasonable needs of the native or Somali and of the members of his family residing with him.

(2) Such occupier shall thereupon make an endorsement upon the registration certificate as is required by sub-section (1) of the last preceding section and shall forthwith render a return to the Chief Registrar of Natives, as required under section 9 of the Native Registration Ordinance, showing the registration numbers and the names of every registered native resident upon his farm.

Cap. 127.

9. Any occupier entering into a contract with a native under section 5 of this Ordinance shall be deemed to have engaged such native within the meaning of the Native Registration Ordinance, and sections 9, 10, 17, 18 and 20 of the Native Registration Ordinance, and such Rules made under the said Ordinance as the Governor in Council may by notice prescribe, shall apply to such occupier and native as if the contract were an agreement within the meaning of the said Ordinance.

Application of certain provisions of Native Registration Ordinance. Cap. 127.

10. When a squatter has, within any twelve-monthly period, completed the number of days' work specified in such contract, the occupier shall, if so required by such squatter, deliver to him a squatter's certificate to that effect in the form set out in the Third Schedule hereto, specifying the date on which the squatter's obligation to work under such contract recommences.

Squatters' certificates.

11. Notwithstanding anything containing in sub-section (3) of section 13 of the Native Registration Ordinance it shall not be an offence to employ a person holding a squatter's certificate during the period shown on such certificate as the period in which the squatter is under no obligation to work for the occupier.

Saving of offence under section 13 of the Native Registration Ordinance. Cap. 127.

12. Any occupier shall be liable to a fine not exceeding fifty pounds or to imprisonment for a period not exceeding two months or to both such fine and such imprisonment, if he fails in any one year to provide employment for less than the number of days specified in the contract for each person for whom, under the terms of any contract made under this Ordinance or under the Resident Native Labourers Ordinance, 1925, he is under an obligation to provide such employment: Provided that notwithstanding the terms of any such contract, a Provincial Commissioner shall have power, for any good and sufficient reason, to reduce the minimum number of days work required from squatters in any area within his province.

Occupier to provide employment contracted for.

No. 5 of 1925.

Squatters' stock on farms.

16. (1) No native or Somali other than an occupier or a member of the family of such occupier, shall graze any stock on any farm unless—

- (a) he is lawfully residing on such farm under the provisions of paragraphs (b), (c), (d) or (e) of sub-section (1) of section 4 of this Ordinance; and
- (b) such stock is his own personal property; and
- (c) if residing under the provisions of paragraph (d) or paragraph (e) of sub-section (1) of section 4 of this Ordinance, he has received the written consent of the occupier and the written approval of the district commissioner or the attestation officer for keeping such stock on the farm; and
- (d) every head of cattle over the age of six months kept by such native or Somali on the farm is legibly branded by the occupier at his own expense with his brand together with the letter "S" and the farm number allocated to the native or Somali and shown in the register required to be kept under the provisions of section 15 of this Ordinance.

(2) (a) The written consent of the occupier and the written approval of a magistrate or attesting officer required by paragraph (c) of sub-section (1) of this section shall specify the number of stock which such native or Somali may keep on the farm.

(b) In arriving at such number the occupier and the magistrate or attesting officer shall have regard—

(i) to any orders made under the provisions of section 21 of this Ordinance, in force in the area in which the farm is situated; and

(ii) to the reasonable needs of the native or Somali and of the members of his family residing with him.

the number of stock which such native or Somali may keep on the farm.

(b) In arriving at such number the occupier and the magistrate or attesting officer shall have regard—

(i) to any order, made under the provisions of section 21 of this Ordinance, in force in the area in which the farm is situated; and

(ii) to the reasonable needs of the native or Somali and of the members of his family residing with him.

(3) Any native or Somali—

(a) who keeps upon a farm any stock which is not his own personal property; or

(b) who, if residing under the provisions of paragraph (d) of paragraph (c) of sub-section (1) of section 4 of this Ordinance, keeps upon a farm any stock in respect of which he has not received the written consent of the occupier and the written approval of a magistrate or attesting officer; or

(c) who keeps on a farm any stock in excess of the number which he is authorized to keep in pursuance of such written consent of the occupier and such approval of the district commissioner or an attesting officer; or

(d) who keeps on a farm any head of cattle which is not branded in accordance with the provisions of this section.

shall be guilty of an offence against this Ordinance.

(4) The provisions of sub-sections (2) and (3) of this section relating to the number of stock which a native or a Somali may lawfully keep upon a farm shall not apply to the stock of a native or Somali who before the commencement of this Ordinance has entered into a contract, which is still unexpired, under section 5 of the Resident Native Labourers Ordinance, 1925, and who, under the provisions of sub-section (1) of this section, lawfully has such stock on the farm: Provided that every such native or Somali shall, within three months after the date of the application of this Ordinance to the area in which he is residing, furnish a record to the occupier who shall forward a return to a magistrate or attesting officer specifying the number of each kind of stock which such native or Somali is keeping on such farm.

(5) In assessing the number of cattle, sheep and goats kept on a farm no account shall be taken of stock under the age of six months.

(6) No occupier shall, after the expiration of a period of six months from the date of the application of this Ordinance to the area in which such occupier's farm is situated, brand any head of cattle kept on his farm by a native or Somali lawfully residing thereon if such head of cattle is already branded with any recent registered brand denoting ownership unless and until such cattle have been re-branded as provided for in sub-section (10) of this section.

(7) It shall be the duty of an occupier to maintain his brand on every head of cattle in a legible condition.

(8) Any occupier who commits a breach of sub-sections (6) or (7) of this section or who suffers any stock to be kept on his farm in contravention of the provisions of this Ordinance shall be guilty of an offence.

(9) (a) Nothing in this section contained shall be construed as entitling any person to move or to compel the movement of stock in contravention of any restrictions in force under any law for the time being in force in the Colony relating to diseases of animals.

