

DESPATCH

EAST AFR. PROT.

C. O.
17425Recd
16 MAY 07N^o 17425

(Subject)

No. 139

907

April 13

Previous Paper:

40/59

Protection of Actual Farming

To support order with view by Coms. amongst and requests approved by Ad.

(Minutes)

Said copy of the despatch sent to the Treas^r asking them to sanction the proposal to remit the export duty on actual feathers for 5 years - adding that the duty is 10% - & when the Com^s has gone submitted the papers

A. J. R.

18/5

Subsequent Paper

19676

17425

449

COMMUNICATIONS SECTION 16 MAY 07

Nairobi,

April 15th 1907

EAST AFRICAN PROTECTORATE

No. 439

(Envy, 2)

My Lord,

I have the honour to transmit herewith for Your Lordship's approval a draft Ordinance for the protection of the Ostrich Farming industry together with a memorandum by the Crown Advocate dealing serially with the principal points of importance.

Ordinance
Crown Advocate
April 15th

2. As Your Lordship is aware, there is good reason to hope that the domestication and breeding of Ostriches in this Protectorate may prove profitable and yield satisfactory results, but the trade in feathers requires to be carefully regulated and guarded from thieves and illicit dealers. The Ordinance submitted herewith has been prepared with that object and will, I trust, meet the purpose for which it is intended.

H.H. Principal Secretary of State

for the Colonies,

Downing Street,

LONDON, S.W.

3. The provision made in clause 21 for the remission of export duty for three years is regarded as necessary to encourage the farmer at a time when his outlay is heaviest and his profits smallest.

It is important that arrangements should be promulgated before June when the breeding season commences, I have the honour to request that I may be informed by telegraph whether the provisions meet with Your Lordship's approval.

I have the honour to be,
With the highest respect,

My Lord,

Your Lordship's most obedient,

humble servant,

Acting Comptroller.

In Despatch No. 29 of 13th April, 1907.

C. O.
17425AN ORDINANCE
16 MAY 07An Ordinance enacted by His Majesty's
Commissioner for the East Africa Protectorate

Nairobi,

dated this day of 1907.

H.M. Commissioner.

No. of 1907.

O S T R I C H E S .

It is hereby enacted as follows:-

short title.

1. This Ordinance may be cited as the Ostrich Ordinance 1907.

Interpretation.

2. In the Interpretation of this Ordinance, unless repugnant to the context the following words and expressions shall have the meaning following:-

A "domesticated ostrich" shall mean an ostrich which has been bred in captivity or which has been captured when young and kept in captivity for a period of not less than six months.

A "young ostrich" shall mean an ostrich which shall not have reached the age of two months.

An "ostrich farmer" shall mean a person who has been registered as such under the provisions of this Ordinance.

prohibition
against taking
trading in
the eggs of wild
ostriches.

3. Save as hereinafter provided no person

shall export from the Protectorate or shall within the Protectorate take, receive, purchase, sell, or offer or expose for sale the egg of any wild ostrich.

prohibition against
killing etc. wild
ostriches.

Save as hereinafter provided no person shall hunt, kill, capture, sell, purchase, transfer, accept or receive any wild ostrich.

prohibition against
trading in ostrich
feathers.

5. Save as hereinafter provided no person shall within the Protectorate sell, transfer, purchase, accept or receive, or export from the Protectorate the feathers of any ostrich.

the registration of
ostrich farmers.

6.

Any person of European birth or descent may on application to the Sub-Commissioner of the Province in which he resides, and on payment of a fee of Rs. 5/- be registered as an ostrich farmer.

only ostrich farmers
may trade in domesti-
cated ostriches and
their eggs.

7.

No person other than an ostrich farmer shall sell, transfer, purchase or receive any domesticated ostrich or the egg of any domesticated ostrich.

ostrich farmers may
sell to feather
merchant and may
export the feathers
of ostriches kept by
him.

8. An ostrich farmer may sell to a feather merchant licensed under this Ordinance or may export from the Protectorate ostrich feathers obtained from domesticated ostriches kept by him.

ostrich Hunter's
licences and
feather Merchant's
licences may be
granted.

9.

The following licences may be granted by the Commissioner or by such person or persons as shall be authorized by the Commissioner, that is to say :-

(1) An Ostrich Hunter's licence.

