

1937

38044

38044

C0533/477  
KENYA

STAMP ORDINANCE.

CLOSED  
UNTIL

Previous

89 24/12

Mr. Dale 28/11

Mr. Dale 30

Mr. Pavin 4/12

Mr. Pavin 6

Subsequent

96 11/12

1847/18  
39 years.

298 17/12

3804/00

98 20/12

Library Legal 21/12

294 25/11

298

R 299 11/12

Mr. Burns 1/15

Mr. Dale 16.5

Mr. Pavin 18

303 01/15

299 22/15

297 25/15

Mr. Pavin

83 Legal 3/16

~~297~~

295 7/16

Library Legal 9/16

R 297 15/19



Gov's Dept.  
Trs. two authenticated and twelve printed copies  
Ordinance No. VI of 1937, gazetted in the Kenya Gazette  
by the A.G.

Spare copies to Library

A draft of sec 2 of this Ordinance (which  
for the purpose of amending Kenya Law so as to  
comply with the provisions of the International  
Conventions on Stamp Laws in connection  
with Cheques Bills of Exchange & Promissory Notes)  
was submitted in No 63 on 30/1/37  
& its enactment was approved in  
July on this file subject to certain  
amendments. The two amendments  
suggested and I have indicated in  
pencil on the plain copy of the Ordinance  
unrevised have been made and  
subject to legal observations had  
been in order.

Received  
Re note to  
me for  
perusal -  
with Gen'l files

A.T.H.  
8/5/37

A.T.H.  
8/5/37

X Copy of this  
Ordinance sent to  
Gen'l on 16/7/37  
& note made on  
this file of action  
taken

done  
W.R.  
3/6

A.T.H.  
8/5/37

Clause 3 sec. include provision for  
the exemption from Stamp Duty of  
instruments used in connection with  
the Kenya Savings Bank, Ordinance.  
The Kenya Savings Bank Ordinance  
(No 297 1936) was based on the model  
contained in the Dept's Circular of  
the 3rd July 1930. No provision  
for such provision is contained in

Hotel Savings Bank Order. I think  
it is better that provision for this  
should be made somewhere, &  
the Ordinance seems the  
most suitable place.

subject to the opinion of  
General Dept & the legal  
adviser

regarding the Ordinance  
T.B.

R. J. Basani

Similar provision made  
Rule 84 of the 1921  
Rules 1921. G.P. therefore have  
no objection on this point.

R. J. Basani

11/5/47

No objection

under

15/3

9.3.

J. J. Basani

18/5

at am

La. Banker's 415 (1 am) J.B. - 22/1/37

3 copies kept  
2 copies sent to  
all copies of the  
1921  
1921  
has 12 printed copies of Order 11, 1921

(Approved  
signature)

The delay in dealing with this  
Ordinance is recorded in the  
slips some 10/4

Section 2 of the Ordinance  
compared with the section provided  
in Section 2 of the 1921 Ordinance at  
1 on 42216/37.

Section 3 seems to be unobjectionable.

? Subject to legal opinion,  
set. of. apologise for delay  
C. J. Basani  
20/5

J. J. Basani  
20/5

Mr. Basani

Dear Sir, - over of the  
delay which has occurred in dealing  
with the 1921 Ordinance proposed

J. J. Basani

4/2 Basani  
6/2 etc

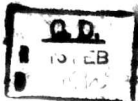
Notes  
6/1/39  
L. W. Smith  
Legal notes

110  
1 2 39

~~11~~

4

C. O.



Downing Street,

February, 1939.

Mr. Edmonds.

Mr.

Mr.

Sir C. Parkinson.

Sir G. Tomlinson

Sir C. Bottomley

Sir J. Shuckburgh.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State

ir.

SK

I have <sup>etc.</sup> to refer to Mr. ...

(5) despatch No. 519 of the 6th of

September, 1937, and to inform you that

the power of disallowance will not be

exercised in respect of Ordinance

No. 19 of 1937 shortly entitled "The

Stamp (Amendment No. 2) Ordinance, 1937.

2. I have to express my regret

at the delay which has occurred in

answering the above despatch.

I have, etc.

DRAFT.

KENYA.

NO. 110

GOVERNOR.

FURTHER ACTION.



