



27 JAN 1958

P.O. Box 1042, NAIROBI

**COLONY AND PROTECTORATE OF KENYA**

---

# **SESSIONAL PAPER**

## **No. 1 of 1957/58**

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

1958

PRINTED BY THE GOVERNMENT PRINTER, NAIROBI

*Price: 20 Cents*

**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. There was no provision in law for altering the boundaries of the Highlands until the enactment of the Crown Lands (Amendment) Ordinance, 1954 (No. 7 of 1955). It is, however, now 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.

2. In Sessional Paper No. 47 of 1956, which was approved by Legislative Council on 15th February, 1956, a number of adjustments were made to the boundaries of the Highlands. The present Sessional Paper contains some further amendments to the boundaries which have been agreed by the Highlands Board.

**Railway and Road Realignment, Dagoretti Corner to Kijabe**

3. As a result of the realignment of the railway and the road between Dagoretti Corner and Kijabe, some 624.5 acres of land were taken from the Kikuyu Native Land Unit. After various proposals for compensation had been considered, it was finally decided, with the consent of the Highlands Board, that land should be made available for addition to the Native Land Unit by excision from Forest Reserves in the Highlands as follows:—

	<i>Acres</i>
(a) Kikuyu Escarpment Forest Reserve .. .. .	69.8
(b) Ngong Road Forest Reserve .. .. .	145
(c) Dagoretti Forest Reserve .. .. .	100
(d) Kinyagori Forest Reserve .. .. .	247
(e) Ngarariga Forest Reserve .. .. .	258
(f) Biberioni Forest Reserve .. .. .	278

The total area excised is, as will be seen, greater than the acreage taken from the Kikuyu Native Land Unit. The Highlands Board agreed, however, that areas (d), (e) and (f), sometimes referred to as the "Lari/Kerita Pool", which are forest areas entirely surrounded by native land, should be excised from the Forest Reserves in order to form a pool from which all small claims for compensation for areas excluded from the Native Land Unit could be met. It was later agreed that all three areas should cease to be forest areas, should be excised from the Highlands and should be added to the Native Land Unit. This was confirmed by the Highlands Board on 13th June, 1955.

4. All the areas referred to in paragraph 3 above have been excised from the forests; in some cases the land has been formally added to the Kikuyu Native Land Unit and in the remaining cases action is in hand.

5. It is now necessary to excise all the above areas from the Highlands and to amend the Highlands boundaries accordingly. It is, however, not yet possible to do this in respect of the Kikuyu Escarpment, Kinyagori, Ngarariga and Biberioni areas, since a survey must first be made of the boundaries affected by the Railway realignment; with the present great demand for surveys it is not considered that this is of sufficient urgency to warrant a high priority. It is possible, however, now to adjust the boundaries of the Highlands in respect of

the Ngong Road and Dagoretti excisions, and it will be necessary to amend the Seventh Schedule to the Crown Lands Ordinance as follows:—

(a) (i) By deletion of the following words on page 2094:—

“thence northerly, easterly, northerly, westerly, southerly, north-westerly and again southerly, by the generally northern boundary of that forest reserve to the intersection of the last with the Mutoini River which forms the northern boundary of L.R. No. 191;”

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

“thence northerly by part of the generally northern boundary of the Ngong Road Forest on a true bearing of approximately  $356^{\circ} 30'$  and for a distance of approximately 1,730 feet to a beacon;

thence on the following approximate true bearings and distances:—

bearing  $77^{\circ} 00'$ , distance 2,260 feet;

bearing  $06^{\circ} 00'$ , distance 950 feet (crossing the E.A.R. & H. 200-ft. Railway Reserve);

bearing  $336^{\circ} 30'$ , distance 940 feet;

bearing  $283^{\circ} 00'$ , distance 1,570 feet;

bearing  $260^{\circ} 00'$ , distance 1,970 feet;

thence on a true bearing of approximately  $207^{\circ} 30'$  to the intersection of that line with the generally northern boundary of the aforementioned Railway Reserve;

thence generally north-westerly by that Railway Reserve boundary for a distance of approximately 6,100 feet to the point of intersection of the last portion of the line of the generally western boundary of the Ngong Road Forest produced;

thence southerly by that line crossing the aforementioned Railway Reserve to the north-western corner of the Ngong Road Forest;

thence generally southerly by that Forest boundary to the Mutoini River;”