(2) A Feather Merchant's licence.

fees to be paid for
licences.

The following fees shall be payable for licences, that is to say : for an Ostrich

Hunter's

made by such ostrich farmer, cause the name of some other person of European birth or descent engaged with or employed by such ostrich farmer in connection with his ostrich farm to be substituted for the name of the person so ceasing to be engaged or employed.

(3) An Ostrich Hunter's Licence shall not authorize the sale of young wild ostriches or the eggs of wild ostriches.

Native servants
may assist
Ostrich Hunters.

12. Natives in the employment of the holder of an Ostrich Hunter's Licence may when in the company of or under the direct supervision of such licence holder without licence assist such licence holder in hunting young ostriches, or in collecting ostrich eggs; save as aforesaid the holder of a licence shall not accept or receive from any native any wild ostrich or the egg of a wild ostrich.

As Ostrich Hunter's
licence does not
authorize the holder
to hunt, etc. on
private land or in a
game reserve.

13. No licence granted under this Ordinance shall entitle the holder to hunt or enter upon any private property without the consent of the owner of such property or to hunt wild ostriches or to take any egg of any wild ostrich within a Game Reserve.

Feather Merchant's
licence, to whom
it may be granted.

14. (1) A Feather Merchant's Licence may be granted to such responsible persons or firms as may be approved by the Commissioner.

(2) Such licence shall authorize the holder to purchase from Ostrich Farmers and to sell within the Protectorate and to export from the Protectorate the feathers of domesticated ostriches.

(3) The feathers of any domesticated ostrich which shall be purchased or received from the holder of a Feather Merchant's Licence shall be

deemed to be lawfully purchased and may be lawfully possessed in or exported from the Protectorate .

15. It shall be the duty of the Ostrich Farmer to whom an Ostrich Hunter's Licence shall have been granted to make or cause to be made to the Collector of the district within which his farm is situate at the end of twelfth month from the date in which his licence shall have been issued a return of the following particulars, namely :-

(1) The number of young wild ostriches captured during the currency of his licence, the date or dates when they were captured and the name or names of the persons by whom they were captured.

(2) The number of eggs taken during the currency of his licence the date or dates when they were taken and the person or persons by whom they were taken.

Feather Merchant
keep a register.

16. (1) It shall be the duty of the holder of a Feather Merchant's licence to keep or cause to be kept a register in which shall be recorded the following particulars regarding all transactions under his licence, namely :-

1. The date on which any feathers are bought or received.

2. The person from whom the feathers are bought or received.

3. The weight of feathers bought or received.

4. The date when any feathers are sold or exported.

5. The weight of feathers sold or exported.

6. The persons to whom any feathers are sold.

(2) The holder of Feather Merchant's Licence

shall

shall produce such register for inspection whenever required to do so by a Collector or a Police Officer.

(3) Any person who shall fail to keep the register required by this Section, or to produce his register when required to do so by a Collector or Police Officer shall be guilty of an offence and shall be liable to a fine of Rs.1,000.

Feather Merchant
make a return.

17. It shall be the duty of the holder of a Feather Merchant's Licence to make or cause to be made to the Collector of the district within which his place of business is situate at the end of the sixth and twelfth months from the date on which his licence shall have been issued a return of the particulars required by section 16 (1)

guilty for failure
make return required
of making false return.

18. If any person who shall fail to make or cause to be made any return by this Ordinance required or shall knowingly or wilfully make or cause to be made any return by this Ordinance required to be made in which there shall be any misrepresentation or from which there shall be any omission in respect of any of the particulars by this Ordinance required to be contained therein whereby such return shall be misleading, he shall be guilty of an offence and shall be liable to a fine of Rs.1000.

not required
exporting ostriches
their eggs.

19. No person shall export from the Protectorate a live ostrich or an unblown ostrich egg unless he shall have first obtained a licence on that behalf from the Commissioner.

There

licence fee .

There shall be paid for a licence to export a live ostrich Rs.1,500, and for a licence to export an unblown egg Rs.75/. Provided that the Commissioner may remit the whole or a part of the licence fee in any case when he is satisfied that an ostrich is being exported for scientific purposes .

certificate to be produced by exporter of a blown ostrich egg .

