

THE BOOKS AND NEWSPAPERS ORDINANCE, 1960**No. 27 of 1960***Date of Assent: 1st July, 1960**Date of Commencement: 19th July, 1960***ARRANGEMENT OF SECTIONS****SECTION****PART I—PRELIMINARY**

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AN ORDINANCE TO MAKE PROVISION FOR THE REGISTRATION AND DEPOSIT OF BOOKS AND NEWSPAPERS, FOR THE PRINTING OF BOOKS AND NEWSPAPERS, FOR THE EXECUTION OF BONDS BY PRINTERS AND PUBLISHERS OF NEWSPAPERS, AND FOR MATTERS CONNECTED THEREWITH

ENACTED by the Legislature of the Colony and Protectorate of Kenya, as follows:—

PART I—PRELIMINARY

1. This Ordinance may be cited as the Books and Newspapers Ordinance, 1960. Short title.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—

“book” includes any volume, encyclopaedia, magazine, review, gazette, pamphlet, leaflet, sheet of letterpress, sheet of music, map, plan and chart, which is separately published, and any part or division thereof, but does not include a newspaper, visiting or business card, bill-head, letter-heading, price list, annual report, trade circular, trade advertisement or other legal or trade or business document;

“newspaper” includes any printed matter containing news, or intelligence, or reports of occurrences, of interest to the public or any section thereof, or any views, comments or observations thereon, printed for sale or distribution and published periodically or in parts or numbers at intervals not exceeding three months, but does not include a visiting or business card, bill-head, letter-heading, price list, annual report, trade circular, trade advertisement or other legal or trade or business document;

“print” means to produce or reproduce words or pictures in visible form by printing, writing, typewriting, duplicating, cyclostyling, lithography, photography or any other mode of representing the same in visible form, but does not include the representation of words or pictures by means of cinematography or television;

“register” means a register required to be kept by section 4 of this Ordinance;

“Registrar” means the person appointed to be Registrar of Books and Newspapers under section 3 of this Ordinance, and includes a person appointed under that section to be a Deputy or Assistant Registrar.

Appointment
of Registrar,
etc.

3. The Minister shall, by notice in the Gazette, appoint a Registrar of Books and Newspapers to perform the duties and exercise the powers imposed and conferred on the Registrar by this Ordinance and any rules made thereunder, and may appoint a Deputy Registrar and any number of Assistant Registrars, who shall be subject to the directions of the Registrar.

Registers.

4. The Registrar shall keep registers in the prescribed forms in which he shall register the returns in respect of books and newspapers made to him under sections 6 and 8, and the

bonds delivered to him under sections 11 and 13, of this Ordinance, and shall enter therein such other particulars and matters as may be prescribed.

PART II—DEPOSIT AND REGISTRATION OF BOOKS AND
NEWSPAPERS

5. (1) This Part shall not apply to or in respect of any book or newspaper printed or published by or on behalf of the Crown, the Government or the High Commission.

Application
of this Part and
exclusions.

(2) The Minister may, by notice in the Gazette, exclude any book or newspaper or any class thereof from the operation of all or any of the provisions of this Part, either absolutely or subject to such conditions as he may think fit.

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L21-548/60

6. (1) The publisher of every book printed and published in the Colony shall—

Copies of
books to be
delivered to
the Registrar
and returns
to be made.

- (a) before or within fourteen days after publication of the book, at his own expense deliver to the Registrar such number of copies thereof, not exceeding three in number, as may be prescribed, together with a return in respect thereof in the prescribed form, containing the prescribed particulars and signed by him;
- (b) if so required by the Registrar by notice in writing not later than one year after publication of the book, deliver to the Registrar, at his own expense and within one month after receipt of such notice, so many additional copies thereof, not exceeding three in number, as may be specified in the notice.

(2) In the case of an encyclopaedia, magazine, review, gazette or other book (not being a newspaper) published periodically or in a series of numbers or parts, a notice under paragraph (b) of subsection (1) of this section may relate to any or all issues, numbers or parts thereof which may be subsequently published in the Colony by the publisher to whom the notice is addressed.

(3) All copies of a book delivered under subsection (1) of this section shall be copies of the whole book, with all maps, prints or other illustrations belonging thereto finished and coloured in the same manner as in the best copies of the same published in the Colony, and shall be bound, sewed or stitched together, and of the best paper on which the book is printed.