THE SECRETARIAT,  
NAIROBI,  
KENYA

WHEN REPLYING  
PLEASE QUOTE  
No. and  
AND DATE

C.O. 119/156



September, 1956

the Secretary  
under Secretary  
for the Colony, and with reference  
to Kenya despatch No. of the 6th May  
has the honour to transmit twelve printed copies  
of Ordinance No. XIX, entitled "An Ordinance  
to Amend the Statute Law"

3

Res

No. XIX

1937



Colony and Protectorate of Kenya

IN THE FIRST YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE VI

HENRY ROBERT MOORE BROOKE-POPHAM  
G.C.V.O., K.C.B., C.M.G., D.S.O., A.F.C. Governor

Assented to in His Majesty's  
name this 28 AUG 1937 day of

R. BROCKE-POPHAM

Governor

AN ORDINANCE TO AMEND THE STAMP  
ORDINANCE

**ORDINANCE No. XIX of 1937**

**An Ordinance to Amend the Stamp Ordinance**

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

1. This Ordinance may be cited as the Stamp (Amendment, No. 2) Ordinance, 1937, and shall be read as one with the Stamp Ordinance (Chapter 57 of the Revised Edition), hereinafter referred to as the Principal Ordinance

Short title.

Cap. 57

2. The proviso to section 4 of the Principal Ordinance is hereby amended by substituting a colon for the full stop which occurs at the end thereof and by adding immediately thereafter the following further proviso:—

Amendment of section 4 of the Principal Ordinance.

"And provided further that, with effect from such date as the Governor may by notice in the Gazette appoint, every bill of exchange, cheque or promissory note drawn or made in the Uganda Protectorate or the Tanganyika Territory and accepted and paid or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated in the Colony, and which has previously been duly stamped in the Uganda Protectorate or the Tanganyika Territory shall be deemed to be duly stamped in the Colony."

Paragraph (c) of section 55 of the Principal Ordinance is hereby repealed and the following paragraph is substituted therefor:—

Amendment of section 55 of the Principal Ordinance.

"(c) At his discretion, the value in money of the spoiled or misused stamps less five cents for each shilling or portion of a shilling, or paper bearing impressed stamps to the value of the spoiled or misused stamps less five cents for each shilling or portion of a shilling:

Provided that the maximum amount which the Revenue Authority may deduct under the provisions of this paragraph in respect of any one instrument shall not exceed ten shillings."

No. XIX

Stamp

1937

Passed in the Legislative Council the twenty-eighth day of July, in the year of our Lord one thousand nine hundred and thirty-seven.

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

R. W. BAKER-BEALL

Acting Clerk to the Legislative Council.

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

AIR MAIL

KENYA

No. 519



GOVERNMENT HOUSE  
NAIROBI  
KENYA



6 September 1937.

I have the honour to forward two authenticated copies of Ordinance No. XIX. of 1937 entitled "An Ordinance to Amend the Stamp Ordinance", together with a Legal Report thereon to the Attorney General.

2. This Ordinance passed its third reading in the Legislative Council on the 28th July, 1937 and the Governor assented to it in His Majesty's name on the 29th August, 1937.

3. Twelve printed copies of the Ordinance are being forwarded by sea mail.

I have the honour to be,

Sir,

Your most obedient,

Humble servant,

GOVERNOR'S DEPUTY

HONOURABLE  
CHRISBY GORE, P.C., M.P.,  
SECRETARY OF STATE FOR THE COLONIES,  
DOWNING STREET,  
LONDON, S.W. 1.

LEGAL REPORT

THE STAMP (AMENDMENT, NO 2) BILL, 1937

Clause 2 - At present a bill of exchange, cheque or promissory note drawn in one of the East African territories and negotiated in the other has to pay stamp duty twice. In order to assist inter-territorial trade it is proposed that such negotiable instruments drawn and stamped in Uganda or Tanganyika Territory should be treated as duly stamped in the Colony. Both Tanganyika and Uganda will enact reciprocal legislation.

Clause 3 - Where refunds are allowed under the Stamp Ordinance for spoiled or misused stamps affixed to documents chargeable with stamp duty careful investigations have to be made in each case, and the work entailed in preparing payment vouchers and stamping the additional forms to be given in exchange is considerable. It is proposed, therefore, to give the revenue authority discretion to charge a discount of five per centum when making refunds for spoiled or misused stamps, subject to a maximum discount of Sh.10/- in respect of any one instrument. This suggestion is in accordance with the practice in other Colonies.

No Comparative Table accompanies the Bill since the provisions contained therein are not modelled on any Colonial Ordinance or Imperial Act.