No person shall export from the Protectorate a blown ostrich egg unless he shall produce a certificate signed by an Ostrich Farmer certifying that such egg has been obtained from the person signing the certificate, or unless he shall satisfy the Custom Officer that the egg was lawfully possessed by him before the publication of this Ordinance .

Suspension of export duty on ostrich feathers . 21.

No export duty shall be payable upon the feathers of any domesticated ostrich exported from the Protectorate within three years from the date of the publication of this Ordinance.

Ordinance not to apply to ostrich eggs or feathers introduced for export or feathers introduced for sale or the feathers of wild ostriches lawfully possessed at the date of Ordinance . 22.

This Ordinance shall not apply to any ostrich or to the egg of any ostrich introduced into the Protectorate for export or to the feathers of any ostrich introduced into the Protectorate for sale or export and so declared at the time of introduction, or to the feathers of any wild ostrich lawfully possessed by any person at the date of the publication of this Ordinance .

Commissioner
may prohibit any
destructive method
of capturing ostriches.

23.

When it appears to the Commissioner that any method used for capturing ostriches is unduly destructive, he may by proclamation prohibit such method or prescribe the conditions under which such method may be used, and if any person uses any method so prohibited or uses any method otherwise than according to the conditions so prescribed he shall be liable to the same penalties as for a breach of this ordinance.

power to search
and seize etc.

24.

When any officer in the service of the East Africa Protectorate thinks it expedient for the purpose of verifying the register of a licence holder or suspects that any person has been guilty of a breach of any of the provisions of this Ordinance or of the conditions of his licence he may inspect and search or authorize any subordinate officer to inspect and search, any baggage, packages, waggons, tents, buildings, caravan, ship or boat, belonging to or under the control of such person or his agent, and if the officer finds any ostrich, ostrich feather, or ostrich egg appearing to have been taken or to be possessed, or any live ostrich appearing to have been captured or to be possessed in contravention of this Ordinance, he shall seize and take the same before a Magistrate to be dealt with according to law.

Penalty for breach
provisions of this
Ordinance.

25.

Any person who commits any breach of this Ordinance or of the conditions of his licence shall, save where other provision is made in the Ordinance, on conviction be liable to a fine, which may extend to Rs.1000

and

and when the offence relates to more ostriches than one to a fine in respect of each ostrich which may extend to Rs. 500 and in either case to imprisonment which may extend to 2 months, with or without fine.

In all cases of conviction, any feather or egg of any ostrich found in possession of the offender or his agent, and all live ostriches captured in contravention of this ordinance shall be liable to a forfeiture.

If the person convicted is the holder of a licence, his licence may be revoked.

26. (1) When a person is seen or found committing an offence, or is reasonably suspected of being engaged in committing an offence against this ordinance a Police officer may, without warrant, stop and detain him; and if his name and address are not known to the police officer and such person fails to give them to the satisfaction of the Police officer, the Police officer may, without warrant, apprehend him.

(2) A person apprehended under this section shall be taken with all practicable speed before a Magistrate and shall not be detained without a warrant longer than is necessary for that purpose.

27. The Commissioner may by rule prescribe the form of any licence, register or return to be issued, kept or made under this Ordinance.

28. The provisions of the East Africa Game Ordinance 1906 relating to ostriches, ostrich eggs and ostrich feathers and in so far as

they

ers to Police
Arrest without
warrant.

ad one r may
the forms.

ala.

they relate thereto are hereby repealed. Provided that any person who shall hunt kill or capture an ostrich in a Game Reserve shall be guilty of an offence against the aforesaid Ordinance: and Provided further that nothing in this Ordinance shall be deemed to prohibit the Commissioner from granting a special licence to any person to hunt or capture an ostrich for scientific or administrative reasons.

THE OSTRICH ORDINANCE, 1913.

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This Ordinance has been drafted after consultation with persons interested in ostrich farming, and who have had experience in that industry in South Africa and elsewhere and the provisions of the Ordinance have been generally approved as being suitable to the conditions of this Protectorate and as being such as to give proper protection to ostrich farmers and to encourage the industry in this Country.

The Ordinance provides for the protection of wild ostriches, the registration of ostrich farmers, the issuing of ostrich hunter's licences to bona fide ostrich farmers authorizing them to capture ostrich chicks and to take the eggs of wild ostriches, and the licensing of dealers in ostrich feathers.