The affected portion of the Highlands Boundary as described above is more particularly delineated on Boundary Plan No. 324, which is deposited in the Survey Records Office, Survey of Kenya.

(b) (i) By the deletion of the following words on page 2100:—

“L.R. No. 2256/7

Lower portion of the Dagoretti Forest Reserve south-west of Dagoretti Township.”

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

“L.R. No. 2256/7/R

Dagoretti Forest Reserve south-west of Dagoretti Township.”

The amended portion of the Highlands Boundary as described above is more particularly delineated on Boundary Plan No. 348, which is deposited in the Survey Records Office, Survey of Kenya.

### **Wanjii Hydro-Electric Project**

6. In 1948 the East African Power and Lighting Company Limited submitted a scheme known as the “Wanjii Hydro-Electric Project”, for which they required nine pieces of land totalling 78.4 acres, situated in the Fort Hall District in the Kikuyu Native Land Unit, to be set apart under the Native Lands Trust Ordinance and leased to the Company. The Provincial Commissioner recommended that 183 acres of land in the Highlands, which the Company offered as compensation should be added to the Kikuyu Native Land Unit. This land formed part of

farms L.R. Nos. 3492, 3493 and 1964, together with an area required for a stock route across farms L.R. Nos. 3492 and 3496. These proposals were acceptable to the Local Native Council, and the Highlands Board at a meeting held on 25th November, 1948, recommended that they be approved. As a result of survey it has transpired that the area of land being excised from the Highlands is in fact 208.5 acres, of which 4.5 acres will be road reserve.

7. The 78.4 acres in the Kikuyu Native Land Unit were set aside in Government Notice No. 1253 of 20th December, 1948, and it is now necessary to amend the boundaries of the Highlands so as to exclude the 208.5 acres which are being added to the Kikuyu Native Land Unit as compensation, less 4.5 acres for road reserve.

8. In order to do this the Seventh Schedule to the Crown Lands Ordinance must be amended as follows:—

(i) By the deletion of the following words on pages 2091 and 2092 of Volume II of the Laws of Kenya, 1948:—

“thence up-stream by the latter river to its intersection with the north-western boundary of the Railway Reserve;

thence generally south-westerly by the Railway Reserve boundary to its intersection with the western boundary of the Thika-Fort Hall Road Reserve;

thence southerly, south-westerly and again southerly by that reserve boundary to a point due west of the south-western corner of L.R. No. 1959/2;

thence by a straight line to that south-western corner;

thence south-easterly and northerly by the south-western and the generally eastern boundaries of L.R. No. 1959/2 to the south-eastern corner of L.R. No. 325/7 (325/6/2);

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

	<i>Feet</i>
12° 22' 00" .. .. .	1,580.0
2° 13' 19" .. .. .	549.4
331° 01' 11" .. .. .	385.5
17° 14' 39" .. .. .	296.3
350° 12' 34" .. .. .	576.9
329° 41' 58" .. .. .	561.5
36° 38' 27" .. .. .	980.1
25° 58' 26" .. .. .	494.1
0° 36' 00" .. .. .	416.3
348° 06' 55" .. .. .	293.3
342° 30' 52" .. .. .	770.4
70° 41' 47" .. .. .	255.6
57° 19' 11" .. .. .	824.3
96° 36' 59" .. .. .	390.1
124° 22' 07" .. .. .	646.6

to a beacon on the western boundary of L.R. No. 1965;

thence southerly by a part of the western boundary of that portion to its intersection with the Thaba Thaba River;

thence down-stream by the Thaba Thaba River to its intersection with the western boundary of L.R. No. 6912;”

