

GOVERNMENT NOTICE No. 1001

The Governor in Council has approved of the following Bill being introduced into the Legislative Council

G J ELLERTON,  
*Acting Clerk to the Legislative Council*

**A BILL ENTITLED  
AN ORDINANCE TO AMEND THE POLICE  
ORDINANCE, 1948**

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

- Short title. 1. This Ordinance may be cited as the Police (Amendment) Ordinance, 1952, and shall be read and construed as one with the Police Ordinance, 1948, hereinafter referred to as the principal Ordinance
- No 79 of 1948
- Amendment of section 10 of the principal Ordinance 2. Section 10 of the principal Ordinance is amended by substituting for the words "an occurrence book" appearing therein, the words "a record" 5
- Amendment of section 14 of the principal Ordinance 3. Section 14 of the principal Ordinance is amended by substituting for the form of declaration appearing therein the following form of declaration— 10
- I, A B, do solemnly and sincerely declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, and that I will faithfully serve Her Majesty the Queen, Her Heirs and Successors, during my service in the Force and will obey all orders of the Governor and of the officers placed over me, and will subject myself to all Ordinances, orders and regulations, from time to time in force, relating to the Force
- Signature or thumb print of police officer 20
- Declared } at this day of  
Affirmed }
- 19
- Before me  
(Signature of magistrate or superior officer) 25
- Insertion of new section 28A into the principal Ordinance 4. There shall be inserted next after section 28 of the principal Ordinance the following new section—
- Prohibition or restriction of traffic 28A (1) Notwithstanding the provisions of any other law in force in the Colony, the Commissioner may, if he considers it necessary so to do for the maintenance and preservation of law and order or for the prevention or detection of crime, by order prohibit or restrict the driving or use of motor vehicles, or any class of motor vehicles, on specified roads or parts of roads, or in any specified area, either generally or in such circumstances or subject to such conditions as may be so specified 35
- (2) Any such order may—  
(a) make different provision for different roads or parts of roads and for different areas and for

different days or hours, but no such order shall apply to the driving or use of any kind of motor vehicle on any road or part of a road or in any area between the hours of six o'clock in the morning and six o'clock in the evening of any day,

(b) provide for the issue by the Commissioner, or by anyone authorized by him, of a written permit exempting any motor vehicle or class of motor vehicles or any person or class of persons from the provisions of the order or any part thereof, either generally or subject to such conditions or in such circumstances as may be specified in any such permit, and the Commissioner is hereby authorized to issue and to authorize the issue of such permits which, to the extent therein specified, shall have effect under this section

(3) Any such order may be revoked, modified or rescinded by any subsequent order made under this section and shall, upon publication in the Gazette, have effect from such date and for such period or periods as may be specified therein

(4) Any person who drives or uses, or causes or permits to be driven or used, any motor vehicle in contravention of the terms or conditions of any order made under this section shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand shillings or to imprisonment for a period not exceeding six months or to both such fine and imprisonment and any such offence shall be cognizable to the police

(5) For the purposes of this section the expressions "motor vehicle" and "road" shall have the meanings assigned to them in the Traffic Ordinance

Cap 232

5. Section 32 of the principal Ordinance is amended by adding the following new sub-section thereto—

Amendment of section 32 of the principal Ordinance

(2) An offence under this section shall be cognizable to the police

6. There shall be substituted for section 34 of the principal Ordinance the following section—

Repeal and replacement of section 34 of the principal Ordinance

34 (1) Any magistrate, justice of the peace or police officer of or over the rank of Assistant Inspector or any police officer in charge of a police station may take, or cause to be taken, in his presence, for the purposes of record and identification, the measurements, photographs, footprints and casts thereof, palm prints and fingerprints of any person in lawful custody or who is subject to police supervision. The Member may prescribe the form upon which footprints, palm prints or fingerprints shall be taken and such magistrate, justice of the peace, or police officer, as the case may be, shall certify, on such form that such footprints, palm prints or fingerprints have been taken by him, or caused to be taken in his presence, in accordance with the directions contained on such form, and that the particulars entered on such form are to the best of his knowledge and belief accurate and true

Taking of measurements, photographs, footprints and casts thereof, palm prints and fingerprints

