

## SESSIONAL PAPER No. 78 of 1956

# IMMIGRATION POLICY

### PART I—HISTORY OF KENYA IMMIGRATION LEGISLATION AND PRESENT PROCEDURE

The substantive and subsidiary legislation which controls immigration into Kenya is as follows:—

- (a) The Immigration (Control) Ordinance, No. 51 of 1948, as amended by Ordinance No. 93 of 1948 and Ordinance No. 20 of 1949.
- (b) The Immigration (Control) Regulations, enacted in 1948 and subsequently varied by a number of amendments.
- (c) The Immigration (Control) (Exemption) Regulations, also enacted in 1948 and amended from time to time.
- (d) The Immigration (Special Provisions for Arabs) Regulations, 1948.

In moving the Second Reading of the Immigration (Control) Bill on 4th November, 1947, Mr. (now Sir Stafford) Foster Sutton, the then Attorney General, stated that there were two main reasons for the legislation. The first was to make it possible to control the immigration into Kenya of people who had lost their homes as a result of the second German war. The second was to protect the economic interests of people already in Kenya. In elaborating this second reason Mr. Foster Sutton drew attention to the rapid increase in the African population, to the Government's policy of providing expanded education facilities for them, and to the fact that, owing to pressure on the African lands, it would in future be necessary for increasing numbers of Africans to make a living otherwise than by peasant agriculture. He also referred in some detail to the increase in the Asian population and to the fact that large numbers of Asian boys leaving Kenya schools would have to find a livelihood in the types of occupation for which large numbers of immigrants were coming from Asia. In brief, Mr. Foster Sutton made it clear that the basis of the country's immigration policy must be the protection of the economic interests of present and future generations of Kenya people. (*Hansard*, Vol. XXVIII, Cols. 234 to 251 refer.)

The Government believes that the time has now come to examine the operation of the Ordinance and ancillary regulations, in order to gauge the extent to which they have achieved their purpose, to consider whether any restatement of immigration policy is necessary in view of changes in circumstances since 1948, and to discover what substantive or procedural amendments to the existing law will be required in order that any changes in immigration policy may be effectively put into operation.

#### Immigration Policy Prior to the 1948 Ordinance

2. From the early years of the Colony and up to the middle of 1940 immigration into Kenya was controlled by the Immigration Restriction Ordinance, enacted on 5th August, 1906. In 1940 it became necessary for this Ordinance to be reinforced, and the Defence (Admission of Women and Children) Regulations were accordingly enacted; in 1944 the Defence (Admission of Male Persons) Regulations were added.

The Immigration Restriction Ordinance restricted immigration in only two ways: by requiring immigrants to give adequate security by deposit or bond (the sum at this time being £50 in the case of immigrants from Europe and £10 in the case of immigrants from India), and by prohibiting the entry of certain classes of persons. Apart from these restrictions any person was entitled to enter Kenya. After the Defence (Admission of Women and Children) Regulations were introduced, no woman or child was admitted except under permit. During the war, permits were granted only in exceptional circumstances; but between the end of the war and the introduction of the present Ordinance permits were issued freely. After the enactment of the Defence (Admission of Male Persons) Regulations no male person of 18 years of age or more was permitted to enter the Colony unless it could be shown that his entry would be of value, or that he had a right to return to the Colony by reason of the fact that he had already a close association with Kenya. After the war was over, and before the new Ordinance was brought into force, permits were issued under these Regulations with considerable freedom.

### The Operation of the 1948 Ordinance

3. The machinery created by the 1948 law for the control of immigration consists of the Immigration Control Board and the Immigration Appeals Tribunal. The former, under regulation 4 of the Immigration (Control) Regulations, is composed of such persons as the Governor in Council may from time to time appoint; members hold office at the Governor's pleasure; the Chairman is appointed by the Governor from among members of the Board, and the Board elects its own Vice-Chairman. From the beginning the Board has been composed of: a Chairman (who has always been a European); two European members; two Asian members; one Arab member; one African member; and a representative of the Minister for African Affairs.

4. The Appeals Tribunal is set up under section 7 (4) of the Ordinance and regulation 8 of the Immigration (Control) Regulations. The Tribunal consists of such persons, not being less than three in number, as the Governor in Council may from time to time appoint; the members hold office during the Governor's pleasure; the President is appointed by the Governor from among members of the Tribunal. From the outset, the Tribunal has consisted of the President (usually a person with high judicial experience), one European member and one Asian member.