(b) If, at the time of the termination of any contract made under section 5 of this Ordinance or under the Resident Native Labourers Ordinance, 1925, or of any agreement or engagement between an occupier and a native or a Somali under the law for the time being in force in the Colony relating to master and servant, any such restrictions are in force prohibiting the movement of stock from such farm, such stock shall remain on the farm without charge, and the owner of such stock may also remain on such farm until such restrictions are removed or unless other arrangements are made for the care or disposal of such stock to the satisfaction of the parties and of a magistrate; and in any such case any such contract shall be deemed to remain in force until such restrictions are removed or until such other arrangements are made, as the case may be.

(10) (a) No cattle over the age of six months owned by a native or a Somali and kept on a farm in accordance with the provisions of this Ordinance shall be removed from a farm unless the owner has first produced them to the occupier who shall, at his own expense, cause such cattle to be re-branded with his own brand reversed.

(b) Any owner of cattle who moves from a farm any such cattle which have not been so re-branded, and any occupier who on request refuses or fails so to re-brand any cattle, shall be guilty of an offence.

(11) Where the owner of any stock has committed a breach of the provisions of this section, or where a person in possession of any stock has, with the connivance and consent of the owner of the stock, committed a breach of the provisions of this section, a magistrate may, in addition to imposing any other penalty provided in this Ordinance, order that the stock in respect of which the offence has been committed be confiscated.

(12) All stock kept on a farm by a native or a Somali shall be deemed for all purposes to be the personal property of such native or Somali.

13. Any magistrate, or any person duly authorised in writing in that behalf by a magistrate or any police officer of justice of the peace, may demand from any occupier the production of any contract entered into under the provisions of section 3 hereof, and such occupier shall forthwith produce such contract.

Contract to be produced.

14. Every occupier shall keep a register of all natives resident on his farm, showing the dates of their contracts and the wages paid to them, and such register shall be in such form and shall set out such particulars as the Governor may prescribe.

Register of resident natives.

head of quarters

Register of squatters stock.

15. Every occupier shall keep a register of all cattle kept on his farm by natives lawfully resident thereon and such register shall be in such form and shall set out such particulars as the Governor may prescribe.

Register of resident natives' cattle.

16. Where there is reason to believe that natives are residing on a farm in contravention of the provisions of this Ordinance, any magistrate or any person duly authorised in writing by a magistrate may enter upon such farm and may demand from any occupier the production of any register which is required to be kept under the provisions of this Ordinance, and may take all reasonable and proper steps to satisfy himself as to the correctness of any particulars entered therein, and may demand from such occupier an explanation of any apparent discrepancies therein. Any such occupier who shall knowingly make a false entry in any register or who shall refuse to furnish any explanation when lawfully called upon to do so or who shall knowingly furnish a false explanation shall be guilty of an offence.

Registers to be produced.

17. (1) Any native lawfully residing on a farm by virtue of a permit or contract under sections 3 and 4 of this Ordinance may, with the consent of the occupier thereof, take on such farm any stock which is his property on such conditions as to numbers or otherwise as may be agreed by the occupier thereof, and such native, with the approval of a magistrate. Every head of cattle over the age of six months so taken on such farm and all increase thereof over the age of six months shall be branded by such occupier with his brand together with the letter "S." Nothing in this section shall be construed as entitling any stock to be moved in contravention of any restrictions imposed under the law for the time being in force relating to the diseases of animals. Provided that should there be any such restrictions in force at the time of the termination of such

Movement and branding of resident natives' cattle

permit or contract by whatever cause prohibiting the moving of stock from such farm such cattle shall remain on the farm without charge, and the owner thereof may also remain on such farm until such restrictions are removed, unless other arrangements are made for the care or disposal of such stock to the satisfaction of the parties and a magistrate. Provided also that in the event of any such cattle being removed from such farm the owner of such cattle shall first produce them to the occupier of such farm who shall cause such cattle to be re-branded with his brand reversed.

(2) For the purpose of this section every occupier who enters into a contract under this Ordinance whereby any cattle may be brought on to his farm shall provide himself with a registered cattle brand.

Prohibition against payment by natives of *bono alio*.

19 (1) ~~11~~ No payment in money or in kind shall be ^{made by} any native ^{of (any of the) farms} residing on a farm for the right to cultivate any land or to graze any stock, or for the use of salt licks, fuel, or water on such farm, ^{and the} occupier shall enter into any contract ^{with a native of (any of the) farms residing on his farm} whereby the occupier shares any profit derived by such ^{head of a family} or other native ^{or persons} from his cultivation or from the increase or produce of his stock on the farm of such occupier

Natives employed on mission lands.

20 ~~12~~ Natives ^{of (any of the) farms} employed on farms in the occupation of missions, in receiving or imparting industrial or technical instruction with or without literary or theological instruction or training for not less than one hundred and eighty days in each year shall be exempt from the provisions of section ~~8~~ of this Ordinance provided that such instruction or training is under proper and responsible control to the satisfaction of a magistrate.

Cognized offences.

21. (1) Proceedings in respect of any offences against the provisions of sections ~~8, 9, 10, 11~~ ^{22, 23, 24, 25, 26, 27} and ~~12~~ ¹³ of this Ordinance may be instituted by the police or by any person authorised in writing by a magistrate.

(2) A magistrate may in his discretion ^(a) rescind any contract made under this Ordinance where it has been proved to his satisfaction that there has been a breach of the terms thereof, or, on the application of either party to the contract, when the other party has been convicted of a criminal offence against him or of a criminal offence involving serious moral turpitude; and ^(b) cancel any permit given by an occupier in contravention of the provisions of this Ordinance.

