

1934.

~~Kenya~~

C0533/442

No. 23036.

SUBJECT

CLOSED
UNTIL

~~1967~~

Companies Ordinance.

Previous

3026/33

Subsequent

1 Cor

Jan 31st

replies our spare copies
are generally not available
will be prepared I would like
offer will be in view in the
legislation
I would like to see a copy of this
to your letter

Mr. Flood tells me that Mr. Ferguson
has explained verbally that they prefer
not to spare copies of material
legislation - things
it may however be possible for him
and the differences in red ink the alterations
in question, or spare copies of the original
ordinances that are being submitted
for non-disallowance.

Perhaps Mr. Roberts' letter will
as letter be considered work while
suggesting this.

Yours: 31 Jan

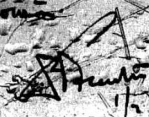
W. P. Roberts

31

I think it would be. And in any
case when a spare copy is not
furnished it would be helpful if
in the remarks column the words
"verbatim" or "formal amendment
only" are inserted when
appropriate.

W. P. Roberts

Pt. dft. comm



Draft for consideration submitted herewith.

After it is gone it would perhaps be well to register the draft, together with No. 1 - and the minutes thereon on this file, and No. 9 in 3026/33, under a different title from "The Company's Ordinance", which is not really appropriate. Possibly a more suitable title would be "Procedure to be followed upon submitting Ordinances for Non-Disallowance".

Land meeting
President meeting
reads this
unnecessary.

B.G. 1/1/44
T.P. 1/1/44

The new file might be better open with that on which the minutes was *Richard R. King*

T.W. Davis is in it

Noted as

2 To Kenya (draft) (1 enclosed)

FEB 1954

3 General Order 5

General Order 5, printed above file
Companies (Draft) Ordinance 1954

I 16 on 5057/33 T.T. to S/S
note to T.T. that while the
Ordinance No. 192 requires
companies incorporated outside
Kenya and registered in
with in 1954, the law
is become part of the system of companies

Ordinances
for incorporation
of companies in
Kenya

Ordinances
for incorporation
of companies in
Kenya

Mr. Gault's office

It is not the practice to require the filing of a balance sheet by a COS which if incorporated in G.B. would be regarded as a private COS"

T.T. replied that they would conform to this practice.

A copy of the S/S's ltr. was sent to Kenya, & they have gone one further & actually amended their recently enacted Ordinance, which must have been strictly unnecessary!

7 Sanction L.F. I sent a copy of the B/T L.F. for info. ref. 8 on 3026/33 ltr and 21 on 5057/33 T.T.

T.W. Davis: 8 Feb

no, I think it was strictly necessary. It will be seen that having regard to the definition of "private company" in 5.27 of the principal Order the expression "private company" as defined in 5.27 includes only companies formed & registered in Kenya so that the drafting of the amendment may prove defective. But I should not comment to Kenya. Perhaps the "contentious provisions" (Order 5.27)

[Signature]
9/2/54

A. prepared by Mr. Davis
 Then at T.I. Dept. See
 Steel 16 1/2
 1/2 at Tom

To Kenya 103 (3. Answered) G/3 12 FEB 1934
 To BIT (LTC and 23) 18/16 13/2/34

I don't think Tanganyika
 need be cited to follow suit.

Steel
 16.2

6. Governor Bygone 281 _____ 2nd June 34

Trans. 2 authenticated & 12 printed copies of the
 Ordinance of District Companies (H.M.S. Order No 20 of 1934).

Subject to legal advice
 ? Sanction of
 C. G. ... 27/6/34

Director
 27
 15/6
 Director
 28/6/34

Notes
 T.I. Dept
 1/2 see v. min
 Kelly (Kipat) 1/2
 note (4)
 Mr. ... to
 1-2

1 authenticated &
 12 printed copies of
 Ordinance

ANCA 47/34 To Kenya, 514 (6 Answered) G/329

By ...

8. Board of Trade _____ 31st August 34

Trans. a copy of a letter from ...
 enclosing a copy of a letter from Registrar of Companies to their
 Embasa agent regarding the publication of Director's names
 & inquiring whether it is necessary to carry out the requirements
 set forth therein.

I attach a copy of the English Act & I
 have flagged the relevant sections in the
 Kenya Ordinances on 3026/33, Pt. II, below.

The fact that the Company is exempt
 from the provisions of § 145 of the
 English Act - by virtue of § 145 2 (a) -
 has no bearing on the question of
 the request of the Registrar of Companies
 in Kenya.

