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**Adjustments to the Boundaries of the Highlands under
section 67 of the Crown Lands Ordinance, Cap. 155**

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**ADJUSTMENTS TO THE BOUNDARIES OF THE HIGHLANDS UNDER
SECTION 67 OF THE CROWN LANDS ORDINANCE, CAP. 155**

During the past few years the Highlands Board has approved a number of transfers of land which involve amendments to the boundaries of the Highlands as described in the Seventh Schedule to the Crown Lands Ordinance. In some cases these have arisen, directly or indirectly, from the recommendations of the Kenya Land Commission. In other cases there has been an exchange between land in a native land unit or native reserve and land in the Highlands.

2. At the time that these various transfers were approved there was no provision in law for amending the boundaries of the Highlands as set out in the Seventh Schedule to the Crown Lands Ordinance (pages 2075-2100 of Volume II of the Laws of Kenya, 1948). The enactment of the Crown Lands (Amendment) Ordinance, 1954 (No. 7 of 1955) has now made it possible for the Governor, with the consent of the Highlands Board, and subject to the approval of the Legislative Council, by notice in the *Gazette*, to adjust the boundaries of the Highlands, whereupon the Seventh Schedule shall be read and construed accordingly.

3. This Sessional Paper contains details of a number of cases which have now been finalized, with, in each case, a Schedule showing the amendment required to the Seventh Schedule of the Crown Lands Ordinance.

Kilombe-Esageri Exchange

The Carter Commission recommended (in paragraph 968 of the report) that a group of eight farms on the Esageri River, known as the "Esageri farms", which, as a result of certain other recommendations, would be practically surrounded by the Kamasia Native Reserve, should be leased from the owners for a period of ten years and made available for the use of the Kamasia.

2. In 1943, as part of the scheme for the reconditioning of the Kamasia lands, it was proposed that the Esageri farms (a total area of approximately 14,743 acres) should be excised from the Highlands for the use of the Kamasia tribe and that in exchange an area known as Kilombe, approximately 13,350 acres, in the Esageri Native Reserve should be handed over by the tribe and included in the Highlands.

3. The proposal was referred to the Highlands Board, which agreed to recommend it, at its meeting on the 9th June, 1944; and the Governor in Council directed that the necessary legal steps be taken to give effect to the proposed exchange (29th June, 1944).

4. A delay of some years then ensued, caused by investigation into water supplies and the necessity to drill boreholes and to obtain the necessary financial provision therefor. In October, 1950, the Native Lands Trust Board gave its consent, as required by section 54 (2) of the Crown Lands Ordinance, to the alteration of the boundaries of the Esageri Native Reserve (item 2 of the Fourth Schedule to that Ordinance) so as to exclude the Kilombe area.

5. In due course a resolution was moved in Legislative Council on the 23rd February, 1951, in which Council was asked to approve the setting aside of the Esageri farms as a native reserve under section 55 of the Crown Lands Ordinance. The resolution was duly passed.

6. It is now desired to complete the transaction by excising the Esageri farms from the Highlands and adding the Kilombe area to the Highlands. It will also be necessary to exclude the Kilombe area from the native reserve under section 54 of the Crown Lands Ordinance, but this does not require the approval of Legislative Council.

7. The Seventh Schedule must therefore be amended as follows:—

(a) By the deletion of the following words on page 2086 of Volume II of the Laws of Kenya, 1948—

“thence south-westerly by the north-western boundaries of L.R. Nos. 487/26/4, 487/27, 487/28/4 to the westernmost corner of the last portion;

thence still south-westerly by the north-western boundary of L.R. No. 487/29 for a distance of 750 feet to a beacon;

thence generally westerly, northerly and again westerly by a series of cut and beacons lines to the intersection with the eastern boundary of L.R. No. 502 (Mount Londiani Forest Reserve);

thence due north by the eastern boundary of that forest reserve for a distance of 8,400 feet to the north-eastern corner of that reserve;

thence due west by the northern boundary of that forest reserve to its intersection with the Esageri River;

thence down-stream by that river to its intersection with the generally northern boundary of L.R. No. 5261;

thence westerly by that generally northern boundary and the generally northern boundary of L.R. No. 5242 to the intersection of the latter with the Enarosura River;”.