20. Natives or Somalis employed on farms in the occupation of missions in receiving or imparting industrial or technical instruction with or without literary or theological instruction for not less than one hundred and eighty days in the occupation of missions in receiving or imparting industrial or technical instruction with or without literary or theological instruction for not less than one hundred and eighty days in

(2) Nothing in this section shall be deemed to render illegal the purchase by an occupier at a reasonable price of the stock of a squatter or the produce of a squatter's stock or cultivation.

(2) Manure produced on a farm by a squatter's stock shall be the property of the squatter during the period of his contract: Provided that, if such manure is not reasonably required for the purposes of the squatter's cultivation on such farm, the occupier may use such manure for the purpose of his own cultivation free of cost other than the cost of transporting the manure from one place on the farm to another.

(3) Nothing in this section contained shall be deemed to render illegal the purchase by an occupier at a reasonable price of the stock of a squatter or the produce of a squatter's stock or cultivation.

21. (1) Subject to the provisions of section 2 and of section 22 of this Ordinance a local authority may, in respect of any farm or group of farms within the area of its jurisdiction, by order published in the Gazette and in a newspaper circulating within such area—

Local option
Power to make
orders.

- (a) prohibit the engagement of squatters on any farm, or group of farms;
- (b) limit the number of squatters to be engaged on any farm or group of farms;
- (c) prohibit the keeping of stock by natives or Somalis on any farm, either generally or in respect of any specified kind of stock, or limit the numbers of any specified kind of stock which may be kept on a farm by squatters, or prescribe the conditions under which native or Somali stock shall be kept;
- (d) prescribe the number of days in a year on which a squatter shall work and for which he shall receive wages, such number of days in no case to be less than one hundred and eighty.

(2) In making any order as aforesaid the local authority shall have regard

- (a) to the wishes of the occupiers of farms within the area of its jurisdiction, so far as such wishes can be reasonably and conveniently ascertained;
- (b) to the reasonable labour requirements of farms; and
- (c) to the reasonable needs of squatters on such farms.

(3) When such an order has been made it shall be the duty of the occupier of a farm to which such order applies, within one month after the date of the publication of the order in the Gazette in accordance with the provisions of sub-section (7) of section 22 of this Ordinance, to give notice of termination of such contracts as may be necessary to make the said order effective and failure to give such notice shall be an offence against the provisions of this Ordinance.

(4) The Governor in Council if he is satisfied that, contrary to the wishes of the majority of the occupiers in any areas so far as such wishes can reasonably and conveniently be ascertained, a local authority has neglected or refused to make any order as aforesaid or that circumstances obtaining in any area are such that an order under this section should be made, may call upon such local authority to make such order as in the circumstances may be just and expedient, and, if the local authority within a reasonable time after being so called upon refuses or neglects to make an order, the Governor in Council may in respect of the area of jurisdiction of such local authority or any part thereof by order exercise any of the powers conferred upon a local authority by sub-section (1) of this section.

such that an order under this section should be made, may call upon such local authority to make such order as in the circumstances may be just and expedient, and, if the local authority within a reasonable time after being so called upon refuses or neglects to make an order, the Governor in Council may in respect of the area of jurisdiction of such local authority or any part thereof by order exercise any of the powers conferred upon a local authority by sub-section (1) of this section.

22. (1) No order shall be made or amended by a local authority unless and until a copy of such proposed order or amending order has been deposited at the office of the local authority for inspection by any person at all reasonable times, and unless and until a notice, setting forth the general purport of the proposed order and stating that a copy thereof is open to inspection, shall have been published in the Gazette and in some newspaper circulating in the district and exhibited in a conspicuous place at or near the public entrance to the local authority's offices fourteen days prior to the meeting of the local authority to be held for the purpose of making such order or such amending order.

(2) Any objection to any such order shall be lodged with the clerk to the local authority within thirteen days after the date of the publication of the notice as aforesaid.

(3) After any order has been made or amended by a local authority such order or amending order shall be submitted to the Commissioner for Local Government for the approval of the Standing Committee, together with—

(a) a copy of the minutes of the meeting of the local authority at which the order or amending order was adopted;

(b) a certificate by the clerk to the authority that the provisions of sub-section (1) of this section have been complied with; and

(c) copies of any objections against the adoption of the order which may have been lodged in writing with the clerk, or, if no objections have been lodged, a statement to that effect.

(4) When the standing committee has approved of any order, with or without amendment, such order shall be published in the Gazette.

(5) Any person aggrieved by such order may within one month from the date of publication under sub-section (4) of this section submit to the Governor in Council a written objection to the order.

(6) As soon as possible after the expiration of a period of one month from the date of publication of the order under sub-section (4) of this section, the Governor in Council shall, after considering such written objections, if any, as may have been made under the last preceding sub-section, confirm, vary or reject such order.

Governor
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(7) If the Governor in Council confirms, with or without amendment, any such order he shall cause the order to be so certified by the clerk to the Executive Council who shall then cause the order to be published in the Gazette, and as and from the date of such publication such order shall have the full force of law in the area to which it relates.

23. The Governor in Council may make orders of a similar nature to those which a local authority is empowered to make under section 21 of this Ordinance in respect of forest areas, unalienated Crown land or Railway land, and, in making such order, shall have regard—

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(a) to the reasonable labour requirements of the Railway Administration or of any department of Government concerned;

(b) to the reasonable needs of such natives and Somalis; and

(c) to the terms of any order made under section 21 of this Ordinance in force in any area adjacent to such forest

20. Natives or Somalis employed on farms in the occupation of missions in receiving or imparting industrial or technical instruction with or without literary or theological instruction or training for not less than one hundred and eighty days in

for the purposes of the squatter's cultivation or stock or cultivation. (3) Nothing in this section contained shall be deemed to render illegal the purchase by an occupier at a reasonable price of the stock of a squatter or the produce of a squatter's manure from one place on the farm to another. the occupier may use such manure for the purpose of his own cultivation free of cost other than the cost of transporting the manure from one place on the farm to another.