### Functions of the Immigration Control Board and Procedure adopted by it

5. The Immigration Control Board is the "prescribed authority" referred to in each of the Classes B to G under section 7 (1) of the Immigration (Control) Ordinance. Since this section is the keystone of the whole law on the subject of immigration, it is reproduced in full in Appendix I. The section divides immigrants into the following classes:—

Class A: Which is described below.

Class B: Persons intending to engage on their own account in agriculture.

Class C: Persons intending to engage on their own account in mining.

Class D: Persons intending to carry on a trade, business or profession (other than a prescribed profession) on their own account.

Class E: Persons intending to engage in manufacture on their own account.

Class F: Persons of prescribed professions (see Appendix II) who intend to practise such profession.

Class G: Persons who have been offered and who have accepted employment, other than temporary employment, in the Colony.

Class H: Which is described below.

In respect of all these classes, save A and H, the Board must satisfy itself that the entry of the immigrant will not be prejudicial to the inhabitants generally of the Colony. In order that it may be properly informed in reaching a decision on this point the Board is empowered (by regulation 4 (9) of the Immigration (Control) Regulations, 1948) to nominate an advisory body and to seek advice from it. If the Board is so satisfied, the Principal Immigration Officer is obliged to issue an entry permit in accordance with the provisions of the preamble to section 7 (1) of the Ordinance. His responsibility in this particular connexion is limited to verifying that the applicant does in fact belong to the appropriate class.

The Board is not concerned with Classes A and H of section 7 (1), for which classes the prescribed authority is the Principal Immigration Officer. Class A is divided into three sub-classes—

- (i) permanent residents;
- (ii) persons in possession of valid certificates of permanent residence issued by the other East African territories; and
- (iii) persons in the service of the Government of the Colony or the East Africa High Commission.

Class H consists of persons who can satisfy the Principal Immigration Officer that they have an assured income of the prescribed amount; Appendix III shows the amounts in fact prescribed. If so satisfied the Principal Immigration Officer is obliged to issue an entry permit.

6. The procedure adopted by the Board in dealing with applications under Classes B to G is as follows:—

Applications are addressed to the Principal Immigration Officer, who consults the official, board or organization which the Immigration Control Board has nominated (under regulation 4 (9) of the Immigration (Control) Regulations, 1948) to advise it on the question whether the prospective immigrant's entry will be prejudicial to the existing inhabitants of Kenya. The advisers are:—

Class B: The European Agricultural Settlement Board in the case of European applicants of this class and the Director of Agriculture in the case of non-European applicants of this class.

Class C: The Commissioner for Mines.

Class D: The Board of Commerce and Industry.

Class E: The Board of Commerce and Industry.

Class F: The Director of Medical Services, the Law Society of Kenya, the Commissioner of Lands, the East African Association of Engineers, the Association of Chartered Accountants, the Director of Veterinary Services, etc. (depending upon the profession to which the application refers).

Class G: The Labour Commissioner.

When this advice has been received it is placed before the Immigration Control Board and the application is considered by the Board.

If the Board certifies that the applicant's entry will not be prejudicial, the Principal Immigration Officer must then satisfy himself that the application does in fact fulfil the requirements of the class under which it is made and, in the case of Class G, that the employment offered is permanent. Having satisfied himself on these points, the Principal Immigration Officer then issues the necessary permit.

7. It is obviously not an easy task for the Board to decide whether the entry of a prospective immigrant will be "prejudicial to the inhabitants of the Colony", for there cannot fail to be room for differences of opinion in many cases; and the decision whether or not an applicant should be allowed to enter must depend on the extent to which future educational development is taken into account and on the estimate made of probable future levels of skill in the local population. Indeed, it is inevitable that in operating section 7 of the Ordinance the Board should find itself obliged to exercise a judgment and discretion (within the limits of the section) in a sphere of policy which will materially affect the future economy of the country.

This aspect of present immigration policy and procedure and the desirability, in the circumstances of the present day, for powers of this sort to be exercised by the Government rather than by a statutory board is examined in subsequent paragraphs of this memorandum.