(b) By the substitution therefor of the following words—

“thence continuing north-westerly by the generally south-western boundary of the Eldama Ravine—Nakuru Road to the intersection of the Esageri River;

thence generally westerly by the generally northern boundaries of L.R. Nos. 5261 and 5242 to the intersection of the latter with the Enarosura River;”.

(c) By the deletion of the following words on page 2090—

“Including in addition the following farms in the vicinity of Eldama Ravine: L.R. Nos. 488, 489, 490, 5249, 5276, 6262, 5641 and 493.”

The effect of the foregoing amendments is more particularly delineated on Boundary Plan No. 322 which is deposited in the Survey Records Office, Survey of Kenya.

The Kimulot Exchange

8. In that portion of the Lumbwa Native Land Unit occupied by the Kipsigis there are two farms—

Chebown (L.R. 5467)	5,037 acres	} Total 6,589 acres
Kerenga (L.R. 4098, now L.R. 3939) ..	1,552 acres	

which have been alienated to the Kenya Tea Company for 999 years from 1920. These farms are also included in the Highlands by the Seventh Schedule to the Crown Lands Ordinance.

9. In 1948 it was proposed that these two farms should be permanently exchanged for 5,000 acres lying in an area of Crown land in the Highlands known as Kimulot, which should be added to the Native Land Unit. It was also proposed that two farms (L.R. 957 and 958, measuring 10,000 acres), known as the Marshall-Webb farms, should be made available for controlled grazing schemes for the benefit of the Kipsigis; this does not strictly form part of the exchange.

10. The Highlands Board recommended approval of these proposals at a meeting held on the 9th September, 1948, and at subsequent meetings agreed to an increase in the area of Kimulot to be given to the Kipsigis to 7,650 acres.

11. The Highlands Board stipulated that one of the conditions of the exchange should be the excision of 12,000 acres from the Timbilil Forest for agricultural use, but agreed at a meeting held on the 30th July, 1953, that the Chief Conservator of Forests should be empowered to manage the land until it was decided to make use of it for agricultural purposes. The Governor in Council of Ministers has (29th June, 1955) approved the excision, and the requisite Proclamation has been made (Proclamation No. 31, published in the *Official Gazette Supplement* No. 69 of the 25th October, 1955). The land is already included within the boundaries of the Highlands.

12. A resolution was moved in Legislative Council on the 9th May, 1951, seeking approval of the excision of Chebown and Kerenga from the Lumbwa Native Land Unit and of the addition of approximately 7,650 acres in the Kimulot area to the Native Land Unit. This was approved on the following day.

13. It is now necessary to excise the Kimulot area from the Highlands by amending the Seventh Schedule to the Crown Lands Ordinance as follows:—

(a) By the deletion of the figures "4098" in the eighth paragraph of page 2078 of Volume II of the Laws of Kenya, 1948, and by the substitution of the figures "3939".

(b) By the deletion of the following words on page 2078—

"thence up-stream by that river to its intersection with the eastern side of the Sotik-Kericho main track 25-foot reservation;

thence southerly by a cut and beacons straight line to its intersection with the Chepkoiisi (Kiptiget) River which forms the northern boundary of L.R. No. 6020;

thence down-stream by that river to its junction with the Dare (Itare) River;

thence up-stream by the latter river to its intersection with the straight line joining the Trigonometrical Beacon Posta with the south-western corner of L.R. No. 553;"

(c) By the substitution therefor of the following words—

"thence up-stream by that river to its intersection with the generally western boundary of the south-western Mau Forest Reserve;

thence by the latter boundary on a true bearing of approximately $190^{\circ} 30'$ and for a distance of 9,732 feet to a beacon;

thence continuing by that Forest Reserve boundary on a true bearing of approximately $143^{\circ} 01'$ for a distance of 11,172 feet to a beacon:

thence on a true bearing of approximately $181^{\circ} 08'$ for a distance of approximately 35 feet to the source of the Gamagomon River;

thence down-stream by that river to its confluence with the Itare River;

thence up-stream by the latter river and the Oke River to the intersection of that river with the straight line joining the Trigonometrical Beacon Posta with the south-western corner of L.R. No. 553;"

(d) By the insertion after SECTION VI on page 2100 of the following words:—

SECTION VII

The group of farms lying south-west of the south-western Mau Forest Reserve comprising the following L.R. Nos.:—

6019, 6020, 6021, 7030, 7035, 6022, 6024, 6028, 6027, 6025 and 6026.