In any event this letter is tantamount
 to a request for free legal advice.

? Subject to legal advice reply
 that Kenya law is administered
 by the Courts in Kenya and that
 if they maintain that there are
 special circumstances exist where
 would justify exemption application
 from compliance with the provisions

Noted

provision of § 146 of the Kenya
Ordinance they should make
application for exemption to the
Supreme Court in Kenya.

J. M. ...
5/1/34

Send them (for present to return) 2
copy of the Kenya Companies Ord. 33,
writing their attention to § 146

Copy comp. by LF info.

J. M. ...

5/9/34

To Messrs Ogden & Madelays Ltd 12/9/34
(cont. in 8 and 9) (cont. in 10) Conto.

38/10

Recd
min. 9/19

10 To Kenya, 763 (w/los 849) A/1 15 SEP 1934
to answer

90 reply to No 9 has yet been received

Wait 1 month

noted *C. J. ...*
14/1/34

Keenied vide minute above.

W.D. ...
10.2.34

W.D. ...
10.1.35

Ask them to return the Old Copy
Library has not already had it back?

J. M. ...
16/1/34

It was returned to Library
from Registry as a loose copy of
an order. We could not possibly
identify it. It has not been
returned to Library under cover
from the people to whom it was
sent.

J. M. ...
17/1/35

11 To Ogden & Madelays 3pm. Conto. 21/1/35

DM

10. Ogden & Madelays Ltd 24 Jan 35
Abo. No 11 & return copy of Ordinance

DESTROYED UNDER STATUTE

Books returned to Library.

? hit by.

R. ...

25.1.35

W.D. ...
at end
26.1.35

DM

12 To Sec. Comp. E.A. Govts. - 10.2.36
on 40136/36 Legon

DM

Draft on L40136/36 (hga)

40136/36.

DOWNING STREET,

10th February, 1936.

Sir,

I am directed by Mr. Secretary Thomas to call attention to the recent Companies Ordinance of Uganda (No. 22 of 1935) and to point out that there are now some minor divergences between the companies' legislation in force in the three territories of Kenya, Uganda and Tanganyika.

2. In legislative measures dealing with such things as commercial companies the greatest possible uniformity is desirable, and it is suggested that the question should be brought before the next Law Officers' Conference with the aim of amending the Ordinances so as to provide not generally similar but absolutely identical legislation in the three territories. It may be that such an aim is impossible of attainment owing to local divergences, but the Secretary of State is of the opinion that the question should be examined and the differences, which are not of great importance, reconciled, if possible.

I am, etc.

(sgd) J. E. W. FLOD.

THE SECRETARY,

CONFERENCE OF EAST AFRICAN GOVERNORS.

C. O.

Mrs. Powell 187.

Mrs. Penning Ky 11/35

Mr.

Mr. Parkinson.

Sir G. Tomlinson

Sir C. Bottomley.

Sir J. Shuckburgh.

Permi. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Announced by North
Q. D.
21

The U. S. of S. for the

Colo. presents his compliments

to The Secretary,

Messrs Ogden and

Madelays, Limited,

and is directed to

state that the

copy of the Kenya

Companies Ordinance,

1933, which was

enclosed in the

Colonial Office letter
of

FURTHER ACTION.

of the 12th of Sept., 1934, (9)
does not appear to have
been returned.

Sir John Maffey would
be glad if the document
could be returned to
the Colonial Office if
this has not already
been done.

21 Jan. 1935.

23036/34. *PD*

C. O.

Miss Powell *of*
Mr. King *1919 of*
Mr.

12 Sept. 1934

Mr. Parkinson
Sir G. Tomlinson
Sir C. Bottomley
Sir J. Shuckburgh
Permt. U.S. of S.
Parly. U.S. of S.
Secretary of State.

C. O.
R 10 SEP.
D 11 1934

Sir,

With ref. to your
letter of the 23rd
of Aug. addressed
to the Registrar,
Companies' Registra-
tion Office, I
am etc. to
transmit to you,
for perusal and return,
a copy of the
Kenya Companies
Ordinance

(in 8)

DRAFT

The Secretary,
Messrs. Ogden and
Madelays, Ltd.

Kenya Companies Order 1933

FURTHER ACTION.

2/14/35 to Kenya (10)

Ordinance, 1933, and to
invite your attention
to section 146 thereof.

I am, etc.

(Signed) L. B. FREESTON

Any further communication should be addressed to—

THE COMPTROLLER,
at the address given opposite.

The following number should be quoted—

8530/34.