8. The function of the Appeal Tribunal is to hear appeals by persons who are dissatisfied with the decision of the Board. An appeal must be filed within six weeks of the decision of the Board; memoranda are forwarded to the Registrar of the Tribunal by the appellant or his advocate and, in reply, by the Principal Immigration Officer on behalf of the Board. The Tribunal considers the memoranda and the evidence adduced at the hearing of the appeal, at which the appellant is entitled to be represented by counsel. The Tribunal then gives its judgment, which is final.

#### **Temporary Employment Passes**

9. Regulation 22 of the Immigration (Control) Regulations makes provision for the Principal Immigration Officer to issue a pass entitling the recipient to enter and remain *temporarily* within the Colony for the purpose of taking up temporary employment; the regulation reads:—

"A Temporary Employment Pass may be issued by the Principal Immigration Officer upon application made to him as in Form 11 in the First Schedule hereto to any person, if the Principal Immigration Officer is satisfied, after consultation with the Labour Commissioner—

- (a) that such person is qualified to undertake the employment in the trade, business or calling in respect of which the application is made;
- (b) that there is not already unemployment in that class of trade, business or calling to an extent which, in the opinion of the Principal Immigration Officer, would make the taking up of such employment prejudicial to the economic interests of the inhabitants generally of the Colony; and
- (c) that the taking up of such employment will not be prejudicial to the interests, whether economic or otherwise, of the inhabitants generally of the Colony."

### Dependants' Passes

10. Regulations 19 (1) and 21 of the Immigration (Control) Regulations provide for the issue by the Principal Immigration Officer of passes to dependants of residents in Kenya, provided that the Principal Immigration Officer is satisfied—

- (a) that the applicant is in fact a dependant of such resident; and
- (b) that the resident is able to provide accommodation for the dependant; and
- (c) that the resident is able to maintain the dependant.

### Other Types of Pass

11. Regulation 19 of the Regulations also provides for the issue of transit passes, pupils' passes, special passes and visitors' passes. These are of little importance from the point of view of permanent immigration into the country and it is not necessary to discuss them further in this paper.

## PART II—SURVEY OF ENTRY PERMITS GRANTED SINCE 1948

### Permanent Entry

12. Appendix IV contains a detailed statement of the Entry Permits which have been granted since 1st January, 1949, according to the class of applicant and his country of origin. It will be seen that the majority of *new* entrants fell under Class "G" (permanent employment), and that these came mainly from the United Kingdom, Asia (India and Pakistan) and Italy, in that order. The types of employment taken up by the entrants from the United Kingdom were very varied. The entrants from India, Pakistan and Italy were mainly artisans (masons, carpenters, plumbers, mechanics, diesel mechanics, joiners, etc.) with some shop assistants and book-keepers.

Apart from some teachers, nurses and secretaries, most of the immigrants were males.

### Temporary Employment Passes

13. Appendix V shows the number of Temporary Employment Passes issued since the law was enacted; the figures are tabulated below. It will be seen that in 1949 slightly more Temporary Employment Passes were issued to Asians than to Europeans, and about 40 per cent more to Asians than to persons from the United Kingdom; but after 1949 the position was reversed and the majority of applications for Temporary Employment Passes were made on behalf of persons from the United Kingdom and Europe.

*Temporary Employment Passes Issued and Refused Under Regulation 22 of the Immigration (Control) Regulations, 1948, for the Period from 1st January, 1949, to 30th June, 1955*

YEAR	EUROPEANS			ASIANS		
	Issued	Refused	Total	Issued	Refused	Total
1949 ..	2,239	20	2,259	2,389	904	3,293
1950 ..	2,246	41	2,287	751	474	1,225
1951 ..	2,202	37	2,239	611	463	1,074
1952 ..	2,414	33	2,447	403	633	1,036
1953 ..	2,792	23	2,815	283	224	507
1954 ..	3,035	21	3,056	311	274	585
1955 ..	3,618	60	3,678	629	377	1,006
Grand Total	18,546	235	18,781	5,377	3,349	8,726

Of the Temporary Employment Passes issued to Europeans, the vast majority were issued to persons from the United Kingdom. The occupational groups of the European entrants on Temporary Employment Passes are too varied to set out. Passes issued to Asians fell within the occupational descriptions referred to in paragraph 12 above.