The effect of the foregoing amendments is more particularly delineated on Boundary Plan No. 314 which is deposited in the Survey Records Office, Survey of Kenya.

The Kipkarren and Kaimosi Farms

14. Prior to 1905 the Nandi inhabited the whole of the highlands country known as the Nandi Plateau, bounded roughly by the—

Uasin Gishu Plateau (extending to Mt. Elgon) on the north;

Nyando Valley on the south;

Elgeyo Escarpment on the east;

Kavirondo on the west.

15. As the result of a punitive expedition, made necessary by the continued attacks of the Nandi on the Uganda Railway, the whole tribe was placed in a reserve in 1906. The boundary of this Nandi Native Reserve, which included the present Kipkarren and Kaimosi farms, was gazetted on the 15th October, 1907, and the proclamation referred to it as "accepted by the chiefs of the tribe at the close of the punitive operations in 1906". The boundary was revised in 1910, with the agreement of the Nandi chiefs, and the area of the Native Reserve was thereby increased by 70 square miles. In the Nandi Political Record Book the following entry appears under November, 1907: "Deputation of Nandi elders informed that the land is theirs for ever". It is believed that this assurance was given when Mr. Winston Churchill, as he then was, visited the Nandi as Under-Secretary of State for the Colonies.

16. It is clear, from the above quotations and from other information contained in official records, that the agreements with the Nandi were of a strictly formal character, and were in the nature of a pledge given to the tribe. But these agreements seem to have been overlooked when in July, 1912, Government approved the alienation of $17\frac{1}{2}$ square miles in the Kaimosi area, which was included in the Nandi Native Reserve both by the agreement of 1907 and by that of 1910. Some $16\frac{1}{2}$ square miles were in due course alienated.

17. In 1919, the existence of the agreements being still overlooked, a block of $129\frac{1}{2}$ square miles in the Kipkarren area was surveyed for alienation as soldier settlement farms. Shortly after alienation had begun, it was realized that this was not in accordance with the undertakings given to the Nandi and also that so large an area could not be taken out of the reserve without hardship to them. A line was therefore fixed, generally known as the Cogle Line,

which had the effect of returning the greater part of the 129½ square miles to the Nandi, leaving 43½ square miles for alienation; by a subsequent modification a further 370 acres were returned to the Nandi.

18. When the fact of the above alienations was brought to the notice of the Secretary of State, he directed that—

- (a) the whole of the Kipkarren and Kaimosi areas should continue to be regarded as an integral part of the Nandi Native Reserve;
- (b) rents or similar proceeds derived from alienation must be expended for the benefit of the Nandi;
- (c) no further alienation in the areas was to be permitted without his approval.

19. At the time of the Carter Commission (1932) the area alienated was—

Kipkarren block	33½ square miles
Kaimosi block	16½ square miles

and all rents received from the farms were being paid to the Nandi Local Native Council, with the approval of the Secretary of State. The Commission recognized that the alienations should never have taken place, but considered that they should stand. They placed the farms within the boundaries of the Highlands, with the qualification that the land should remain native reserve (paragraph 1973). The farms are therefore included in the Nandi Native Land Unit in the Schedule to the Native Lands Trust Ordinance and also in the Seventh Schedule (Boundaries of the Highlands) to the Crown Lands Ordinance. Legally, therefore, they are within both the native land unit and the Highlands.

20. The Nandi, however, were not satisfied and continued to petition Government for the return of these farms. In July, 1949, the Governor in Council decided that certain farms in the Kipkarren block and any farms in the Kaimosi block north of the Yala River should, if they came on to the market, be purchased and made available to the Nandi; the remainder were to be left for the term of the leases to expire in the normal way.

21. It was later proposed, as the result of a meeting held on the 8th August, 1949, between the Members for Agriculture and Natural Resources and for Health and Local Government, the Chief Native Commissioner and the European Elected Members, that Government should try to purchase certain of the farms from their owners.