(2) Manure produced on a farm by a squatter's stock shall be the property of the squatter during the period of his contract. Provided that, if such manure is not reasonably required for the purposes of the squatter's cultivation on such farm, the occupier may use such manure for the purpose of his own cultivation free of cost other than the cost of transporting the manure from one place on the farm to another.

(3) Nothing in this section contained shall be deemed to render illegal the purchase by an occupier at a reasonable price of the stock of a squatter or the produce of a squatter's stock or cultivation.

21. (1) Subject to the provisions of section 2 and of section 22 of this Ordinance a local authority may, in respect of any farm or group of farms within the area of its jurisdiction, by order published in the Gazette and in a newspaper circulating within such area—

(a) prohibit the engagement of squatters on any farm, or group of farms;

(b) limit the number of squatters to be engaged on any farm or group of farms;

(c) prohibit the keeping of stock by natives or Somalis on any farm, either generally or in respect of any specified kind of stock, or limit the numbers of any specified kind of stock which may be kept on a farm by squatters, or prescribe the conditions under which native or Somali stock shall be kept;

(d) prescribe the number of days in a year on which a squatter shall work and for which he shall receive wages, such number of days in no case to be less than one hundred and eighty.

(2) In making any order as aforesaid the local authority shall have regard—

(a) to the wishes of the occupiers of farms within the area of its jurisdiction, so far as such wishes can be reasonably and conveniently ascertained;

(b) to the reasonable labour requirements of farms; and

(c) to the reasonable needs of squatters on such farms.

(3) When such an order has been made it shall be the duty of the occupier of a farm to which such order applies, within one month after the date of the publication of the order in the Gazette in accordance with the provisions of sub-section (7) of section 22 of this Ordinance, to give notice of termination of such contracts as may be necessary to make the said order effective, and failure to give such notice shall be an offence against the provisions of this Ordinance.

(4) The Governor in Council if he is satisfied that, contrary to the wishes of the majority of the occupiers in any areas so far as such wishes can reasonably and conveniently be ascertained, a local authority has neglected or refused to make any order as aforesaid or that circumstances obtaining in any area are such that an order under this section should be made, may call upon such local authority to make such order as in the circumstances may be just and expedient, and, if the local authority within a reasonable time after being so called upon refuses or neglects to make an order, the Governor in Council may in respect of the area of jurisdiction of such local authority or any part thereof by order exercise any of the powers conferred upon a local authority by sub-section (1) of this section.

22. (1) No order shall be made or amended by a local authority unless and until a copy of such proposed order or amending order has been deposited at the office of the local authority for inspection by any person at all reasonable times, and unless and until a notice, setting forth the general purport of the proposed order and stating that a copy thereof is open for inspection, shall have been published in the Gazette and in one newspaper circulating in the district and exhibited in a conspicuous place at or near the public entrance to the local authority's offices fourteen days prior to the meeting of the local authority to be held for the purpose of making such order or amending order.

(2) Any objection to any such order shall be lodged with the clerk to the local authority within fourteen days after the date of the publication of the notice as aforesaid.

(3) After any order has been made or amended by a local authority such order or amending order shall be submitted to the Commissioner for Local Government for the approval of the Standing Committee, together with—

(a) a copy of the minutes of the meeting of the local authority at which the order or amending order was adopted;

(b) a certificate by the clerk to the authority that the provisions of sub-section (1) of this section have been complied with; and

(c) copies of any objections against the adoption of the

Local option.
Power to make orders.

native or Somali stock shall be kept;

(d) prescribe the number of days in a year on which a squatter shall work and for which he shall receive wages, such number of days in no case to be less than one hundred and eighty.

(2) In making any order as aforesaid the local authority shall have regard—

(a) to the wishes of the occupiers of farms within the area of its jurisdiction, so far as such wishes can be reasonably and conveniently ascertained;

(b) to the reasonable labour requirements of farms; and

(c) to the reasonable needs of squatters on such farms.

(3) When such an order has been made it shall be the duty of the occupier of a farm to which such order applies, within one month after the date of the publication of the order in the Gazette in accordance with the provisions of sub-section (7) of section 22 of this Ordinance, to give notice of termination of such contracts as may be necessary to make the said order effective, and failure to give such notice shall be an offence against the provisions of this Ordinance.

(4) The Governor in Council if he is satisfied that, contrary to the wishes of the majority of the occupiers in any areas so far as such wishes can reasonably and conveniently be ascertained, a local authority has neglected or refused to make any order as aforesaid or that circumstances obtaining in any area are such that an order under this section should be made, may call upon such local authority to make such order as in the circumstances may be just and expedient, and, if the local authority within a reasonable time after being so called upon refuses or neglects to make an order, the Governor in Council may in respect of the area of jurisdiction of such local authority or any part thereof by order exercise any of the powers conferred upon a local authority by sub-section (1) of this section.

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(2) Any objection to any such order shall be lodged with the clerk to the local authority within thirteen days after the date of the publication of the notice as aforesaid.

(3) After any order has been made or amended by a local authority such order or amending order shall be submitted to the Commissioner for Local Government for the approval of the Standing Committee, together with—

(a) a copy of the minutes of the meeting of the local authority at which the order or amending order was adopted;

(b) a certificate by the clerk to the authority that the provisions of sub-section (1) of this section have been complied with; and

(c) copies of any objections against the adoption of the order which may have been lodged in writing with the clerk, or, if no objections have been lodged, a statement to that effect.

(4) When the standing committee has approved of any order, with or without amendment, such order shall be published in the Gazette.

(5) Any person aggrieved by such order may within one month from the date of publication under sub-section (4) of this section submit to the Governor in Council a written objection to the order.

(6) As soon as possible after the expiration of a period of one month from the date of publication of the order under sub-section (4) of this section, the Governor in Council shall, after considering such written objections, if any, as may have been made under the last preceding sub-section, confirm, vary or reject such order.