### Dependants' Passes

14. Appendix VI contains particulars of Dependants' Passes which have been issued since 1948. The great majority of the passes issued were for wives and children of persons who had—

- (a) entered the Colony under the provisions of the now-repealed Immigration Restriction Ordinance; or
- (b) entered the Colony under the provisions of the Defence (Admission of Male Persons) Regulations before the 1948 Ordinance became law; or
- (c) entered subsequent to 1948 on Temporary Employment Passes, and subsequently obtained Entry Permits under section 7 (1) Class "G"; or
- (d) entered after 1948 under section 7 (1) Class "G".

It is a common practice for immigrants to come by themselves in the first place and to defer bringing their families until they have established themselves in the Colony. There is, therefore, a tendency for figures of dependants to lag behind those of male immigrants to the extent of a year or two.

### PART III—INCREASING POPULATION

15. Since the enactment of the present Ordinance in 1948 there has been a rapid increase in the European and Asian population (*see* Appendix VII) and in the number of Africans who are qualified to undertake skilled or semi-skilled occupations outside the Native Land Units. The African population is estimated to be increasing at the rate of 1½ per cent per annum, at which rate it will double itself in about 47 years. There is already heavy pressure on some of the Native Land Units; and even after taking into account the greater manpower which will probably be needed for the more intensive development of holdings, it is certain that an increasing number of Africans will have to seek a living outside the traditional occupations of the Reserves. For this reason, amongst others, it has for many years been the policy of the Government to expand the African education system, as rapidly as financial considerations permit, to enable Africans to take an increasing part in the economic, social and political life of the country and, in particular, to equip as many as possible for employment other than peasant agriculture. The rate of increase in the number of African boys leaving secondary school is indicated by the following table:—

					<i>With School Certificate</i>	<i>Without School Certificate</i>	<i>Total</i>
1948	..	..	..	..	41	145	186
1949	..	..	..	..	61	158	219
1950	..	..	..	..	65	155	220
1951	..	..	..	..	87	141	228
1952	..	..	..	..	106	193	299
1953	..	..	..	..	148	286	434
1954	..	..	..	..	165	75	240
1955	..	..	..	..	200	80	280
1960 (estimated)	..	..	..	..	550	100	650

It is equally necessary to bear in mind the increasing numbers of European and Asian boys leaving school each year, for whom employment has to be found; the approximate figures are as follows:—

						<i>European Boys</i>	<i>Asian Boys</i>
1948	..	..	..	..	..	135	760
1949	..	..	..	..	..	145	1,150
1950	..	..	..	..	..	160	1,520
1951	..	..	..	..	..	170	1,380
1952	..	..	..	..	..	205	1,670
1953	..	..	..	..	..	220	2,000
1954	..	..	..	..	..	270	2,200
1955	..	..	..	..	..	330	2,500
1960	(estimated)	..	..	..	..	450	3,100

#### **PART IV—PROPOSED POLICY AND PROCEDURE**

16. In a comparatively undeveloped territory it is essential to encourage the introduction of capital and of people who possess special knowledge, ability, experience, or skill. Without such an addition to the resources of the country, the rate at which economic development can take place is bound to be very slow; this must in turn delay a rise in the standard of living and the provision of increased social services.

On the other hand, this process must not be allowed to prejudice the chances of employment or the economic opportunities either of the existing working population or of those who within the next five years or so may be expected to come into the labour market. The necessary encouragement for the importation of capital and special knowledge does not, from the point of view of immigration control, present serious difficulties; but the striking of a balance between the need for imported skill to accelerate industrial development and the need to maintain a sufficient field of employment for the local inhabitants must inevitably be a controversial matter.

The immigration policy and procedure proposed—(a) to provide encouragement for new capital and special skills and (b) to encourage development and at the same time to safeguard the interests of the local inhabitants, is set out in paragraphs 17 to 21 and paragraphs 22 and 23 respectively of this paper.