22. The Highlands Board was consulted and recommended that this proposal should be approved, subject to the following conditions:—

- (a) The Nandi should give a solemn undertaking that they would drop all further claims, or alternatively Government should make it clear to them that this adjustment constituted a final settlement of all their claims in the area.
- (b) The land purchased should be handed over to the Nandi under strict conditions of control and husbandry.

23. It was subsequently decided that farms to the extent of 4,847.5 acres in the Kipkarren block should be purchased, leaving 17,485 acres not purchased; and that farms to the extent of 6,637.5 acres in the Kaimosi block should be purchased, leaving 3,953.5 acres unpurchased. The total acreage to be purchased was therefore 11,485.

24. Negotiations were opened with the owners, and on the 11th April, 1950, the Governor addressed the chiefs and counsellors of the Nandi tribe at a *baraza*. He explained to them that Government was purchasing certain of the Kipkarren and Kaimosi farms at a considerable cost for the benefit of the Nandi, and went on to say:—

"I must make it quite clear to you that the leases of these lands have only been bought by Government to be used for your benefit on the strict understanding that from this time onwards the Government will not listen to any claim which the Nandi may raise for any of the remaining farms in Kipkarren or Kaimosi. This is an agreement I have made with the Europeans on your behalf, and they and you and I, as men of honour and trustworthy men, have to see that we keep that agreement . . . there can be no question of Government ever considering any claims by the Nandi for the remainder of the Kipkarren and Kaimosi farms until they revert to the Nandi at the end of the leases."

On the 18th May, 1950, the Member for Agriculture and Natural Resources, in reply to a question by the Member for Uasin Gishu, quoted extracts from the Governor's address and gave details of land registration numbers of the farms which were being purchased.

25. With one or two exceptions, the farms had been purchased by the end of 1950, and the purchase of the few remaining has now been completed. The total cost of acquisition was £120,532; this included compensation for crops, movables, cattle, lawyers' fees, stamp duty fees. The farms are now occupied by the Nandi. In order, however, finally to complete the transaction, it is necessary to amend the boundaries of the Highlands, as set out in the Seventh Schedule to the Crown Lands Ordinance, so as to exclude the 20 Kipkarren and the 8 Kaimosi farms which have been purchased.

26. The Schedule requires amendment in respect of the Kipkarren farms, as follows:—

(a) By the deletion of the following words on page 2076 of Volume II of the Laws of Kenya, 1948—

"thence by the western boundaries of L.R. Nos. 6954 and 6955 and by the western, south-western and south-eastern boundaries of L.R. No. 6956 to the westernmost corner of L.R. No. 3134;

thence by part of the south-western boundary of L.R. No. 3134 for a distance of about 775 feet to its intersection with the unnamed river which forms the north-western boundary of L.R. No. 7140;

thence up-stream by that unnamed river for a distance of about 6,800 feet to a point on a true bearing of $341^{\circ} 33' 28''$ from a beacon situated on the right bank;

thence by a straight line to that beacon and onwards by a straight line on a true bearing of $161^{\circ} 33' 28''$ and for a distance of 2,663.6 feet to a beacon;

thence by a straight line on a true bearing of $180^{\circ} 27' 17''$ and for a distance of 2,507.3 feet to the north-western corner of L.R. No. 6957;

thence by the western and south-western boundaries of that portion to the intersection of the latter with the river which forms the generally western boundary of L.R. No. 3160;

thence by that river up-stream to its intersection with the southern boundary of L.R. No. 3160;

thence by that southern boundary to the north-western corner of L.R. No. 6958;

thence southerly and easterly by the western and part of the southern boundary of L.R. No. 6958 to the intersection of the latter with the river ~~which~~ forms the western boundary of L.R. No. 6959/2;

thence by that river up-stream to its intersection with the south-western boundary of L.R. No. 6960/2;

thence south-easterly by that boundary to the southern corner of that portion;

thence south-easterly by part of the south-western boundary of L.R. No. 4363 for a distance of 3,570 feet to a beacon;

thence easterly by a straight line on a true bearing of $94^{\circ} 38' 34''$ and for a distance of about 3,217.2 feet to a beacon on the south-western boundary of L.R. No. 3161;

thence by part of the south-western boundary of that portion, and the south-western boundaries of L.R. Nos. 3150, 3149, 3148 and 3147 to the south-eastern corner of the last portion;

thence northerly by the eastern boundaries of L.R. Nos. 3147 and 3151 and onwards across the road reserve to the southernmost corner of L.R. No. 3120;

thence still northerly by the eastern boundaries of L.R. Nos. 3120, 4112, 3156, 6427 and 6426 to the north-eastern corner of the last portion;".

