

38198

CO 533/496
KENYA

38198

Local Government (Rating) Legislation.

Previous

1937

Subsequent

1938

297 30/5/38

309 2.6

Mr Campbell 3.6

de Dale 6.6

303 7/6

299 10/6

297 11/6

Library (Legal) 13/6

R. 297/98

Has 2 auth & 12 spare copies of Order 12 of 1938
with legal report. (Spare to Library)

Section 29 of the Local Government
(Rating) Ordinance permits the
application of its provisions of
the ordinance to townships.

The effect of the present amendment,
when that is done, is to make
the "local authority" (which was
formerly the Governor) the D.C.
acting with the advice of the
Township Committee.

The "impracticability" to which
the A.G. refers in the 2nd para of
the Object & Reasons presumably
arises in such sections of the
main ordinance as e.g. section 17.

I do not see any objection to
the amendment.

? Subject to legal obsers - sanction
S.3

Pranabdas
2.6.

No obsers

h. p.

6.6

Jagan

McCampbell

36 House

Notes
E.G. Smith,
London,
1963.

Los Angeles 317. 1 Annual. 9/3.

9 JUN 1938

7

to note

AIR MAIL

KENYA

No. 290



GOVERNMENT HOUSE
NAIROBI
KENYA

RECEIVED 21 May 1938.

Sir,

I have the honour to forward two authenticated and twelve printed copies of Ordinance No. XII of 1938 entitled "An Ordinance to Amend the Local Government (Rating) Ordinance, 1928", together with a Legal Report thereon prepared by the Acting Attorney General.

Annexed ②

This Ordinance passed its third reading in the Legislative Council on the 3rd May, 1938, and His Excellency the Governor assented to it in His Majesty's name on the 14th May, 1938.

I have the honour to be,
Sir,
Your most obedient,
humble servant,

W. Hanford
GOVERNOR'S DEPUTY.

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



Colony and Protectorate of Kenya

IN THE SECOND 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 4 day of
1938.

R. BROOKE

Governor

AN ORDINANCE TO AMEND THE LOCAL
GOVERNMENT (RATING) ORDINANCE, 1928

ORDINANCE No. XII of 1938

An Ordinance to Amend the Local Government (Rating) Ordinance, 1928

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 Local Government (Rating) (Amendment) Ordinance, 1938, and shall be read as one with the Local Government (Rating) Ordinance, 1928, hereinafter referred to as the Principal Ordinance.

Short title.

No. 20 of 1928.

2. Section 29 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

Repeal and replacement of section 29 of the Principal Ordinance.

“29. Notwithstanding the provisions of section 1 of this Ordinance, the Governor may, by notice in the Gazette—

Powers of Governor in regard to application of Ordinance.

(a) declare that any municipality or any part of any municipality shall be excluded from the application of this Ordinance;

(b) declare that the provisions of this Ordinance shall apply to the whole or to any part of any Grade A township within the meaning of the Townships Ordinance, 1930, or of any Ordinance amending or replacing the same: Provided that, when the provisions of this Ordinance have, under the powers conferred by this paragraph, been applied to the whole or part of any such township, this Ordinance shall, in its application to such township or part of such township, be construed as if the following definitions were substituted for the definitions of ‘Local

No. 63 of 1930.

Local Government (Rating)

1938

Authority', 'Municipality', 'Mayor', 'Town Clerk', and 'Town Treasurer', contained in section 2 of this Ordinance:—

'Local Authority' means the District Commissioner, acting with the advice of the Township Committee established under the provisions of the Townships Ordinance, 1930;

'Municipality' means the area of the township;

'Mayor', 'Town Clerk' and 'Town Treasurer', mean the District Commissioner."

Passed in the Legislative Council the third day of May, in the year of our Lord one thousand nine hundred and thirty-eight.

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.

BAILEY

Acting Clerk to the Legislative Council.

Section 29 of the Local Government (Rating) Ordinance, 1938, provides for the application of the provisions of the Ordinance to townships established under the Townships Ordinance, 1930. As the section stands, however, when the Ordinance is so applied, the Governor is deemed to the local authority for the purpose of the Ordinance.

It is clear, however, from the provisions of the Ordinance that it would be impracticable to have the Governor as the local authority, and it is considered that the most appropriate authority would be the District Commissioner acting with the advice of the Township Committee, which ^{is} the body charged with the administration of Grade A townships under the Townships Ordinance, 1930.

As it is not the intention to apply the provisions of the Ordinance to townships other than Grade A townships, the proposed new section 29(b) is limited to Grade A townships.

The Bill is designed to make the necessary amendments to the law.

No Comparative Table accompanies the Bill since the amendments contained therein are not modelled on any Colonial Ordinance or Imperial Act, but a copy of the Bill showing the section of the Principal Ordinance which it is proposed to replace is enclosed 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.

Theodore Wilson
AG. ATTORNEY GENERAL.

Nairobi,
6th May, 1938.

COPY OF THE LOCAL GOVERNMENT (RATING)
(AMENDMENT) BILL, 1928, SHOWING
THE SECTION OF THE LOCAL
GOVERNMENT (RATING) ORDINANCE,
1928, WHICH IT IS PROPOSED
TO REPLACE.

Powers of Governor in regard to application of Ordinance.

Section 29 of the Principal Ordinance which it is proposed to replace:—

29. Notwithstanding the provisions of section 1 of this Ordinance, the Governor may, by notice in the Gazette—

- (a) declare that any municipality or any part of any municipality shall be excluded from the application of this Ordinance;
- (b) declare that the provisions of this Ordinance shall apply to any township established under the Townships Ordinance or any Ordinance amending or replacing the same, or to any part of any such township;

Provided that when the provisions of this Ordinance are applied to any township under this section, unless the context otherwise requires:—

“Local Authority” means the Governor;

“Municipality” means the area of the township;

“Mayor”, “Town Clerk” and “Town Treasurer” mean the District Commissioner.

A Bill to Amend the Local Government (Rating) Ordinance, 1928

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

1. This Ordinance may be cited as the Local Government (Rating) (Amendment) Ordinance, 1938, and shall be read as one with the Local Government (Rating) Ordinance, 1928, hereinafter referred to as the Principal Ordinance.

2. Section 29 of the Principal Ordinance is hereby repealed and the following section is substituted therefor:—

“29. Notwithstanding the provisions of section 1 of this Ordinance, the Governor may, by notice in the Gazette

- (a) declare that any municipality or any part of any municipality shall be excluded from the application of this Ordinance;
- (b) declare that the provisions of this Ordinance shall apply to the whole or to any part of any Grade A township within the meaning of the Townships Ordinance, 1930, or of any Ordinance amending or replacing the same: Provided that, when the provisions of this Ordinance have, under the powers conferred by this paragraph, been applied to the whole or part of any such township, this Ordinance shall, in its application to such township or part of such township, be construed as if the following definitions of ‘Local Authority’, ‘Municipality’, ‘Mayor’, ‘Town Clerk’, and ‘Town Treasurer’, contained in section 2 of this Ordinance:—

‘Local Authority’ means the District Commissioner, acting with the advice of the Town-

Short title.
No. 20 of 1938.

Repeal and replacement of section 29 of the Principal Ordinance.

Powers of Governor in regard to application of Ordinance.

No. 61 of 1930.