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

“thence up-stream by the latter river to the north-west corner of L.R. No. 1964/2 or R;

thence generally south-westerly by part of the latter boundary to the north-east corner of L.R. 3493/2 or R;

thence north-westerly by the north-eastern boundary of that portion to its most northerly corner;

thence south-westerly by the north-western boundary of L.R. No. 3496/2 or R (south-eastern portion) to its intersection with the Thaba Thaba River;

thence down-stream by the course of the latter river to its intersection with the western boundary of L.R. No. 6912;”

(iii) By the insertion after SECTION II on page 2096 of the following words:—

“SECTION II A

Commencing at the intersection of the generally north-eastern boundary of L.R. No. 3492/2 or R with the Maragua River;

thence up-stream by the latter river to its intersection with the north-western boundary of the Railway Reserve;

thence generally south-westerly by the Railway Reserve boundary to its intersection with the western boundary of the Thika-Fort Hall Road Reserve;

thence southerly, south-westerly and again southerly by that reserve boundary to a point due west of the south-western corner of L.R. No. 1959/2;

thence by a straight line to that south-western corner;

thence south-easterly and northerly by the south-western and the generally eastern boundaries of L.R. No. 1959/2 to the south-eastern corner of L.R. No. 325/7;

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

	<i>Feet</i>
12° 22' 03" .. .. .	1,580.0
2° 13' 19" .. .. .	549.4
331° 01' 11" .. .. .	385.5
17° 14' 39" .. .. .	296.3
350° 12' 34" .. .. .	576.9
329° 41' 58" .. .. .	561.5
36° 38' 27" .. .. .	980.1
25° 58' 26" .. .. .	494.1
0° 36' 00" .. .. .	416.3
348° 06' 55" .. .. .	293.3
342° 30' 52" .. .. .	770.4
70° 41' 47" .. .. .	255.6
57° 19' 11" .. .. .	824.3
96° 36' 59" .. .. .	390.1
124° 22' 07" .. .. .	646.6

to a beacon on the western boundary of L.R. No. 1965;

thence southerly by a part of the western boundary of that portion to its intersection with the Thaba Thaba River;

thence down-stream by the Thaba Thaba River to the intersection of the eastern boundary of L.R. No. 1965;

Thence northerly by the latter boundary to the intersection of the south-eastern boundary of the north-western portion of L.R. No. 3496/2 or R;

thence north-easterly by the latter boundary and the generally south-eastern and north-eastern boundaries of L.R. No. 3492/2 or R to the point of commencement.

Included within this section of the Highlands is the easement between L.R. No. 325/7 and L.R. No. 1965, and L.R. No. 325/8 (Waterfall Reserve)."

The amended portion of the Highlands Boundary as described above is more particularly delineated on Boundary Plan No. 338, which is deposited in the Survey Records Office, Survey of Kenya.

### **Legisianan Temporary Native Reserve**

9. An area of some 337 acres of unalienated Crown land exists in the Highlands in Nakuru District adjacent to L.R. 5260 and the Legisianan Temporary Native Reserve (Baringo District). The land in question is of a barren rocky nature and is unsuitable for farming purposes. It has in the past been heavily overgrazed by Tugen stock from the Native Reserve.

10. As a method of bringing the area under supervision and control it is proposed to include it in the adjacent Legisianan Temporary Native Reserve so that it may form part of a controlled grazing scheme to be enforced in that Reserve. The area is of no economic value to the Tugen and this course is proposed solely with a view to preventing further indiscriminate grazing of the area by African-owned stock as this constitutes a nuisance to neighbouring farmers and detracts from the proper control of stock in Baringo District.