(4) Nothing in this section shall apply to any second or subsequent edition of a book the required number of copies

of the first or any preceding edition of which have been delivered to the Registrar under this section, unless the second or subsequent edition contains any addition or alteration, whether in the letterpress or in the maps, prints or other illustrations belonging thereto.

(5) Upon receipt of a copy of a book delivered under this section the Registrar shall issue a written receipt therefor.

(6) (a) The copies of books delivered to the Registrar under paragraph (a) of subsection (1) of this section shall be kept for the purpose of record in such place or manner, or otherwise dealt with or disposed of in such manner or for such purposes, as may be prescribed.

(b) The copies of books delivered to the Registrar under paragraph (b) of the said subsection shall be sent by the Registrar to such persons or institutions as the Minister may from time to time direct.

Copies of
newspapers to
be delivered
to the Registrar.

7. (1) The publisher of every newspaper printed in the Colony shall, upon every day upon which the newspaper is published, at his own expense deliver, or send by registered post, to the Registrar two copies of the newspaper and two copies of every supplement thereto (if any).

(2) Such copies shall be of the paper on which the largest number of copies of the newspaper are printed and published, and shall be in the like condition as the copies prepared for sale or distribution.

(3) The copies delivered to the Registrar under this section shall be kept for the purpose of record in such place or manner, or otherwise dealt with or disposed of in such manner or for such purposes, as may be prescribed.

Returns of
newspapers
to be made to
the Registrar.

8. (1) The publisher for the time being of every newspaper printed in the Colony shall, within fourteen days after the date on which it is first published, and in the month of January in every year thereafter, make, sign and deliver to the Registrar a return in the prescribed form in respect thereof.

(2) If, after any such return has been so delivered and before the next succeeding return in respect of the same newspaper is so delivered, any change occurs in any of the particulars returned, other than a change in circulation, the publisher

for the time being of the newspaper shall, within one month of the change occurring, make, sign and deliver to the Registrar a return thereof in the prescribed form.

9. (1) Any person who—

Penalties.

- (a) publishes any book printed in the Colony and fails to comply with any of the provisions of section 6 of this Ordinance;
- (b) publishes any newspaper printed in the Colony and fails to comply with any of the provisions of section 7 or section 8 of this Ordinance; or
- (c) makes any return under section 6 or section 8 of this Ordinance which he knows to be false or does not believe to be true in any particular,

shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(2) Upon conviction of a person for failure to comply with any provision of section 6, section 7 or section 8 of this Ordinance, the court may, in addition to or instead of imposing a penalty under subsection (1) of this section, order such person to deliver the return or the copies of the book or newspaper, as the case may be, to the Registrar not later than a specified date, or, in the case of failure to deliver copies of a book of the required number or standard, order him to pay to the Registrar the retail price of such copies.

(3) Where the retail price of copies is ordered to be paid to the Registrar as aforesaid, and is so paid, the same shall be applied by him to the purchase of such copies.

PART III—BONDS

10. (1) This Part shall not apply to, or to or in respect of the printing or publication of any newspaper by or on behalf of, the Crown, the Government or the High Commission.

Application
of this Part
and exclusions.

(2) The Minister may, by notice in the Gazette, exclude any specified person or class of persons from the operation of all or any of the provisions of this Part, either absolutely or subject to such conditions as he may think fit.

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Bond to be
executed.

11. (1) Subject to subsection (5) of this section, no person shall print any newspaper in the Colony, and no person shall publish any newspaper printed in the Colony, unless there is in force, duly executed, registered and delivered by him to the Registrar in manner hereinafter provided, a bond in the prescribed form in the sum of ten thousand shillings, with one or more sureties as may be required and approved by the Registrar, as security for or towards the payment of any monetary penalty which may at any time be imposed upon or adjudged against him upon his conviction for any offence, under this Ordinance or under any other written law, committed after the execution of the bond, and relating to the printing or publication of such newspaper or of any matter therein, and also for the payment of any damages and costs awarded against him in respect of any libel printed or published in the newspaper after the execution of the bond.

(2) A bond shall be executed—

(a) where the person required to execute it is a company, under the common seal of the company;

(b) in other cases, in the presence of a magistrate, and of one other witness not being a party thereto, each of whom shall subscribe his name, his place of residence or business and his office, profession or occupation.

(3) Every bond shall be registered under the Registration of Documents Ordinance by or on behalf of the person executing it and shall then be delivered to the Registrar for custody.