Provided that if such person is not charged with an offence or is discharged or acquitted by a court, and has not previously been convicted, all records of such measurements, photographs, footprints and casts thereof,



palm prints and fingerprints and any negatives and copies of such photographs or of photographs of such footprints, palm prints and fingerprints shall forthwith be destroyed or handed over to such person

(2) Any such person who refuses to permit his measurements, photographs, footprints and casts thereof, palm prints and fingerprints to be taken under the provisions of sub-section (1) of this section shall be guilty of an offence

Amendment of  
section 35 of the  
principal  
Ordinance

7. Section 35 of the principal Ordinance is amended in the following respects—

(a) by deleting from sub-section (1) thereof the words "within the limits of the police station of which he is in charge, or to which he is attached", and by adding at the end of that sub-section the following words and proviso—

and take possession of any such thing

Provided that if anything is seized by the police officer, he shall carry it before the court of any magistrate within whose jurisdiction the thing is found in order that it may be dealt with according to law,

(b) by deleting sub-section (2) thereof,

(c) by deleting sub-section (4) thereof,

(d) by re-numbering sub-section (3) thereof as sub-section (2)

Amendment of  
section 36 of the  
principal  
Ordinance

8. Section 36 of the principal Ordinance is amended in the following respects—

(a) by substituting for sub-section (1) of that section the following—

(1) Any police officer making an investigation into any offence may, in writing, require the attendance before himself of any person who he has reason to believe has any knowledge which will assist in such investigation, and such attendance may be required at any police station or police office situated within the district in which that person resides or, for the time being is or is found, for the purposes of this sub-section the expression "district" shall have the meaning assigned to it by the Interpretation and General Clauses Ordinance.

Cap 1

(b) by inserting the word "truly" immediately after the word "answer" where the latter word occurs in sub-section (2) of the section

#### MEMORANDUM OF OBJECTS AND REASONS

No 79 of 1948

Experience has shown that the Police Ordinance, 1948 (herein referred to as the "principal Ordinance") requires further amendment and this Bill is designed to effect this

Section 10 of the principal Ordinance makes it obligatory for an "Occurrence Book" to be kept at all police stations as a means of recording Complaints and Charges. The Criminal Investigation Department are gradually instituting a more modern scheme for recording crime which may eventually lead to the discarding of the Occurrence Book, and the substitution by clause 2 of the Bill of the term "a record" will cover any method of recording Complaints and Charges

Clause 3 substitutes the new form of declaration necessitated by Her Majesty's Accession

*Clause 4* adds a new section authorizing the Commissioner of Police to prohibit or restrict traffic at night where he considers it necessary to do so in the interests of law and order, it is considered that this is a desirable measure especially to combat the activities of gangs of criminals and members of unlawful societies, which activities are materially facilitated by the use of vehicles at night

Section 32 of the principal Ordinance deals with unlawful assemblies and it is considered that it should be placed beyond doubt that the Police are empowered to arrest without warrant persons taking part in such assemblies

*Clause 5* adds a new sub-section to section 32 to accomplish this

*Clause 6* of the Bill repeals and replaces section 34 of the principal Ordinance. This section deals with the taking of measurements, photographs, finger prints, etc., of suspect persons. The original section did not include palm prints, or foot prints or casts of foot prints, among the forms of identification dealt with and has been redrafted to include them

*Clause 7* amends section 35 of the principal Ordinance to make it obligatory upon a police officer that if he seizes anything in the course of a search or investigation to take it forthwith to the court of any magistrate within whose jurisdiction the thing is found

*Clause 8* substitutes a new sub-section for sub-section (1) of section 36 of the principal Ordinance concerning the power of an investigating police officer to require the attendance of any person who he has reason to believe has any knowledge which will assist him in making his investigations. The amendments effected by *clauses 7* and *8* of the Bill are the outcome of a Supreme Court judgment delivered in 1951

*Clause 8* also makes a minor amendment to sub-section (2) of section 36 which the police consider will assist them

No additional expenditure of public moneys will be incurred if the provisions of this Bill become law

Nairobi,  
30th August, 1952

JOHN WHYATT,  
*Attorney General*