In Section 2 of the Ordinance a "young ostrich" that is an ostrich which can be captured under a Hunter's licence is defined as being a bird under 2 months of age. It is generally admitted by experienced ostrich farmers that birds over 2 months of age should be hunted.

These Sections prohibit any person other than those authorized under this Ordinance, from hunting ostriches, taking the eggs of wild ostriches, or dealing in ostriches, ostrich feathers or ostrich eggs.

This Section provides for the registration of Ostrich Farmers. This Registration is considered advisable in order to put a check on illicit dealing in ostriches and ostrich feathers, but as every encouragement should be given to landholders to keep ostriches even if only a

fee in number the fee for registration provided by this section shall not be levied.

Section 7.8 of the Ordinance empowers the holder to sell the feathers of ostriches and other birds kept in the Protectorate.

This Section authorizes the Commissioner to grant (1) Ostrich Hunt Licences (2) Feather Merchant's Licences. The first licence authorise the holder to take the eggs of wild ostriches and to capture chicks. The fee (15/-) is small having regard to the fact that the mortality amongst young birds is very great and that the industry in its youth it is submitted that it would be inadvisable to fix a higher licence fee presently.

The holder of a licence authorizes the holder to purchase and sell the feathers of ostriches. The fee for this licence has been proposed as small that in the present conditions of the Protectorate an almost prohibitive barrier on the strong recommendation of persons who have had experience in South Africa, and who state that ostrich farmers in the South have suffered much owing to certain feather buyers who

travelling in the country buying feathers from natives and selling them in the Protectorate at a price which is not sufficient to cover the cost of the feathers.

It is submitted that any person who cooperates in this way will do better by selling in London or South Africa where the markets are sound and well regulated. As the majority of the merchants in the Protectorate are Indians and of whom it must be admitted are not particularly scrupulous in their dealings I would submit that in the interest of the ostrich farmers the fee for this licence should be fixed at a higher rate.

The Ordinance authorizes the issuing of a Hunter's licence

licence only to bona fide farmers either for himself
 or for an European engaged with or employed by him
 in connection with his farms. Birds captured and eggs
 taken may not be sold. Thus the sale which would be
 caused by an irresponsible hunter going about catching
 young birds and taking eggs on the chance of being
 able to sell them to a farmer is prevented.

There appears to be some difference of opinion as
 to whether an incubator is necessary on a properly
 conducted ostrich farm, and I have therefore left it
 to the discretion of the licensing officer to say
 whether or not any particular farmer is qualified to
 hold a Hunter's licence.

Under this section Native servants are permitted
 to assist licence holders in hunting.

These sections deal with the records and returns
 to be kept on land by licence holders. It may be made
 by a Hunter will be useful in showing the number of birds
 and eggs taken. Those to be kept will be by a licence
 merchant are necessary in order to put a check on illicit
 dealings.

The fees to be paid for a licence and for the
 administration are very small and will be a great
 benefit to the industry.

Section 21 provides for the issue of licences
 for a period of three years, in order that
 every licence holder will be given to an industry in which
 the losses are not making its early stages.

A. D. Smith

11. 4. 07

Board of S.A.P.
17425

C.D.
R. 20
D. 21

21 May 1907
Indexed.

DRAFT

Secretary to the
Treasury

Amended

Sir,

I am directed by the
Earl of Elgin to transmit
to you, to be laid before
the Lords Comrs. of the
Treasury, the accompanying
copy of a despatch, ^{with enclosures,} which
has been received from
the Acting Comr. of the
S.A.P. on the subject of an
Ordinance which it is
proposed to introduce
for the purpose of
protecting the ostrich
farming industry in the
Protectorate.

MINUTE

- Mr. Bouverie 18/5
- Mr. ...
- Mr. Just
- Mr. Astor
- Mr. Carr
- Mr. Lucas
- Sir F. Hopwood
- Mr. Churchill
- The Earl of Elgin

X

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17425

The Earl of Elgin will be
glad if their Lordships
will sign the resolution
the proposal to remit from

circulate as soon as this

three years the report
has on actual feathers,
the rate of which is
10 per cent ad valorem

2

1866