(b) By the substitution therefor of the following words—

"thence by the western boundaries of L.R. Nos. 6954, 6955 and by the western, south-western and south-eastern boundaries of L.R. No. 6956 to the westernmost corner of a portion of Crown land (original L.R. No. 3134);

thence south-easterly by the south-western boundaries of the latter and the following portions: the portion of Crown land (original L.R. No. 3133), L.R. No. 3132, two portions of Crown land (original L.R. Nos. 3131 and 3130), L.R. Nos. 3129, 3128, 3127, 3126, 3125, 3854, 3124, 3123, 3122, 3121 and a portion of Crown land (original L.R. No. 3120) to its southernmost corner;

thence northerly by the eastern boundaries of that portion and the eastern boundaries of L.R. Nos. 4112, 3156, 6427 and 6426 to the north-eastern corner of the last portion."

27. The effect of the foregoing amendments is more particularly delineated on Boundary Plan No. 321 which is deposited in the Survey Records Office, Survey of Kenya.

28. In respect of the Kaimosi farms the Schedule is to be amended as follows:—

(a) By the deletion of the following words on pages 2099 and 2100 of Volume II of the Laws of Kenya, 1948;—

“SECTION V

Commencing at the north-western corner of L.R. No. 1906 at the Trigonometrical Beacon Kipsugur;

thence southerly by the western boundary of L.R. No. 1906 to the north-eastern corner of L.R. No. 1900;

thence by the northern and western boundaries of that portion and the western boundary of L.R. No. 1762 to its intersection with the Mchomekek River;

thence up-stream by that river to the intersection with the eastern boundary of the Kisumu-Kapsabet Road Reserve;

thence south-westerly by that road reserve boundary to its intersection with the western boundary of L.R. No. 1891;

thence southerly by the latter boundary and the western boundary of L.R. No. 1890 to the south-western corner of the latter portion;

thence south-easterly by the south-western boundaries of L.R. Nos. 1890, 1898 and 1897 to the south-eastern corner of the last portion;

thence north-easterly by the south-eastern boundaries of L.R. Nos. 1897 and 1896 to the northernmost corner of the latter portion;

thence north-westerly by the north-eastern boundaries of L.R. Nos. 1895 and 1894 to the intersection of the latter with the Mchomekek River;

thence down-stream by that river to its intersection with the south-eastern boundary of L.R. No. 1763;

thence north-easterly by that boundary to its intersection with the Yala River;

thence down-stream by that river to its intersection with the eastern boundary of the Kisumu-Kapsabet Road Reserve;

thence north-easterly by the generally south-eastern boundary of that road reserve to its intersection with the south-western boundary of L.R. No. 1902;

thence by that south-western boundary and the southern boundary of L.R. No. 1092 to the south-eastern corner of the latter portion;

thence north-easterly by the generally south-eastern boundaries of L.R. Nos. 6734 and 6736 to the north-eastern corner of the latter portion;

thence northerly and westerly by the eastern and northern boundaries of L.R. No. 1904 to the north-western corner of that portion;

thence northerly and westerly by the eastern and northern boundaries of L.R. No. 1906 to the point of commencement.”

(b) By the substitution therefor of the following words:—

“SECTION V

The group of farms lying between the Kakamega Forest Reserve and the South Nandi Forest Reserve comprising the following L.R. Nos. 1762, 1763, 1893, 1894, 1891, 1892, 1899, 1895, 1896, 1890, 1898, 1897/1 and 1897/2.

Also an isolated farm lying north-east of the above group—L.R. No. 6736/1.”

29. The effect of the foregoing amendments is more particularly delineated on Boundary Plan No. 319 which is deposited in the Survey Records Office, Survey of Kenya.

The Northern Laikipia Boundary

30. The boundary of the Highlands in Northern Laikipia as described in the Seventh Schedule to the Crown Lands Ordinance was taken from a report made in 1937 by the then District Commissioner, Rumuruti, and was recognized at the time of its acceptance for inclusion in the Schedule as being of a vague nature.