(7) If the Governor in Council confirms, with or without amendment, any such order he shall cause the order to be so certified by the clerk to the Executive Council who shall then cause the order to be published in the Gazette, and as and from the date of such publication such order shall have the full force of law in the area to which it relates.

23. The Governor in Council may make orders of a similar nature to those which a local authority is empowered to make under section 21 of this Ordinance in respect of forest areas, unalienated Crown land or Railway land, and, in making such orders shall have regard—

(a) to the reasonable labour requirements of the Railway Administration or of any department of Government concerned;

(b) to the reasonable needs of such natives and Somalis;

(c) to the terms of any order made under section 21 of this Ordinance in force in any area adjacent to such forest area, unalienated Crown land or Railway land.

Orders by local authorities, how to be made.

Submission of orders for approval of Standing Committee.

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- (a) a copy of the minutes of the meeting of the authority at which the order or amending order was adopted;
- (b) a certificate by the clerk to the authority that the provisions of sub-section (1) of this section have been complied with; and
- (c) copies of any objections against the adoption of the order which may have been lodged in writing with the clerk, or, if no objections have been lodged, a statement to that effect.
- (4) When the standing committee has approved of any order, with or without amendment, such order shall be published in the Gazette.
- (5) Any person aggrieved by such order may within one month from the date of publication under sub-section (4) of this section submit to the Governor in Council a written objection to the order.

circulating within such area—

- (a) prohibit the engagement of squatters on any farm or group of farms;
- (b) limit the number of squatters to be engaged on any farm or group of farms;
- (c) prohibit the keeping of stock by natives or Somalis on any farm, either generally or in respect of any specified kind of stock, or limit the numbers of any specified kind of stock which may be kept on a farm by squatters, or prescribe the conditions under which native or Somali stock shall be kept;
- (d) prescribe the number of days in a year on which a squatter shall work and for which he shall receive wages, such number of days in no case to be less than one hundred and eighty.
- (2) In making any order as aforesaid the local authority shall have regard—
- (a) to the wishes of the occupiers of farms within the area of its jurisdiction, so far as such wishes can be reasonably and conveniently ascertained;
- (b) to the reasonable labour requirements of farms; and
- (c) to the reasonable needs of squatters on such farms.
- (3) When such an order has been made it shall be the duty of the occupier of a farm to which such order applies, within one month after the date of the publication of the order in the Gazette in accordance with the provisions of sub-section (7) of section 22 of this Ordinance, to give notice of termination of such contracts as may be necessary to make the said order effective, and failure to give such notice shall be an offence against the provisions of this Ordinance.
- (4) The Governor in Council if he is satisfied that contrary to the wishes of the majority of the occupiers in any areas so far as such wishes can reasonably and conveniently be ascertained, a local authority has neglected or refused to make any order as aforesaid or that circumstances obtaining in any area

to pay damages has been determined; and if the native or Somali is found to be liable to damages, such damages may be set off against the amount paid to the magistrate by the occupier.

25. A squatter shall on conviction be liable to a fine of one hundred shillings or in default of payment to imprisonment for any term not exceeding one month—

- (1) if he, after having entered into an agreement under this Ordinance, fails or refuses without lawful cause to enter upon his duties on the farm at the stipulated time;
- (2) if he, without lawful cause, absents himself from the place proper and appointed for the performance of his work on any day when the occupier may lawfully require him to work;
- (3) if he, during any time when he is lawfully required to work, is intoxicated and thus unfit to perform his

Penalties for offences committed by squatters.

No. V.

The Resident Native Labourers Ordinance

Provided that ^{in any such case} the native shall retain his rights over growing crops unless the occupier elects to give him reasonable compensation therefor. In the event of any dispute as to the amount of compensation payable the magistrate shall determine the amount thereof.

(3) Compensation payable under this section may be paid to the magistrate by an occupier, ^{and when} proceedings have been instituted by the occupier for damages against the native the magistrate shall not pay out the compensation to the native until the liability of the native to pay damages has been determined; and if the native ^{is found to be liable} to damages, such damages may be set off against the amount ^{paid to} the magistrate ^{by the occupier}.

~~2324.~~ Any native who has entered into a contract under this Ordinance may be punished with imprisonment of either description for a term which may extend to one month, or with a fine not exceeding one hundred shillings, or with both such imprisonment and fine in the discretion of the magistrate in case ~~he shall be convicted of any of the following acts:—~~

(1) ~~If he shall, after having entered into an agreement under this Ordinance, fail or refuse without lawful cause to enter upon his duties on the farm at the stipulated time;~~

(2) ~~If he, shall without lawful cause, absents himself from the place proper and appointed for the performance of his work on any day when the occupier may lawfully require him to work;~~

(3) ~~If he, shall during any time when he is lawfully required to work, be unfit for the performance of his work by being intoxicated;~~

(4) ~~If he shall neglect or refuses to perform any work which it was his duty to have performed, or if he shall carelessly or improperly perform any work which from its nature it was his duty under his agreement to have performed carefully and properly;~~

(5) ~~If he shall without leave, and for his own purposes, make use of any horse, vehicle or other property belonging to the occupier;~~

(6) ~~If he shall use any abusive or insulting language or be guilty of insulting behaviour to the occupier or to any person lawfully placed by the occupier in authority over him, calculated to provoke a breach of the peace;~~

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Penalties for offences by

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(7) ~~if he shall refuse to obey any command of the occupier, or of any person lawfully placed by the occupier in authority over him, which command it was his duty to obey.~~

15. ~~Any native who has entered into a contract under this Ordinance may be fined any sum not exceeding one hundred and fifty shillings, and in default of payment may be punished with imprisonment of either description for any period not exceeding two months, or may be punished with imprisonment of either description without the infliction of a fine, at the discretion of the magistrate, for any period not exceeding two months in case he shall be convicted of the following acts or instances of misconduct, that is to say:~~