#### **Government to Control Policy**

17. It is evident that the degree of encouragement given to the importation of capital and to the entry, on a permanent basis, of persons having special knowledge or experience or special types of skill is a matter closely related to the whole question of the Colony's economic policy. At a time when the Government was composed almost entirely of permanent officials it was appropriate that the authority controlling immigration should be a board containing representatives of the various communities; but it is considered that in view of the constitutional developments which are now taking place towards a more representative form of Government this arrangement is no longer necessary, or indeed, desirable. It is therefore proposed that the Government itself (that is, the Governor in Council of Ministers) should assume responsibility for the control of immigration policy, and should exercise that control through the Principal Immigration Officer. Under this arrangement the Immigration Control Board and the Appeals Tribunal will disappear, and the Principal Immigration Officer will replace the Board as the authority charged, under the direction of the Government, with the adjudication of applications for entry permits. In exercising his powers the Principal Immigration Officer will act in accordance with directions issued from time to time by the Governor in Council of Ministers; these directions will be subject to variation in the light of changing circumstances.

### Qualifications for Entry

18. Section 7 of the Ordinance as it now stands requires that a person intending to enter the Colony for the purpose of farming, mining, trade or manufacture, or to take up a profession, must satisfy the prescribed authority on three points—

- (a) that he has, or will be able to obtain, the necessary land, the necessary prospecting right, the necessary licence, etc.;
- (b) that he has in his own right and at his full and free disposition such sum as may be prescribed in respect of the particular undertaking upon which he proposes to embark;
- (c) that his engaging in such agricultural activity, mining, trade or manufacture or his taking up such a profession will not be to the prejudice of the inhabitants generally of the Colony.

It will be noted that where a professional qualification is prescribed under the Ordinance, the applicant is required to satisfy the authorities that he holds that qualification; similarly, where the activity in which the applicant proposes to engage requires a licence, he must satisfy the authorities that he holds or is able to obtain that licence. In addition, applicants in all classes are required to have at their disposal a sum of money prescribed in the regulations made under the Ordinance; the sums prescribed vary according to the class in which the application is made.

The Government considers it desirable that the immigration law should continue to insist, as a prerequisite for entry, upon the possession of the necessary professional qualifications or of the appropriate licence. But experience has shown that the practice of prescribing the sum of money which intending immigrants should have at their disposal is unsatisfactory; the reason is that the amount of capital required must, inevitably, vary according to the nature of the enterprise which the immigrant intends to undertake. The Government therefore proposes that, in future, particular sums should not be prescribed but that the Principal Immigration Officer should be satisfied that the prospective immigrant has at his disposal an assured sum of money sufficient in the Principal Immigration Officer's opinion to enable him satisfactorily to carry out the enterprise or activity upon which he proposes to embark. The Principal Immigration Officer would, of course, consult the appropriate advisory authorities (agricultural, mining, industrial or commercial) according to the class to which the immigrant belonged.

It is also proposed that the requirement that the prescribed authority must be satisfied that the applicant's engaging in such business, prospecting, trade, manufacture or profession (as the case may be) should not be to the prejudice of the inhabitants generally of the Colony should be replaced by the requirement that the taking up of the occupation concerned should be in the interests of the inhabitants generally of the Colony; the decision in this regard would be the subject of executive discretion.

### Entry to be in the Interests of the Inhabitants

19. The proposal to adopt the system whereby the Immigration Authorities would have to be satisfied by intending immigrants that their entry would be in the interests of the inhabitants generally of the territory instead of merely not being prejudicial to these interests is in accordance with the recommendation made in this connexion in the Royal Commission Report. It is sustained by the argument that something which is in the interests of the community is obviously not prejudicial to those interests, whereas something which is merely not prejudicial may not necessarily be positively in the interests of the community.

It is considered that the proposed positive requirement will create many fewer problems of interpretation than does the present negative one; for there can be no doubt that it is much easier for an applicant to show that he proposes to do something of benefit to the community than for him to show that what he intends to do will not have an adverse effect.

The issue of authorities for temporary entry will be governed by the same principle.

### **Proposed Immigration Policy in relation to the views expressed by the Royal Commission**

20. The conflict between the need to meet the demands of an expanding economy and the need to safeguard the interests of the local inhabitants is dealt with in the Royal Commission Report. It is suggested therein that the unrestricted admission of persons with skill and organizing ability will provide and sustain economic expansion more effectively than would the exclusion of such persons for the benefit of existing interests. The report goes on to say:—

“We do not propose that immigration should be freed from regulation, supervision or control by Government . . . we recommend further that policy should be governed by the interests of the territory and not by any desire to protect existing sectional interests. In considering whether an application for admission should or should not be accepted, the test should be the contribution which the applicant might make to the development of the economy, not the inconvenience which he might occasion to some established interest.”