(4) A person required to execute a bond under this section may appeal to the Minister against any decision of the Registrar as to the number of sureties required in excess of one or disapproving any surety offered by such person.

(5) Where, immediately prior to the commencement of this Ordinance, any person habitually and lawfully printed any newspaper in the Colony or published any newspaper printed in the Colony, that person shall be allowed a period of one month after the commencement of this Ordinance within which to comply with the provisions of this section in respect of that newspaper, and, if he does so comply with such provisions within that period, he shall not be guilty of an offence under section 14 of this Ordinance in respect of the continued printing or publication of that newspaper after the commencement of this Ordinance and before he has so complied with such provisions.

(6) A bond entered into under this section may be enforced before any magistrate in the same manner as a bail bond under the Criminal Procedure Code.

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12. If a surety desires to withdraw from a bond, and gives to the Registrar and to all other persons bound thereby not less than one month's notice in writing of such desire, he shall on the expiration of the period of such notice be discharged from his suretyship under the bond:

Withdrawal
of surety.

Provided that the surety shall continue to be liable under the bond in respect of any penalties, damages or costs imposed, adjudged or awarded for and in respect of any offence committed, or any libel printed or published, before his discharge as aforesaid.

13. Whenever a surety—

New bond in
certain cases.

- (a) gives notice of his desire to withdraw from a bond under the provisions of section 12 of this Ordinance; or
- (b) dies; or
- (c) leaves the Colony without leaving property therein sufficient and available to satisfy the full sum for which he is bound as a surety; or
- (d) has a receiving order made against him; or
- (e) pays the whole or any part of the sum for which he is bound as a surety,

or whenever a bond under this Part is enforced against a printer or publisher liable thereunder as a principal, the printer or publisher, as the case may be, shall, within one month thereafter, execute, register and deliver to the Registrar in the manner provided by section 11 of this Ordinance a new bond for the same purpose and in the same sum, and upon the completion of such execution, registration and delivery the old bond shall be thereby discharged:

Provided that all persons liable, whether as principals or sureties, under the old bond shall continue to be liable thereunder in respect of any penalties, damages or costs imposed, adjudged or awarded for and in respect of any offence committed, or any libel printed or published, before the discharge of the old bond as aforesaid.

Penalty for printing or publication without bond.

14. Subject to subsection (5) of section 11 of this Ordinance, any person who prints a newspaper in the Colony, or publishes a newspaper printed in the Colony, without having complied with the provisions of section 11 or, as the case may be, section 13 of this Ordinance shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

PART IV—GENERAL

Inspection of register, etc., and provision of copies of and extracts from registers.

15. (1) Any person may, during the usual hours of business and on payment of the prescribed fee, inspect a register, or require to be supplied with a copy of or an extract from any subsisting entry in a register, certified by the Registrar to be a true copy or extract.

(2) Any person may, during such hours, on payment of such fee, and subject to such conditions, as may be prescribed, inspect any book or newspaper kept by the Registrar under this Ordinance for the purpose of record.

Evidentiary value of copies and extracts, and of certificates.

16. (1) Every copy of an entry in, and every extract from, a register, certified under the hand of the Registrar to be a true copy or extract, shall in all legal proceedings be conclusive evidence of the contents of the register so far as the same appear in such copy or extract, and prima facie evidence of the facts appearing therein.

(2) A certificate under the hand of the Registrar stating that he has or has not received any notice or return under this Ordinance or any rules made thereunder, or that he received such a notice or return on, or did not receive such a notice or return by or before, a specified date, shall in all legal proceedings be prima facie evidence of the facts stated therein.

(3) A certificate under subsection (1) or subsection (2) of this section, purporting to be signed by the Registrar, shall be presumed, until the contrary is proved, to have been signed by him.

(4) No process for compelling the production of any book, newspaper, register or document kept by, or in the possession or custody of, the Registrar shall issue from any court except with the leave of that court, and any such process issued with such leave shall bear a statement that it is so issued.

17. (1) Every book and every newspaper printed within the Colony shall have printed legibly in the English language on its first or last printed page the name and address of its printer and of its publisher and the name of the place in which it is printed and of the place in which it is published.

Printed documents to bear the name of printer and publisher.

