

Powers of the Member to make Rules.

24. The Member may, upon the advice of the Board, make Rules for all or any of the following matters—

- (a) controlling and regulating the purchase and sale of coffee by the Board;
- (b) providing for and regulating deliveries of coffee to the Board;
- (c) prescribing the manner of electing the members of the Board referred to in paragraph (c) of sub-section (1) of section 3 of this Ordinance;
- (d) prescribing the manner in which the list of candidates for election to the Board under paragraph (c) of sub-section (1) of section 3 of this Ordinance shall be published;
- (e) prescribing the services which the Board may render to coffee planters for payment, and the charges to be made therefor;
- (f) providing for the submission of returns to the Board relating to the acreages of coffee which are under cultivation, and the quantities of coffee available for sale to the Board;
- (g) prescribing the manner of electing members of the Committee;
- (h) prescribing the manner of electing the members of the Advisory Panel;
- (i) prescribing the manner in which appeals to the Member under sub-section (3) of section 15 of this Ordinance may be made;
- (j) providing for the classification of coffee for the purposes of this Ordinance;
- (k) prescribing the forms of statements to be dispatched to the Board under the provisions of paragraph (a) of sub-section (1) of section 13 of this Ordinance;
- (l) generally for the better carrying out of the provisions of this Ordinance.

Penalties.

25. Any person who is guilty of an offence under this Ordinance, or who contravenes or fails to comply with any Rules made under this Ordinance, shall, where no other penalty is expressly provided, be liable, on conviction by a magistrate of the first or second class, for a first offence to a fine not exceeding fifty pounds, and for a second or subsequent offence to a fine not exceeding one hundred pounds or to imprisonment for a period not exceeding three months, or to both such fine and such imprisonment.

Saving.

26. Nothing in this Ordinance contained shall prevent any coffee planter from employing any person holding a licence under section 4A of the Coffee Industry Ordinance, 1934, as his agent for any purpose, not inconsistent with the provisions of this Ordinance, for which such person is so licensed.

No. 54 of 1934.

Duration of Ordinance.

27. This Ordinance shall continue in force until the 30th day of June, 1949, and shall then expire.

SCHEDULE

(Section 2)

Uganda Native F.A.Q.
 Uganda Plantation F.A.Q.
 Uganda U.G.
 Uganda Triages.
 Bukoba Native G.A.Q., F.A.Q., U.G. and Triage.
 Bukoba Plantation G.A.Q., F.A.Q., U.G. and Triage.

ORDINANCE No. VII of 1946

Assented to in His Majesty's name this eighth day of February, 1946.

G. M. RENNIE,
Acting Governor.

An Ordinance for Compensating the Families of Persons Killed by Accidents

8th February, 1946

Date of commencement.

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 Fatal Accidents Ordinance, 1946.

Short title.

2. (1) In this Ordinance, unless the context otherwise requires—
 "child" means a son, daughter, grandson, granddaughter, stepson and stepdaughter;

Interpretation.

"parent" means a father, mother, grandfather, grandmother, stepfather and stepmother.

(2) For the purposes of this section a person shall be deemed to be the child or parent of the deceased person notwithstanding that he was only related to him illegitimately or in consequence of adoption; and accordingly in deducing any relationship which under the provisions of this section is included within the meaning of the expressions "child" and "parent", any illegitimate person and any adopted person shall be treated as being, or as having been, the legitimate offspring of his mother and reputed father or, as the case may be, of his adopters.

(3) In this section the expression "adopted person" means a person who has been adopted under the provisions of any law for the time being in force in the country in which such adoption took place.

3. Whenever the death of a person is caused by a wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the person injured to maintain an action and recover damages in respect thereof, then and in every such case the person who would have been liable, if death had not ensued, shall be liable to an action for damages notwithstanding the death of the person injured and although the death shall have been caused under such circumstances as amount in law to felony.

Action maintainable against person causing death through wrongful act.

4. (1) Every action brought by virtue of the provisions of this Ordinance shall be for the benefit of the wife, husband, parent and child of the person whose death shall have been so caused, and shall, subject to the provisions of section 6 of this Ordinance, be brought by and in the name of the executor or administrator of the person deceased; and in every such action, the court may award such damages as it may think proportioned to the injury resulting from such death to the persons respectively for whom and for whose benefit such action is brought; and the amount so recovered, after deducting the

Action to be for benefit of family of deceased.

costs not recovered from the defendant, shall be divided amongst the beforementioned persons in such shares as the court, by its judgment, shall find and direct:

Provided that not more than one action shall lie for and in respect of the same subject matter of complaint and that every such action shall be commenced within twelve months after the death of such deceased person.

(2) In assessing damages, under the provisions of sub-section (1) of this section, the court shall not take into account—

- (a) any sum paid or payable on the death of the deceased under any contract of assurance or insurance, whether made before or after the passing of this Ordinance;
- (b) any widows' or orphans' pension or allowance payable or any sum payable under any contributory pension or other scheme declared by the Governor in Council, by notice published in the Gazette, to be a scheme for the purpose of this paragraph.

Funeral expenses may be awarded by way of damages in certain cases.

5. In an action brought by virtue of the provisions of this Ordinance the court may award, in addition to any damages awarded under the provisions of sub-section (1) of section 4 of this Ordinance, damages in respect of the funeral expenses of the deceased person if such expenses have been incurred by the parties for whom and for whose benefit the action is brought.

Action may be brought by the persons beneficially interested or when the persons beneficially interested are natives by a person appointed by the Attorney General, where no executor or administrator or where the latter fail to bring action.

6. If at any time in any case intended and provided for by the provisions of this Ordinance, there shall be no executor or administrator of the person deceased, or if no action is brought by such executor or administrator within six months after the death of such deceased person, then and in every such case an action may be brought either—

- (a) by and in the name or names of all or any of the persons for whose benefit such action would have been brought, if it had been brought by and in the name of such executor or administrator; or
- (b) if the persons beneficially interested are natives, by a person appointed, in writing, by the Attorney General,

and every action so brought shall be for the benefit of the same person or persons as if it were brought by and in the name of such executor or administrator.

Plaintiff to deliver full particulars of the persons for whom damages claimed.

7. In every action brought by virtue of the provisions of this Ordinance the plaintiff on the record shall be required, together with the statement of claim, to deliver to the defendant, or his advocate, full particulars of the person or persons for whom, and on whose behalf, such action is brought, and of the nature of the claim in respect of which damages are sought to be recovered.

In the event of death action maintainable against estate.

8. (1) Upon the death of any person against whom, were it not for his death, an action would be maintainable by virtue of the provisions of this Ordinance, such action shall be maintainable against his estate.

(2) No proceedings shall be maintainable in respect of a cause of action which by virtue of the provisions of this section has survived against the estate of a deceased person, unless either—

- (a) proceedings against him in respect of that cause of action were pending at the date of his death; or
- (b) the cause of action arose not earlier than six months before his death and proceedings are taken in respect thereof not later than six months after his personal representative took out representation.

(3) Where, by virtue of the provisions of this Ordinance, a cause of action would have subsisted against any person if that person had not died before or at the same time as the damage was suffered, there shall be deemed, for the purposes of this Ordinance, to have been subsisting against him before his death such cause of action as would have subsisted if he had died after the damage was suffered.

(4) Notwithstanding the provisions of any other law, in the event of the insolvency of an estate against which proceedings are maintainable by virtue of the provisions of this section, any liability in respect of the cause of action by reason of which the proceedings are maintainable shall be deemed to be a debt provable in the administration of the estate.