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

Nairobi,

28th July, 1937

*H. C. Williams*

ACTING ATTORNEY GENERAL



KENYA

No. 112

GOVERNMENT HOUSE  
NAIROBI  
KENYA

RECEIVED  
26 APR 1937  
C. O'HELY

2 April, 1937.

Sir,

I have the honour to forward to you, in  
enclosed form, a copy of the Ordinance No. VI of 1937 en-  
titled "An Ordinance to amend the Sta-  
tutes" together with a legal Report thereon by the Attorney  
General.

2. This Ordinance passed its third reading in  
the Legislative Council on the 9th March 1937. The Acting  
Governor assented to it in His Majesty's name on the  
24th March.

I have the honour to be,

Sir,

your most obedient,

humble servant,

*M. G. Gore*

ACTING GOVERNOR

*Copy 11-12*

THE RIGHT HONOURABLE  
M. G. GORE, B.A., M.P.,  
SECRETARY OF STATE FOR THE DOMINIONS,  
DOWNING STREET,  
LONDON, S.W. 1.

No. VI

1937



Colony and Protectorate of Kenya

IN THE FIRST YEAR OF THE REIGN OF  
HIS MAJESTY KING GEORGE VI

ARMIGEL DE VINS WADE, C.M.G., O.B.E.  
*Acting Governor.*

Assented to in His Majesty's  
name this 24<sup>th</sup> day of March,  
1937.

A. de V. WADE  
*Acting Governor.*

AN ORDINANCE TO AMEND THE STAMP  
ORDINANCE

ORDINANCE No. VI of 1937

An Ordinance to Amend the Stamp Ordinance.

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

1. This Ordinance may be cited as the Stamp (Amendment) Ordinance, 1937, and shall be read as one with the Stamp Ordinance (Chapter 57 of the Revised Edition), hereinafter referred to as the Principal Ordinance.

Short title,  
Cap. 57.

2. Section 37 of the Principal Ordinance is hereby amended by the addition of the following paragraph to the proviso thereto:—

Amendment of  
section 37  
of the  
Principal  
Ordinance.

(f) Notwithstanding anything to the contrary herein contained a bill of exchange (including a cheque) which is presented for acceptance, or accepted, or payable outside the Colony shall not be invalid by reason only that it is not stamped in accordance with the provisions of this Ordinance, and any such bill of exchange which is unstamped or not properly stamped may be received in evidence on payment of the proper duty and penalties prescribed under paragraph (a) of this section.

3. (1) Notwithstanding anything in the Principal Ordinance contained, no power, warrant, or letter of attorney granted or to be granted by the Postmaster General, nor any power, warrant, or letter of attorney given by any depositor in the savings bank to any other person, authorizing him to make any deposit of any sum of money in the savings bank on behalf of the said depositor or to sign any document or instrument required by the rules or regulations of the savings bank to be signed on making such deposit or to receive back any sum of money deposited in the savings bank, or the interest arising therefrom, nor any receipt nor any entry in any book of receipts for money deposited in the savings bank, nor for any money received by any depositor, his executors or administrators, assigns, attorneys or agents, from the funds thereof, nor any draft or order, nor any appointment of any agent, nor any

Exemption  
of savings  
bank  
documents  
from stamp  
duty

No. 29 of 1936.

certificate or other instrument or document whatsoever required or authorized to be issued, signed, made or produced in pursuance of the Savings Bank Ordinance, 1936, or of any Rules made thereunder, or of any Ordinance amending or replacing the same, shall be subject to, or be charged with any stamp duty or duties whatsoever.

No. 29 of 1936.

(2) The term "savings bank" in this section contained means the Savings Bank established under the provisions of the Savings Bank Ordinance, 1936, or any Ordinance amending or replacing the same.

(3) This section shall be deemed to have come into operation on the first day of January, 1937.

Amendment of  
Schedule  
to the  
Principal  
Ordinance

4. The Schedule to the Principal Ordinance is hereby amended by deleting therefrom the following exemption to item 45 thereof:—

- (a) Power of Attorney exempted under section twenty-three of the East Africa Post Office Savings Bank Ordinance, 1909, or any Ordinance amending or in substitution for the same.

Passed in the Legislative Council the ninth day of March, in the year of our Lord one thousand nine hundred and thirty-seven.

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

W. BAKER

Acting Clerk of the Legislative Council.

No. 29 of 1936.

certificate or other instrument or document whatsoever required or authorized to be given, issued, signed, made or produced in pursuance of the Savings Bank Ordinance, 1936, or of any Rules made thereunder, or of any Ordinance amending or replacing the same, shall be subject to or be defaced with any stamp duty or duties whatsoever.

No. 29 of 1936.