(1) ~~if he shall wilfully or by wilful breach of duty or through drunkenness, do any act tending to the immediate loss, damage or serious risk of any property placed by the occupier in his charge or placed by any other person in his charge for delivery to or on account of his occupier,~~

(2) ~~if he shall, by wilful breach of duty or by neglect of duty or through drunkenness, refuse or omit to do any lawful act proper and requisite to be done by him for preserving in safety any property placed by the occupier in his charge, or placed by any other person in his charge for delivery to or on account of his occupier;~~

(3) ~~If being employed as a herdsman, he shall fail to report to the occupier the death or loss of any animal placed in his charge (which he shall allege to have died or been lost) at the earliest opportunity of so doing after he shall have discovered in the course of duty, or shall have discovered such death or loss; and he shall fail to preserve for his occupier's use or inspection any part or parts of such animal as he shall allege to have died, which part or parts he shall by his occupier have been directed to preserve, unless such herdsman shall prove to the satisfaction of the court the death of such animal, or if it shall be made by the occupier to appear that any such animal or animals alleged by him to have strayed away or otherwise become irrevocably lost, could not, under the circumstances of the case, have become irrevocably lost without his act or default.~~

- (8) if he grows upon the farm any crop which by his contract he is prohibited from growing;
 (9) if he, after the termination of his contract and subject to the provisions of section 5 (2) (k) and section 16 (9) of this Ordinance, fails within a reasonable and specified time to leave the farm and to remove his family and stock therefrom.

26. A squatter shall be liable to a fine not exceeding one hundred and fifty shillings and in default of payment to imprisonment for any term not exceeding six months—

Penalties for more serious offences committed by squatters.

(at the earliest opportunity after he should in the ordinary course of duty have discovered, and

(after having received a notice from the occupier to preserve

- (c) he alleges the loss of any animal placed in his charge and it is proved by the occupier to the satisfaction of the court that such animal could not, in the circumstances of the case, have become irrevocably lost without the act or default of the squatter.

(c) if he fails knowingly or on demand to provide his squatters with proper medicines during illness and also, if procurable, medical attendance during serious illness: Provided that an employer's liability for medical attendance during serious illness shall not extend beyond a period of forty-two days.

(2) Upon any complaint brought before a court under the provisions of this Ordinance the magistrate may, in addition to any jurisdiction he might have exercised if this Ordinance had not been enacted, exercise all or any of the following powers:—

(a) He may adjust and set off one against the other all such claims on the part either of the employer or of the servant arising out of or incidental to the relation between them as the magistrate may find to be subsisting, whether such claims are liquidated or unliquidated, and whether such claims are for wages, damages or otherwise; and he may direct the payment of such sum as he finds due by one party to the other party.

(b) He may direct fulfilment of the contract, and, in case where he might award damages for any breach of contract, he may, in lieu either of the whole of the damages which would otherwise have been awarded or some part of the damages, direct the party committing such breach to find security to the satisfaction of the magistrate for the due performance of so much of the contract as remains unperformed; and if the party neglects or refuses to find security, he may commit him to prison until he finds it, but the term of imprisonment shall not exceed three months.

(c) He may rescind the contract upon such terms as to the apportionment of wages or other sums due thereunder, and as to the payment of wages or damages or other sums due, as he thinks fit.

(d) When no amount of compensation or damages can be assessed, or when pecuniary compensation will not in the opinion of the magistrate meet the circumstances of the case, he may, in addition to rescinding the contract and discharging the parties therefrom, impose a fine on either party of a sum not exceeding twenty pounds or in default of payment to imprisonment for a term not exceeding one month. to pay a fine not exceeding ten pounds and to pay the costs of the process and of the witnesses in the case, and in default of payment of such fine and costs, shall be liable to imprisonment for any period not exceeding one month. Such fine and costs may be imposed upon the occasion of such trial and without any fresh action or proceeding for the recovery thereof.

NO. V.

The Resident Native Labourers Ordinance

(4) If being employed in any capacity other than that of a herdsman, he shall allege the loss of any property placed in his charge by or for the occupier and if it is made to appear by the occupier that the property in question could not have been lost without his act or default, he shall be liable to a fine not exceeding two hundred shillings and in default of payment to imprisonment of either description for a term not exceeding one month, or to both such fine and imprisonment, if he is guilty of any of the following acts or omissions, that is to say:—

1712- (1) Any occupier shall be liable to a fine not exceeding two hundred shillings and in default of payment to imprisonment of either description for a term not exceeding one month, or to both such fine and imprisonment, if he is guilty of any of the following acts or omissions, that is to say:—

(a) if he fails to pay, or to demand, the wages due to a squatter;

(b) if he shall withhold the wages of a resident Native without reasonable and probable cause for believing that the wages so withheld are not really due.

(c) if before or after the expiration of the contract, upon demand made and without lawful cause, he refuses to deliver or permit to be taken away any property belonging to a resident Native lawfully remaining or being upon such occupier's land, without reasonable or probable cause for believing that the property in question was lawfully detained.

2817- Any person committing a breach of the provisions of this Ordinance for which no specific penalty is provided shall be liable, on conviction, to a fine not exceeding ten pounds, or to a term of imprisonment of either description not exceeding two months, or to both such fine and such imprisonment.

2016: The Governor in Council may make rules for the better carrying out of the provisions of this Ordinance.

10. The Resident Natives Ordinances, 1918 and 1924 are hereby repealed. Provided, however, that all agreements entered into thereunder and now existing and the rights, duties and obligations of the parties thereunder shall be governed and enforced by, under, and in accordance with the provisions of these Ordinances for a period not exceeding six months from the date of the coming into force of this Ordinance.

31. The Governor in Council may appoint any fit and proper person to be an attesting officer for the purposes of this Ordinance.

32. Notwithstanding anything to the contrary contained in any law for the time being in force in the Colony, the attestation of any contract entered into under the provisions of this Ordinance, shall be exempt from all stamp duty.