Telegraphic Address
COMPANIES, PARL. LONDON

Telephone No. Whitehall 5140.

no dupl.



BOARD OF TRADE
COMPANIES DEPARTMENT,
GREAT GEORGE STREET,
LONDON, S.W.1.

31st August, 1934.

Sir,

I am directed by the Board of Trade to transmit for the information of the Secretary of State, the accompanying copy of a letter and its enclosure from Ogdens & Madeleys Limited, regarding the requirements of the Kenya Companies Ordinance 1933. As Sir Philip Cunliffe-Lister is aware Section 146(2)(b) of the Ordinance 1933, provides that "every company incorporated outside the Colony which has established a place of business within the Colony" shall comply with the requirements of the section.

The section further provides that, "if special circumstances exist which render it in the opinion of a Judge of the Supreme Court expedient that such an exemption should be granted, a Judge of the Supreme Court

The Under Secretary of State,
Colonial Office,
S.W.1.

Handwritten notes:

Handwritten (9)
copy to Kenya (10)

may grant, subject to such conditions as he may specify, exception from the obligations of this sub-section".

The Secretary of Ogdens & Madeleys Limited has been informed that his letter has been forwarded to you as the subject matter concerns the Colonial Office.

I have the honour to be,

Sir,

Your obedient Servant,

John G. H. ...

COPY.

10
OGDENS & MADELEYS LIMITED,
10, Minshull Street,
Manchester, 1.

23rd August, 1934.

The Registrar,
Companies' Registration Office,
Somerset House,
LONDON, W.C.2.

Dear Sir,

We are enclosing herewith copy of a letter which has been forwarded to us by our Mombasa (Kenya) branch, which they have received from the Registrar of Companies, Nairobi.

copy attached
We would draw your attention to the fact that this Company was registered in 1906 and therefore the requirements contained in the Company Act 1929, sec. 145, (e.g. as to publication of Directors' Names) do not apply.

We would much appreciate your opinion as to whether it is necessary to carry out the requirements as set forth in the copy letter enclosed.

Thanking you in anticipation of your esteemed reply.

Yours faithfully,

For and on behalf of
OGDENS & MADELEYS LIMITED.

Secretary.

COPY.

GDENS & MADELEYS LIMITED,
MOMBASA.

21st March, 1934.

Dear Sirs,

"I have to draw your attention to section 146 of the
"Companies Ordinance under which every Company to which
"this section applies shall, in all trade catalogues,
"trade circulars, showcards and business letters on or
"in which the Company's name appears and which are issued
"or sent by the Company to any person in any part of
"His Majesty's Dominions, or in any country under the
"protection of His Majesty or in respect of which
"His Majesty has accepted a mandate, state in legible
"Roman letters with respect to every director being a
"corporation, the corporate name, and with respect to
"every director being an individual, the following
"particulars:-

- (a) his present Christian name and present Surname,
- (b) any former Christian names and Surnames,
- (c) his nationality, if not British,
- (d) his nationality of origin, if his nationality
is not the nationality of origin,

"and I shall be obliged if you will comply with the
"provisions of this section at once.

I am,

Gentlemen,

Your obedient Servant,

(sgd.) REGISTRAR OF COMPANIES".



KENYA

No. 291

GOVERNMENT HOUSE
NAIROBI
KENYA

June, 1934.

Sir,

I have the honour to transmit herewith two authenticated and twelve printed copies of "An Ordinance to Amend the Companies Ordinance, 1933," No. XX of 1934, which passed its third reading in Legislative Council on the 27th April, 1934, and to which I assented in His Majesty's name on the 29th May, 1934.

2. Copies of the Legal Report by the Attorney General, together with a Comparative Table, are also enclosed.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Brigadier-General,
GOVERNOR.

THE RIGHT HONOURABLE

MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W. 1

(unrecorded)
110
110

LEGAL REPORT

THE COMPANIES (AMENDMENT) BILL, 1934.

This Bill is designed to amend the Companies Ordinance, 1933, in two respects -

(a) by repealing sub-section (5) of section 79 of the Ordinance which deals with charges comprising property situated outside the Colony. The provisions of sub-sections (3) and (4) as to these charges make the retention of this sub-section unnecessary;

(b) by altering the requirements of section 168 as to the printing of the names of directors of companies on the companies' stationery, etc. Power is given to the Registrar to grant exemption from the provisions of the section, and to a Judge in chambers to hear appeals from the Registrar's decision on such matters.