(2) The term "savings bank" in this section contained means the Savings Bank established under the provisions of the Savings Bank Ordinance, 1936, or any Ordinance amending or replacing the same.

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

Secretary Clerk of the Legislative Council.

13

LEGAL REPORT

THE STAMP (AMENDMENT) BILL, 1937

Clause 2 is designed to make the necessary alteration to Kenya law by following closely the provisions of section 42 of the Finance Act, 1933 (of England). This Clause was approved by the Secretary of State in his despatch No. 441 of the 24th June, 1936.  
30030/1/36 Gen.

Clauses 3 and 4 - The new Savings Bank Ordinance, 1936, which came into operation on the 1st of January, 1937, contains no provision for the exemption of instruments used in connection with the Savings Bank from stamp duty as was the case with the old Savings Bank Ordinance (Chapter 95) which was recently repealed. It is proposed to make provision for this exemption in the Stamp Ordinance.

I enclose herewith a Comparative Table together with a copy of the Bill showing the sections of the Principal Ordinance which it is proposed to amend or replace for transmission to the Secretary of State.

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

Nairobi,  
9th March, 1937

*W. H. A. G.*  
ATTORNEY GENERAL

LEGAL REPORT

THE STAMP (AMENDMENT) BILL, 1937

Clause 2 is designed to make the necessary alteration to Kenya law by following closely the provisions of section 42 of the Finance Act, 1933 (of England). This Clause was approved by the Secretary of State in his despatch No. 441 of the 24th June, 1936.

300/10/1/36 Gen

Clauses 3 and 4 - The new Savings Bank Ordinance, 1936, which came into operation on the 1st of January, 1937, contains no provision for the exemption of instruments used in connection with the Savings Bank from stamp duty as was the case with the old Savings Bank Ordinance (Chapter 95) which was recently repealed. It is proposed to make provision for this exemption in the Stamp Ordinance.

I enclose herewith a Comparative Table together with a copy of the Bill showing the sections of the Principal Ordinance which it is proposed to amend or replace for transmission to the Secretary of State.

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

Nairobi,

9th March, 1937

*W. H. G. -*  
ATTORNEY GENERAL

THE STAMP (AMENDMENT) BILL, 1937

COMPARATIVE TABLE

Clause of the Bill.	Remarks.
1.	Short title.
2.	Cf. section 42 of the Finance Act, 1933 (of England)
3.	Cf. section 23 of Kenya Chapter 95 of the Revised Edition.
4.	New.

COPY  
OF  
THE STAMP (AMENDMENT) BILL, 193  
THE SECTIONS OF THE STAMP ORDINANCE  
(CHAPTER 57 OF THE REVISED EDITION  
WHICH IT IS PROPOSED TO AMEND OR  
REPEAL

Instruments  
not duly  
stamped in-  
admissible in  
evidence, etc.

Section 37 of the Principal Ordinance which it is proposed to amend :-

37. No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped :

Provided that :-

(a) Any such instrument not being an instrument chargeable with duty of ten cents or twenty cents only, or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of one pound, or, when ten times the amount of the proper duty or deficient portion thereof exceeds one pound, of a sum equal to ten times such duty or portion :

(b) Where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt and such receipt if stamped would be admissible in evidence against him, then such receipt shall be admitted in evidence against him on payment of a penalty of two shillings by the person tendering it :

(c) Where a contract or agreement of any kind is effected by correspondence consisting of two or more letters

#### A Bill to Amend the Stamp Ordinance.

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 Stamp (Amendment) Ordinance, 1937, and shall be read as one with the Stamp Ordinance (Chapter 57 of the Revised Edition), hereinafter referred to as the Principal Ordinance.

Short title.  
Cap. 57.

2. Section 37 of the Principal Ordinance is hereby amended by the addition of the following paragraph to the proviso thereto :-

Amendment of  
section 37  
of the  
Principal  
Ordinance

(f) Notwithstanding anything to the contrary here-  
in contained a bill of exchange (including a cheque) which  
is presented for acceptance or accepted, or payable outside  
the Colony shall not be invalid by reason only that it is  
not stamped in accordance with the provisions of the  
Ordinance, and any such bill of exchange which is un-  
stamped or not properly stamped may be received in  
evidence on payment of the proper duty and penalties  
prescribed under paragraph (a) of this section.

and any one of the letters bears the proper stamp, the contract or agreement shall be deemed to be duly stamped.