11. At its meeting on 31st May, 1957, the Highlands Board agreed to recommend the excision from the Highlands of the 337 acres in question, and its addition to the Legisianan Temporary Native Reserve.

12. In order to effect the excision, and so enable the addition of the area to the Temporary Native Reserve to be proclaimed, it is necessary to amend the boundaries of the Highlands as set out in the Seventh Schedule to the Crown Lands Ordinance as follows:—

(i) By the deletion of the following words on page 2085 of Vol. II of the Laws of Kenya, 1948:—

"thence north-westerly by the north-eastern boundaries of L.R. Nos. 3816/R, 3815/R and 3814/R to the north-western corner of the last portion;

thence northerly by a straight line to the trigonometrical beacon Legisianan;

thence by a straight line to the north-eastern corner of L.R. No. 5260;"

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

thence north-westerly by the generally northern boundaries of L.R. Nos. 475/7, 475/6 and 475/5 to a beacon Back I at the north-west corner of the last mentioned portion;

thence by the north-eastern boundary of L.R. No. 5260 on a true bearing of  $326^{\circ} 37' 31''$  for a distance of 7,137.1 feet to a beacon D at its north-east corner;"

The amended portion of the Highlands Boundary as described above is more particularly delineated on Boundary Plan No. 360 which is deposited in the Survey Records Office, Survey of Kenya.

### **Lembus Forest**

13. The Lembus Forest Reserve which was so declared in 1912 and which falls within the boundaries of the Highlands, covers an area of approximately 90 square miles.

14. In 1916 concessionary rights were granted in the forest and a clause in this Agreement confirmed the rights of grazing, cultivation, etc., of certain members of the Tugen and Wanderobo tribes who had been occupying parts of the forest since before the beginning of the century. The original rightholders totalled some 486 families, of which 475 were of Tugen origin. A census made in 1952 revealed the fact that some 772 descendants of rightholders were exercising their right to reside in the forest. At the present time it is estimated that between five and ten times the authorized number of stock are grazing the area, and it has not proved possible to enforce rules controlling these numbers.

15. The Tugen have for some years been requesting Government to recognize that the Forest is essentially an African area as was in effect recognized by the Carter Commission. They argue that members of their tribe have been occupying the forest from time immemorial, and that in similar circumstances, forests in neighbouring districts, e.g. Elgeyo, have been included within the Native Land Units and have been administered by the Forest Department on behalf of the African District Councils. They point out that under the present status of the land, the net profits from the forest accrue to the Crown instead of their African District Council, and that the African District Council badly needs the benefit of the profits to protect and control the whole Perkerra catchment.

16. It is to be noted in this latter connexion that the Lembus Forest forms the northern part of the catchment area for the Perkerra River which flows through Baringo District into Lake Baringo. It is moreover of particular importance in relation to the irrigation scheme established at Marigat on the lower reaches of the river, that the Lembus Forest area be effectively protected and that the human and stock population in this area be properly controlled, as the lower part of the catchment area is in an advanced state of erosion.

17. The problem, therefore, fell into three parts—

- (a) to meet the undoubted and legitimate claims of certain Tugen and Wanderobo to an area of this forest;
- (b) to prevent the continued destruction of the forest by lack of control over the existing rightholders;
- (c) to seize the opportunity to protect the Perkerra catchment area, as part of the general agreement.

18. After due consideration it was decided that the most satisfactory solution lay in the excision of the Forest Reserve from the Highlands and its addition to the adjacent Kerio Land Unit on specific conditions which would adequately safeguard Government's interest in the area while at the same time creating a situation which would be acceptable to the Tugens affected and to the Baringo African District Council.