The amendment referred to in (b) supra has been made at the request of the Chambers of Commerce. It was represented by them that the costs involved in making an application to a Judge of the Supreme Court were heavy, and that the Tanganyika Ordinance provides for such application to be made to the Registrar of Companies. In the circular annexed it has been considered desirable to amend the Principal Ordinance to bring it into line with the Tanganyika law.

A Comparative Table is attached.

In my opinion, His Excellency the Governor may properly assent to this Bill on the understanding and subject of

See Section 4 of Tanganyika Ordinance No. 16 of 1931

COMPARATIVE TABLE

THE COMPANIES (AMENDMENT) BILL, 1934.

Clause.	Remarks.
1.	Short title.
2.	New.
3.	Section 146(1) of the Companies Ordinance, 1933, adapted:



Colony and Protectorate of Kenya.

IN THE TWENTY-FIFTH YEAR OF THE REIGN OF

HIS MAJESTY KING GEORGE V.

JOSEPH ALOYSIUS BYRNE, G.C.M.G., K.B.E., C.B.,
Governor.

Assented to in His Majesty's
name this 27th day of *May*,
1934.

BYRNE.
Governor.

AN ORDINANCE TO AMEND THE COMPANIES
ORDINANCE, 1933

ORDINANCE No. XX of 1934

An Ordinance to Amend the Companies Ordinance, 1933.

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 Companies (Amendment) Ordinance, 1934, and shall be read as one with the Companies Ordinance, 1933, hereinafter referred to as the Principal Ordinance.

2. Section 79 of the Principal Ordinance is hereby amended by repealing sub-section (5) thereof

3. Section 146 of the Principal Ordinance is hereby amended by repealing sub-section (1) thereof and by substituting therefor the following:—

146. (1) Every company to which this section applies shall, in all trade catalogues, trade circulars, show-cards and business letters on or in which the company's name appears and which are issued or sent by the company to any person in any part of His Majesty's dominions, or in any country under the protection of His Majesty or in respect of which His Majesty has accepted a mandate, state in legible roman letters with respect to every director being a corporation, the corporate name, and with respect to every director being an individual, the following particulars:—

- (a) his present Christian names or the initials thereof, and present surname;
- (b) any former Christian names and surnames;
- (c) his nationality, if not British;
- (d) his nationality of origin if his nationality is not the nationality of origin;

Section 79 of the Principal Ordinance, Particulars with respect to directors in trade catalogues, circulars, etc.

No. XX

2

Companies

1934

Provided that if special circumstances exist, which render it, in the opinion of the registrar, expedient that such an exemption should be granted, the registrar may grant, subject to such conditions as he may specify, exemption from the obligations imposed by this subsection.

Any person aggrieved by a refusal to grant an exemption under this sub-section may appeal to a judge of the Supreme Court sitting in chambers.

Passed in the Legislative Council the twenty-seventh day of April, in the year of Our Lord one thousand nine hundred and thirty-four.

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.

J. F. G. TROUGHTON

Acting Clerk of the Legislative Council.

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

KENYA.
No. 8



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

5th January, 1934.

Sir,

With reference to your despatch

No. 714 of the 15th September on the subject of the filing of annual balance sheets by Private Companies, I have the honour to transmit herewith two authenticated and twelve printed copies of "An Ordinance to Amend the Companies Ordinance", No. LXIV of 1933, which passed its third reading in Legislative Council on the 21st December, 1933, and to which I assented to in His Majesty's name on the 30th December, 1933.

2. Copies of the Legal Report by the Attorney General, together with a Comparative Table, are also enclosed.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Brigadier-General,

GOVERNOR.

THE RIGHT HONOURABLE

MAJOR SIR PHILIP SUNLIFFE-LISTER, P.C., G.B.E., M.C., F.R.S.

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W. 1

No 17. 505/33
ST

unwind (H)

long name & list

LEGAL REPORT

THE COMPANIES (AMENDMENT) BILL, 1933.

Under section 324 of the Principal Ordinance every company, including a private company, is required to submit annually to the Registrar a balance sheet. The law is the same in the United Kingdom, but in actual practice the authorities there do not require private companies incorporated outside Great Britain to comply with the provisions of the law. As it is not intended that private companies incorporated outside the Colony should annually submit a balance sheet to the Registrar it is considered desirable to amend the local law, and this Bill effects the necessary amendment.

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

Nairobi,

21st December, 1933.

W. H. ...
ACTING ATTORNEY GENERAL

COMPARATIVE TABLE

THE COMPANIES (AMENDMENT) BILL, 1933.