Nothing herein contained shall prevent the admission of any instrument as evidence in any proceeding in

any court which shall prevent the admission of any instrument in any court when such instrument has been executed by or on behalf of the Government, or where it bears the certificate of a revenue authority as provided by section thirty-four or any other provision of this Ordinance.

*Section 23 of the Savings Bank Ordinance (Chapter 95 of the R.E.) -*

Exemption from Stamp Duty.

23. No power, warrant or letter of attorney granted or to be granted by the Postmaster-General, nor any power, warrant or letter of attorney given by any depositor in the savings bank to any other person, authorising him to make any deposit of any sum of money in the said bank on behalf of the said depositor or to sign any document or instrument required by the rules or regulations of the said bank to be signed on making such deposit or to receive back any sum of money deposited in the said bank or the interest arising therefrom, nor any receipt nor any entry in any book of receipts for money deposited in the said bank, nor for any money received by any depositor, his executors or administrators, assigns, attorneys or agents from the funds thereof, nor any draft or order, nor any certificate or other instrument whatsoever required or authorised to be issued, signed, made, or produced in pursuance of any rule or regulation of the rules thereunder shall be subject to any stamp duty or duties whatsoever.

Notwithstanding anything in the Principal Ordinance contained, no power, warrant or letter of attorney granted or to be granted by the Postmaster-General, nor any power, warrant or letter of attorney given by any depositor in the savings bank to any other person, authorizing him to make any deposit of any sum of money in the savings bank on behalf of the said depositor or to sign any document or instrument required by the rules or regulations of the savings bank to be signed on making such deposit or to receive back any sum of money deposited in the savings bank, or the interest arising therefrom, nor any receipt nor any entry in any book of receipts for money deposited in the savings bank, nor for any money received by any depositor, his executors or administrators, assigns, attorneys or agents, from the funds thereof, nor any draft or order, nor any appointment of any agent, nor any certificate or other instrument or document whatsoever required or authorized to be given, issued, signed, made or produced in pursuance of the Savings Bank Ordinance, 1936, or of any Rules made thereunder, or of any Ordinance amending or replacing the same, shall be subject to, or be charged with any stamp duty or duties whatsoever.

Exemption of savings bank documents from stamp duty.

No. 29 of 1936

(2) The term "savings bank" in this section contained means the Savings Bank established under the provisions of the Savings Bank Ordinance, 1936, or any Ordinance amending or replacing the same. No. 29 of 1936

(3) This section shall be deemed to have come into operation on the first day of January, 1937.

Part II of Schedule to the Principal Ordinance which it amends.

SCHEDULE  
STAMP DUTY ON INSTRUMENTS

Description of Instrument	Proper Stamp-duty
45. Power of Attorney as defined by section 22 of the Principal Ordinance.	One shilling.
(b) When authorizing the sale or purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents.	Two shillings.
(c) When authorizing one person or more to act in a single transaction other than the case mentioned in clause (a).	Ten shillings.
(d) When authorizing not more than five persons to act jointly and severally in more than one transaction or generally.	One pound.
(e) When authorizing more than five but not more than ten persons to act jointly and severally in more than one transaction or generally.	The same duty as a Conveyance (No. 22) for the amount of the consideration.
(f) When given for valuable consideration and authorizing the attorney to sell any immovable property.	Two shillings for each person authorized.
(g) In any other case.	One shilling.
<b>EXEMPTIONS</b>	
(a) Power of Attorney exempted under section twenty-three of the East Africa Post Office Savings Bank Ordinance, 1909, or any Ordinance amending or in substitution for the same.	
(b) Authorization on a bank permitting one or more persons to conduct ordinary banking business on account of another or others, or a resolution whereby an incorporated company or other body corporate authorizes its directors or directors, servant or servants similarly to conduct such business.	
<i>Explanation.</i> —For the purposes of this article more persons than one when belonging to the same firm shall be deemed to be one person.	

4. The Schedule to the Principal Ordinance is hereby amended by deleting therefrom the following exemption to item 45 thereof:—

Amendment of Schedule to the Principal Ordinance.

"(a) Power of Attorney exempted under section twenty-three of the East Africa Post Office Savings Bank Ordinance, 1909, or any Ordinance amending or in substitution for the same."

PUBLIC RECORD OFFICE

END

TOTAL EXPOSURES →

PUBLIC RECORD OFFICE

C0533/478

ORDER NO.           ⇨ FN/E475  
CAMERA NO.         ⇨ 19  
OPERATOR.           ⇨ EM  
REDUCTION.         ⇨ 12  
EMULSION NO.       ⇨ 341081  
DATE.                ⇨ 31/7/72

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