31. In 1949, when the survey of the Northern Laikipia farms was being undertaken, the opportunity was taken for the surveyor to obtain a more accurate description of the boundary with a view to amending the Seventh Schedule. In due course the Highlands Board approved the proposed amendment, but no further action could be taken until it was legally possible to adjust the boundaries of the Highlands.

32. It is now necessary to amend the Seventh Schedule as follows:—

(a) By the deletion of the following words on page 2084 of Volume II of the Laws of Kenya, 1948:—

“thence down-stream by that river for a distance of approximately 25 miles to its junction with an unnamed stream;

thence up-stream westerly by that stream to its source;

thence by a straight line due west to its intersection with the top edge of the cliffs forming the eastern edge of the Angata Wergoi;

thence north-westerly by the top edge of these cliffs to the Trigonometrical Beacon Bergoi;

thence generally westerly and south-westerly by a series of straight lines defined by cairns, crossing and recrossing the Ol Keju Mara (Seya) River to a beacon (“Cairn”) on the eastern bank of the northernmost and largest lake of Sogota Marma;

thence south-westerly by a straight line to a cairn on the western bank of that lake;

thence generally south-westerly by a series of straight lines defined by cairns to its intersection with a cut and beacons straight line;

thence westerly by that cut and beacons line to its intersection with the Amaya River;

thence down-stream by that river for a distance of approximately two miles to its intersection with a cut and beacons straight line;

thence by that straight line on a true bearing of $238^{\circ} 55' 12''$ for a distance of approximately 7,000 feet to a beacon;”.

(b) By the substitution therefor of the following words:—

“thence down-stream by that river for a distance of approximately 24 miles to its junction with the Kirimum River;

thence up-stream by that latter river for a distance of approximately $4\frac{1}{2}$ miles to its source, a spring;

thence by straight lines each terminating at a beacon on the following true bearings and for the following distances successively:—

274° 37' 05"	..	30.0 feet
274° 37' 05"	..	4,830.1 feet
337° 31' 58"	..	5,919.1 feet
338° 03' 05"	..	10,131.4 feet
326° 43' 27"	..	5,130.4 feet
30° 02' 24"	..	2,589.1 feet
297° 27' 35"	..	4,474.4 feet
354° 50' 05"	..	4,277.3 feet
333° 12' 20"	..	11,194.9 feet
359° 46' 17"	..	4,837.2 feet
300° 51' 51"	..	10,952.2 feet
260° 22' 08"	..	4,408.7 feet
249° 47' 24"	..	9,666.4 feet
212° 51' 31"	..	12,983.9 feet
246° 35' 58"	..	9,725.2 feet
287° 28' 50"	..	4,220.0 feet
266° 02' 30"	..	5,886.2 feet
250° 28' 10"	..	1,501.1 feet
259° 21' 30"	..	522.7 feet

this beacon being known as Marmar;

thence by straight lines each terminating at a beacon on the following true bearings and for the following distances successively:—

194° 00' 00"	..	180.8 feet
205° 31' 50"	..	257.1 feet
211° 54' 10"	..	126.2 feet
243° 47' 50"	..	170.5 feet
227° 17' 40"	..	127.6 feet
207° 34' 40"	..	126.1 feet
257° 08' 50"	..	202.6 feet
271° 50' 50"	..	258.7 feet
279° 34' 00"	..	587.1 feet
274° 19' 30"	..	198.2 feet
175° 45' 01"	..	1,209.1 feet
270° 01' 32"	..	42,381.9 feet
270° 01' 22"	..	26,676.6 feet

thence on the same bearing and for a distance of 1,450 feet to its intersection with the Amaya River;

thence down-stream by that river for a distance of approximately $2\frac{1}{2}$ miles to its intersection with a cut and beacons straight line;

thence by that straight line on a true bearing of 238° 56' 18" and for a distance of 1,308 feet to a beacon known as Marigat;

thence by a straight line on the same bearing for a distance of 4,793.8 feet to a beacon."

33. The effect of the foregoing amendments is more particularly delineated on Boundary Plan No. 250 which is deposited in the Survey Records Office, Survey of Kenya.