Clause.	Remarks.
1.	Short title.
2.	New.

No. LXIV.

1933



Colony and Protectorate of Kenya.

IN THE TWENTY-FOURTH YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE V.
JOSEPH ALOYSIUS BYRNE, K.C.M.G., K.B.E., C.B.,
Governor.

Assented to in His Majesty's
name this 30th day of December,
1933.

J. BYRNE

Governor.

AN ORDINANCE TO AMEND THE
COMPANIES ORDINANCE

ORDINANCE No. LXIV of 1933

An Ordinance to Amend the Companies 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 Companies (Amendment) Ordinance, 1933", and shall be read as one with the Companies Ordinance, 1933, hereinafter referred to as "the Principal Ordinance".

Short title.
No. 28 of 1933.

2. Section 324 (1) of the Principal Ordinance is hereby amended by the insertion after the word "applies" which occurs in the second line thereof of the words "except a private company".

Amendment of section 324 of the Principal Ordinance.

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

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

J. F. G. TROUGHTON

Acting Clerk of the Legislative Council.

23036/34 Kenya

C.O.

- Mr. Davies *2/2*
- Mr. *Roberts-Wray*
- Mr. *Fredman 3*
- Mr. Parkinson
- Mr. Tomlinson
- Sir C. Bottomley
- Sir J. Shuckburgh
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

-3FEP
5

February, 1934

DRAFT. *msm*

KENYA
Confidential (3)
Governor

Sir,

I have etc. to acknowledge the receipt of your confidential despatch No.1 of the 3rd January, in which you informed me that, in submitting Ordinances for the signification of His Majesty's pleasure, it is frequently impossible to follow the procedure set out in Lord Passfield's circular despatch of the 6th of November, 1930, owing to the fact that spare copies of Imperial ^{*enactments*} ~~Acts~~ *and as precedent* are generally not available in Kenya.

FURTHER ACTION.

2. ~~I should be glad if~~ In such

It would serve the same purpose of cases/spare copies of the Ordinances

actually being submitted for non-disallowance ^{were} ~~could be~~ forwarded, with ^{several} the divergences from the corresponding sections of the model Imperial Legislation marked upon them in red

~~is.~~ If, however, it proved ^{3.} ~~it would~~ ^{be} ~~to~~ ^{be} ~~observing~~ ⁱⁿ ~~impossible~~ on any occasion ^{to} ~~observing~~ ⁱⁿ

this practice, it would be helpful

to my ~~Legal~~ ^X ~~advisers~~ if, in the

x not any? *[Signature]*

column of the comparative table

reserved for "Remarks", the words

"verbatim" or "formal amendment only"

^{would be} ~~were~~ inserted where appropriate.

I have etc.

(Signed) PLYMOUTH

(for the Secretary of State)



KENYA.

No. 1

GOVERNMENT HOUSE

NAIROBI.

KENYA

CONFIDENTIAL.

RECEIVED
27 JAN 1934
C. O. BEGY

3²⁵ January, 1934.

Sir,

I have the honour to refer to paragraph 2 of your despatch, Confidential (2), of the 29th November regarding Ordinance No. XXVIII of 1933 entitled "An Ordinance to Regulate Trading Companies and other Associations".

*No 9
3026/33
C.O. Wood*

2. I have caused the question of the inadequacy of the comparative table enclosed in Mr. Moore's Confidential despatch No. 132 of the 20th September, and of the absence of spare copies of the legislation upon which the Ordinance is based, marked in red ink to show deviations from the original, to be referred to the Attorney General.

*No 4
3026/33*

The Attorney General observes that in this case the comparative table would appear to be sufficiently comprehensive, but regrets that generally spare copies of Acts or Ordinances enacted in other Colonies are not, as in this instance, available for the purpose indicated in Lord Passfield's Circular despatch of the 6th November, 1930.

General

3. Attention has been specially directed to the instructions conveyed in the correspondence referred to in your despatch and, in the event

THE RIGHT HONOURABLE

MAJOR SIR PHILIP CUNLIFFE-LISTER, P.C., G.B.E., M.C., M.P.,

SECRETARY OF STATE FOR THE COLONIES,

DOWNING STREET,

LONDON, S.W. 1

2.

event of spare copies of relevant legislation being available, marked copies will in future accompany draft legislation or Ordinances transmitted for approval or allowance. In the alternative an intimation to the effect that such spare copies are not available will be embodied in the Legal Report.

I have the honour to be,

Sir,

Your most obedient, humble servant,

Brigadier-General,

POVERTOR.