(2) Any person who prints, publishes, sells, distributes or assists in selling or distributing any book or newspaper which does not comply with the requirements of subsection (1) of this section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both such fine and imprisonment, and in addition the court may order all copies of the book or newspaper in the custody of the court or in the possession of the offender to be forfeited or destroyed.

18. (1) Every person who prints a book or newspaper shall for a period of six months after the date of the printing thereof keep one copy thereof on which he shall write or print the name and the business, residential or postal address of the person by whom he was engaged to print it, and shall forthwith produce the same to the Registrar or to any court, judge or magistrate if required by the Registrar or such court, judge or magistrate, by notice in writing, so to do.

Printer to keep copy of book or newspaper and to produce same on demand.

(2) Any person who fails to comply with the provisions of subsection (1) of this section or of any notice thereunder served on him shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

19. (1) Any police officer may seize any book or newspaper, wherever found, which has been printed or published, or which he reasonably suspects to have been printed or published, in contravention of this Ordinance.

Power to seize certain books, etc., and to search premises.

(2) Any magistrate may by warrant authorize any police officer not below the rank of Assistant Inspector, with or without assistance, to enter and search any place where it is reasonably suspected that any books or newspapers printed or published in contravention of this Ordinance are being kept or that any other offence under this Ordinance or any rules thereunder has been, is being or is about to be committed, and to seize any books and newspapers found therein which he reasonably suspects to have been so printed or published.

together with any other evidence of the commission of an offence under this Ordinance or any rules thereunder which may be there found.

(3) If any police officer not below the rank of Assistant Inspector has reasonable cause to believe that the delay which would occur in obtaining a search warrant under subsection (2) of this section would, or would tend to, defeat the purposes of this Ordinance, he may, without warrant, exercise the powers described in that subsection as if he had obtained a search warrant thereunder.

(4) Any book, newspaper or other thing seized under this section shall be brought as soon as practicable before a magistrate, who may, if he is satisfied that the book or newspaper was printed or published in contravention of this Ordinance or any rules thereunder, or that such other thing has been used in the commission of an offence under this Ordinance or any rules thereunder, order that the same be forfeited or destroyed.

Offences by
corporations,
societies, etc.

20. Where any offence under this Ordinance or under any rules made thereunder is committed by any company or other body corporate, or by any society, association or body of persons, every person charged with, or concerned or acting in, the control or management of the affairs or activities of such company, body corporate, society, association or body of persons shall be guilty of that offence and liable to be punished accordingly, unless it is proved by such person that, through no act or omission on his part, he was not aware that the offence was being or was intended or about to be committed, or that he took all reasonable steps to prevent its commission.

Service of
notices.

21. Service of any notice under this Ordinance or any rules made thereunder may be effected either personally on the person to whom it is addressed or by registered post; and, where the person to be served is a company or other body corporate, or a society, association or other body of persons, service of any such notice thereon may be effected by serving the same personally on any secretary, director or other officer thereof or on any person concerned or acting in the management thereof, or by leaving it or sending it by registered post addressed to the company, body corporate, society, association or body of persons at its registered office, or, where there is no registered office, at any place where it carries on business.

Rules.

22. The Minister may make rules generally for the better carrying out of the purposes of this Ordinance, and in particular may make rules for any of the following purposes—

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L.N. 62/62

- (a) prescribing the forms of registers, returns, applications, notices and bonds, and other forms, to be used under this Ordinance;
- (b) prescribing the particulars and matters to be entered in the registers;
- (c) prescribing the place and manner of keeping copies of books and newspapers delivered to the Registrar under this Ordinance, or the manner in which and purposes for which any such copies shall, consistently with the purposes and provisions of this Ordinance, be dealt with or disposed of;
- (d) prescribing the information to be furnished to the Registrar by way of periodical return or otherwise;
- (e) prescribing the particulars and matters to be published by the Registrar and the manner of such publication;
- (f) prescribing the fees which may be levied under this Ordinance;
- (g) prescribing penalties for contravention of any such rules, not exceeding in any case a fine extending to five thousand shillings or imprisonment for a term extending to six months or both such fine and imprisonment.

23. The Book and Newspaper Registration Ordinance is hereby repealed:

Repeal and
saving.
Cap. 310.

Provided that any return made, and any register kept, and any copies of books or newspapers delivered, under any provision of that Ordinance before the commencement of this Ordinance, shall be deemed for the purposes of this Ordinance to be a return made, a register kept or copies delivered under the provision of this Ordinance most closely corresponding to such provision.