The Government cannot accept this argument without certain reservations, especially where the sectional interests concerned are those of the African. Some sections of the community have well-established interests and others have developed a tendency to sectional exclusiveness in employment; the Government feels therefore that there is an urgent need to ensure that the economy is developed evenly between all interests and that any “inconvenience” is distributed as equitably as possible. The Government would indeed be failing in its duty if it allowed the development of the Colony's economy to take place in such a way as to promote the sectional interests of one of the communities but to ignore the aspirations of the remainder.

21. The task before the Government has been to find some middle path between, on the one hand, an immigration policy based purely on economic criteria, without regard for the expectations of the local people, and on the other, a rigid exclusion of all those who by the nature of their occupations might deprive the local population of the places which in an expanding field of employment they might reasonably have expected to fill. The one extreme would be likely to perpetuate the feeling of apprehension referred to by the Royal Commission that the economic development made possible by fresh immigration would be a matter in which Africans could not participate; and the other would cause an appreciable reduction in the tempo of that development.

The course that the Government proposes to adopt is to encourage the permanent immigration of those whose contribution to the economy of the country will be of incontestable value; and to exclude from permanent entry those who, while not making any substantial contribution by way of the introduction of new capital or special skill, would be likely to compete successfully in the labour market with local people. It is considered that the adoption of such measures will ensure the hoped-for expansion of industry and commerce and will be accompanied by an increase in opportunities for all.

### Measures Proposed for Temporary Entry

22. Although the fact that an intending immigrant may be unable to make a positive contribution to the economy of the country, coupled with the probability that he will compete in the labour market with the local people, is regarded as grounds for exclusion from permanent entry, it is recognized that the proper development of the Colony is certain to require, at any rate for some years to come, a quantum of skill which will not be available locally. This skill must be provided; but it must be provided in such a way as to protect the expectations of the local people and, where practicable, to foster the development of similar skills amongst them.

It is proposed to achieve this object by a new procedure for temporary entry whereby skilled men who are not eligible for permanent entry may come to the Colony for a limited period, and subject to special conditions. Applicants for temporary entry will be grouped into three categories, each category being respectively subject to the conditions set out below:—

#### (1) *General*—

This category is designed to meet the fluctuating need for artisans and clerical workers and at the same time to ensure that arrangements are made for their skills to be imparted to local inhabitants. Authority for entry would be subject to the following conditions:—

- (a) that the immigrant was a trained artisan or clerical worker able to give instruction in his trade or profession;
- (b) that his entry would enable his employer to establish or extend a training scheme for the training of local inhabitants;
- (c) that, within one year of his arrival, the immigrant should submit to an official trade test to establish his degree of skill and his capacity for imparting instruction to others. Should the immigrant pass his test he would be allowed to remain in the Colony for a period of two years from the date of his original entry. Should he fail his test, he would have to leave the Colony.

At the expiration of two years from the date of original entry those who had passed the test would be permitted to apply for an extension of their temporary entry authority for a further period of two years; the grant of this extension would be dependent on it being shown, to the satisfaction of the Labour Commissioner—

- (i) that the business or industry concerned had in fact established arrangements for the training of local men, or had extended existing arrangements; and
- (ii) that the training provided was effective.

#### (2) *Executive and Supervisory*—

This category is designed to meet the need in agriculture, commerce or industry for the temporary introduction of organizing ability or professional experience, or of some special skill not at present commanded by the local inhabitants. Authority for entry would be given for a full four-year period and would not be subject to the condition that the person concerned should take part, during that time, in a scheme for the training of local inhabitants.

#### (3) *Specialist*—

This category is designed to enable a specific and temporary demand to be met by the introduction, for a limited period, of immigrants having the necessary specialized skills. The entrants in the main would be artisans

and technicians, and their stay would not normally be for a period greater than two years. Applications for the necessary authority would require to be supported by a recommendation from the Minister for Commerce and Industry, or other Minister concerned with the particular sphere of activity in which the specialist was to be employed; permission for an extension of the authority beyond the two-year period would not be granted except with the approval of the Minister responsible for immigration.