33. The Resident Native Labourers Ordinance, 1925,

Penalties for offences committed by occupier

To rescind the contract and apportion wages, etc.

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No stamp duty shall be chargeable for the attestation of any contract.

Form SCHEDULE.

Section 4, Ordinance No. 5 of 1925.

1. Full name of Occupier. Memorandum of Agreement made this..... day of, 19...., by and between (1)
2. Address. of (2) (hereinafter referred to as "the Occupier") and (3) registered number
3. Full name of native as given on registration certificate. of (4) (hereinafter referred to as "the Native"), whereby it is agreed:—
4. Insert name of native's district location and chief.

1. That this agreement shall have effect from the..... day of....., 19.... and shall be for a term of..... years ending on the day of, 19.... unless lawfully determined earlier.

2. That the ~~native~~, together with his wife or wives and children shall reside and may graze his stock on such part only of the occupier's farm at..... as the occupier may direct during the period of this agreement.

3. That during the period of this agreement the ~~native~~ and every male member of his family who is of the apparent age of sixteen years or over and is resident on the occupier's farm, and who is not working under the law relating to master and servants, shall each work for the occupier at such times as the occupier may direct, for not less than (5)..... days at the election of the occupier in each period of twelve months and that the occupier shall provide employment for the ~~native~~ and for such male members of his family for such number of days. The occupier shall give notice in writing to every male member of such family who during the continuance of the contract may attain the age of sixteen years that on the expiration of ~~one~~ months from the date of receiving such notice

5. Not to be less than 180 days but may be more if agreed.

No. V. The Resident Native Labourers Ordinance.

be will be required either to enter into a contract under this Ordinance with the occupier, or under the law relating to master and servants with the occupier or some other employer in the vicinity, or to cease to reside on the occupier's farm.

4. That the time during which the ^{Native} ~~Native~~ is required to work for the occupier shall be so arranged as to allow the ^{Native} ~~Native~~ reasonable time to sow, cultivate and reap his own food crops.
5. That the occupier agrees to pay to the ^{Native} ~~Native~~ and to the male members of his family wages at the rate of ^{per Annum} ~~per Annum~~ for every (6) and (7)

6. Day, month or thirty-day card worked.

7. Insert conditions as to relations or other considerations if agreed upon or strike out if inapplicable.

6. That the occupier shall provide good and sufficient building material for the erection of huts for the accommodation of the ^{Native} ~~Native~~ and his family.

7. That the occupier shall provide the native with sufficient and suitable land for the cultivation of food crops for himself and his family, and for grazing the following numbers of stock, namely (8)

8. Number of each kind of stock to be specified.

8. That with the consent of a magistrate this agreement may be terminated by either the occupier or the ^{Native} ~~Native~~ giving to the other ^{Native} ~~Native~~ calendar months' notice, provided that the ^{Native} ~~Native~~ shall suffer no prejudice in regard to the care and reaping of his crops or in regard to the removal of his family or stock and provided that the occupier may demand the fulfilment by the ^{Native} ~~Native~~ of any conditions of this agreement to which the ^{Native} ~~Native~~ may be liable in respect of his obligation to work.

9. On the expiration or termination of this agreement, from whatever cause, the ^{Native} ~~Native~~ shall be entitled to remove all his movable property ~~of~~ the farm, but shall not remove any buildings, ~~but~~ in respect of buildings or other immovable property shall be entitled to any reasonable compensation for labour and materials contributed by him.

provided that the squatter shall not plant or cultivate any of the following crops, namely or allow them to be planted or cultivated under his control, and that he shall not cultivate land other than that allocated to him by the occupier.

No. V. The Resident Native Labourers Ordinance, 1925.

(This clause to be inserted only in the case of missions or farms on which schools to the satisfaction of the magistrate are provided; otherwise to be struck out.)

(Any other conditions agreed to by the parties which do not contravene the provisions of this or any other Ordinance. Such conditions, if any, shall be numbered consecutively.)

10. That the ^{Magistrate} ~~native~~ shall cause his children to attend regularly at the school provided by the occupier on the said land.

(Any other conditions)

AS WITNESS the hands of the parties hereto

Witness to the signature of the occupier

Witness to the signature or mark of the ^{Magistrate} ~~native~~

I/We being member(s) of the family of (the native) do hereby agree to abide by the terms of the agreement dated between him and the occupier.

Signature(s) or Mark(s)	Register Number	Nature of Service	Remuneration

I hereby certify that the contents of this agreement have been read and explained by me to the ^{Magistrate} ~~native~~ signatories, and that they appear to have executed this agreement with a full knowledge of its contents

The day of 19.....

Resident Magistrate or
Attest
Attest

Form of Bond under section 10

Be it known unto all men by these presents that we (1) are jointly and severally bound unto (2) and to any one or more of them in the sum of (3) their and each of their the said (4) For which pay- heirs, executors, administrators, and assigns. For which pay- ment well and truly to be made as liquidated damages and not as a penalty, we bind ourselves jointly and severally, and our heirs, executors and administrators, and every one of them firmly by these presents.

Scaled with our seals dated this day of 19.....

The condition of the above written obligation is such that if (5) (hereinafter called the occupier) the employer of the said (6) (hereinafter called the squatter) do pay to each of the squatters performing their part of the agreement after men- tioned the several sums of money set opposite to their respective names in the schedule to an agreement made and entered into between the occupier and the squatter at on the day of 19..... and attested by (7) in regular (8) payments to be calculated from the day of 19..... and to execute, carry out and perform his part of the said agreement in all respects, then this obligation to be void, otherwise to be in full force and virtue

Signed, sealed and delivered in the presence of: (To be signed and sealed by each of the obligants and attested if practicable, by the officer attesting the relative agreement)

- (1) Insert names and description of occupier and one or more sureties resident within the jurisdiction
- (2) Name and description of the squatter
- (3) Name and description of the squatter (less any advances), due by the contract
- (4) Repeat names of squatter
- (5) Name of occupier
- (6) Name or names of squatters
- (7) Official name of officer before whom agreement is signed.
- (8) Weekly or monthly, etc., as the case may be.