19. The Highlands Board was consulted and on 26th March, 1957, advised that it would agree to recommend the excision from the Highlands, and addition to the Kerio Native Land Unit, of the area of the Lembus Forest lying to the north of Sclaters Road subject to the following conditions—

- (a) The acceptance by the Baringo African District Council and the Tugen rightholders to the Settlement Area being restricted to an area of approximately 20,000 acres to be demarcated by Government;
- (b) the agreement of the Tugen rightholders to the extinguishment of their existing rights in the forest in return for the Settlement Area referred to at (a) above;

(c) the agreement of the Baringo African District Council to the declaration of the remainder of the Lembus Forest (i.e. the total area of 90 square miles less the settlement area referred to at (a) above) as an African District Council Forest; this forest to be administered by the Forest Department on behalf of the African District Council; and

(d) the agreement of the Baringo African District Council to the expenditure of all profits derived from the African District Council Forest on the protection of the Perkerra River Catchment Area.

These conditions have been accepted by the Baringo African District Council and the Tugen rightholders, and condition (d) will apply for a period of 15 years.

20. In order to allow this agreement to proceed and for the Lembus Forest area to be excised from the Highlands as a prerequisite of its addition to the Kerio Native Land Unit it is necessary for the boundaries of the Highlands as set out in the Seventh Schedule to the Crown Lands Ordinance to be amended as follows:—

(i) By the deletion of the following words on page 2086 of Volume 2 of the Laws of Kenya, 1948:—

“thence upstream by that river to its intersection with the eastern boundary of L.R. No. 503 (Lembus Forest Reserve);

thence northerly by part of the eastern boundary of that reserve to its north-eastern corner;

thence westerly by the northern boundary of that reserve to the south-eastern corner of L.R. No. 5690/R;

thence northerly by the eastern boundary of that portion for a distance of about 624 feet to its intersection with the Kinoinoi River;

thence downstream by that river to its intersection with the north-eastern boundary of L.R. No. 5690/R;

thence north-westerly by part of that north-eastern boundary to the southernmost corner of L.R. No. 7210.”

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

“thence up-stream by that river to its confluence with the Eldama River;

thence up-stream by the Eldama River to its intersection with the northern boundary of the Sclaters Road;

thence generally westerly by the northern boundary of the Sclaters Road for a distance of about  $10\frac{1}{2}$  miles to its intersection with the north-eastern boundary of L.R. No. 4142;

thence by part of that latter boundary on a true bearing of  $314^{\circ} 06' 15''$  for a distance of approximately 520 feet to a beacon 3A.

thence by the eastern boundary of L.R. No. 1861/R on a true bearing of  $339^{\circ} 59' 49''$  for a distance of 5,398.71 feet to a beacon 5D.

thence by the eastern boundary of L.R. No. 6568 on a true bearing of  $340^{\circ} 30' 26''$  for a distance of 7,286.94 feet to a beacon 5C.

thence by a straight line (which forms the eastern boundary of Timboroa Forest Reserve) on a true bearing of  $2^{\circ} 12' 09''$  for a distance of 17,749.02 feet to a beacon 9A at the south-east corner of L.R. No. 1866/5;

thence by the south-eastern boundaries of L.R. Nos. 1866/5 and 1866/1 on a true bearing of  $24^{\circ} 50' 58''$  for a total distance of 13,520.0 feet to a beacon 9B;

thence by the eastern boundary of L.R. No. 6259 on a true bearing of  $352^{\circ} 41' 58''$  for a distance of 7,875.3 feet to a beacon A1;



thence northerly by the eastern boundary of L.R. No. 8003 for a distance of 624.3 feet to its intersection with the Kinoinoi River; thence by the north-eastern boundary of that portion downstream by that river to its intersection with the northern boundary of that portion; thence westerly by that northern boundary to the southernmost corner of L.R. No. 7210;"

The effect of the foregoing amendment is more particularly delineated on Boundary Plan No. 359 which is deposited in the Survey Records Office, Survey of Kenya.

21. It will also be necessary to amend the first line of the preamble to the Seventh Schedule on page 2075 of Volume II of the Laws of Kenya, 1948, by substituting for the word "six" the word "eight".