THIRD SCHEDULE.**THE RESIDENT NATIVE LABOURERS ORDINANCE, 1935.****Squatter's Certificate.***(Under section 9).*

I hereby certify that.....
 has during the period of twelve months commencing on the
 day of..... 19..... completed
 the..... days' work stipulated in this
 contract. His obligation to work under the terms of this
 contract commences again on the..... day of
 19.....

.....
Signature of Occupier and date.

FOURTH SCHEDULE.**THE RESIDENT NATIVE LABOURERS ORDINANCE, 1935.**

*Permit granted under the Provisions of section 4 (1) (a) to
 Reside on Alienated Lands.*

Bearer..... s/o.....

Native Registration Certificate No.
Somali

is hereby permitted to reside on.....

for..... (days), i.e. from.....

(to).....

Date.....

.....
Signature of Occupier.

All permits to reside on any land for a period exceed-
 ing fourteen days must be countersigned by the District
 Commissioner in charge of the area in which such land
 is situated.

Approved.....

.....
District Commissioner.

Date..... District.....

FIFTH SCHEDULE.**THE RESIDENT NATIVE LABOURERS ORDINANCE, 1935.***Register of Cattle and Stock (section 15).*

Name of Farm.....

Occupier's Name.....

Registration No. and Name of Native or Somali.....

No. of Contract.....

Date of Commencement..... Date of Termination.....

Occupier's Registered Brand.....

Farm Brand No. allocated to Native or Somali.....

*(a separate individual number to be allocated to each Native or
 Somali and to be branded on all his cattle)*

No. of cattle allowed on contract.....

No.	Date of Arrival of Cattle or stock on Farm	Sex	Description of Cattle or Stock	Date of Branding	Remarks, as to death, transfer, sale, theft, etc.,
1					
2					
3					
4					
5					
6					
7					
8					

Clause 3.
Definitions.

Definition of forest area, local authority, attesting officer, and railway land have been added; and the definition of occupier has been extended in consequence of the inclusion of Crown land, railway land, and forest areas.

"Family" - the husband is deaft with separately.

Clause 4.

Somalis are specifically named as they are excluded from the definition of "native" by the Definition of 'Native' Ordinance, 1934.

Clause 5 (2).

Under the existing law the head of the family is the principal native contracting party; the draft bill proposes that the actual squatter should be the principal native contracting party.

Clause 5 (2) (a).

The maximum period of the contract has been lengthened from three to five years. It is considered that an occupier and squatter who are mutually satisfied, should be permitted to contract for a longer period.

Clause 5 (2) (d).

The period of notice of the termination of the contract has been reduced from six months to three months, as it is felt that, in the event of a disagreement between the parties the shorter period would be naturally advantageous to both parties.

Clause 5 (2) (h).

This sub-section has been inserted in order to prevent the growing of crops by the squatter, which, while economic, are inimical to other crops grown by the occupier.

Clause 5 (2) (i).

It is considered advisable that there should be provision for controlling the number of native-owned stock on European farms.

Clause 5 (2) (j).

This sub-section prevents a squatter planting after termination of his contract with a view to obtaining additional compensation.

Clause 5 (7).

See paragraph 5 of the despatch.

Clauses 7, 8 and 9.

These clauses apply various provisions of the Native Registration Ordinance to occupiers and to squatters as is done in the case of the employment of Natives Ordinance. The reasons for this are fully explained in paragraph 6 of the despatch.

Clause 10.

Provides for the release into the labour market of any squatter who, having performed 180 days' work for the occupier, wishes to work elsewhere and for a certificate to that effect to be given to him.

Clause 12.

Provides for the compulsory employment of the squatter for the full period of employment, with a proviso enabling a Provincial Commissioner to reduce the number of days' work if he considers it advisable - e.g. in case of drought or other climatic considerations. The penalties have been raised in order to bring them into line with those provided for in the new employment of Natives,

and Native Registration bills.

Clause 13.

Provides for the production of contracts on demand by responsible officers, and ensures that the parties shall not be unnecessarily badgered by subordinate officers.

Clause 14.

Provides that the occupier shall record the number of days worked by the squatter, and not the actual dates. In practice the squatters are supplied with labour cards on which the dates are entered.

Clause 15.

Embodies section 10 of the Resident Native Labourers' Ordinance, 1925, but extends its provisions and generally tightens up the regulations for the control of squatters' cattle.

Clause 16 (1) (b).

Prevents the sub-letting of grazing.

Clause 16 (1) (d).

It is realized that branding of the nature indicated is detrimental to the hide but this disadvantage is outweighed by the urgent necessity for controlling the movement of stock from 'dirty' into 'clean' areas, and for checking stock theft.

Clause 16 (8).

Vide remarks under Clause 21.

Clause 17.

Amplifies the provisions of Section 9 of the Resident Native Labourers' Ordinance, enlarges the powers of inspection, and increases the number of persons by whom such inspection may lawfully be carried out.

Clause 18.

Provides machinery for the removal of squatters from areas which are not considered to be under effective control.

Clause 19.

Reproduces the corresponding section in the existing law, and in addition provides for the disposal of the manure produced on a farm by a squatter's stock.

Clauses 21 and 22.

Introduce an entirely new principle in this type of legislation, that of local option. See paragraph 8 of the despatch.

Clause 23.

Brings Government Departments within the provisions of Clause 21.

Clause 25.

Provides for imprisonment in default of payment of a fine in minor offences.

Clause 27 (2).

Provides for arbitration by magistrates in disputes between occupiers and squatters.