23. The proposals concerning the "general" category of temporary entry are not far removed from the practice which has recently been adopted. As has been stated in earlier paragraphs, they are designed to encourage the entry of the craftsman or industrial or agricultural worker who is qualified to train the local inhabitants. The Government attaches the greatest importance to the proper development of the apprenticeship system and is anxious to encourage the entry into the Colony of persons able to undertake this form of training; the standard of efficiency will, of course, require to be high, and control will have to be exercised to ensure that the immigrant's qualifications as a trainer of apprentices are in fact being put to effective use.

The proposed entry of specialists for specific projects provides a means whereby experts in any particular field, whose presence is necessary to fill an economic need, such as the establishment of a new industry, can be admitted on a purely temporary basis without the requirement that they shall take part in the training of local youths.

#### **Permanent Entry**

24. Paragraphs 18 to 21 contain the Government's proposals regarding the future treatment of immigrants who now come within Classes B to G of section 7 (1) of the Ordinance. It remains to provide for those who at present come within Class A and Class H.

25. Class A consists of—

- (i) permanent residents;
- (ii) persons possessing valid certificates of permanent residence; and
- (iii) persons in the service of the Government of Kenya or the East Africa High Commission.

The issue of entry permits to persons of these descriptions is at present automatic, and the Government considers that this practice should continue.

26. Persons at present within Class H are those possessing in their own right a prescribed sum of money, a specific sum being prescribed for each of the various types of immigrant. The Government considers that persons having an assured and adequate annual income should continue to be encouraged to enter the Colony, but that the time is now past when any distinction should be drawn in this regard between the amounts prescribed for Europeans and non-Europeans. It is therefore proposed that fresh minima should be prescribed to apply to persons with varying family responsibilities, but without reference to the race to which they belong.

#### **Admission of Dependants**

27. No change is proposed in the arrangements now in force, and described in paragraph 10 of this paper, for the admission of dependants. Dependants of persons who have been allowed to enter the Colony temporarily for not more than two years will be excluded.

### **Discretion of the Principal Immigration Officer**

28. Despite the changes proposed in the Government's immigration policy, it will be necessary for the Principal Immigration Officer to retain his present discretion as to whether or not permission to enter the Colony should be given to a prospective immigrant, because on security grounds or for other reasons connected with the public interest it might be undesirable that a particular individual should be admitted.

### **Appeals**

29. If an applicant is dissatisfied with the Principal Immigration Officer's action in any particular case there will, except in respect of immigrants of the present Class A, be an appeal to the Minister.

It is proposed to retain the provision, at present contained in section 7 (3) of the Immigration (Control) Ordinance, whereby an applicant of the present Class A who is aggrieved by a decision refusing him an entry permit may appeal against such decision to the Supreme Court.

### **General**

30. As will be seen from Part IV of this paper, the future immigration policy of the Government will be largely based on economic considerations, the main criterion for suitability as a permanent immigrant being the contribution which the immigrant can make to the economy of the country. Nevertheless, as a British Colony it is natural and proper that Kenya should look chiefly to the United Kingdom for the provision of external capital, organizing ability and skill; and the Government wishes to make it clear that it regards Great Britain not only as the exemplar of a way of life but also as the primary source of immigrants of the kind the Colony needs. It is the intention of the Government to turn elsewhere only to the extent that the country's needs cannot reasonably be met from the United Kingdom.

### **Acknowledgment**

31. The Government wishes to take this opportunity of expressing its appreciation of the work done since 1948 by the various persons who have served on the Immigration Control Board and the Immigration Appeals Tribunal.

Office of the Chief Secretary,  
Nairobi.

7th March, 1956.

## APPENDIX I

## Immigration (Control) Ordinance, 1948—Section 7

(1) Any person, other than a prohibited immigrant, who satisfies the prescribed authority that he belongs to any of the following classes shall, upon application being made in that behalf in the manner prescribed, be entitled to a permit to enter the Colony:—

*Class A—*

- (i) A permanent resident;
- (ii) a person who is in possession of a valid certificate of permanent residence issued to him under the authority of the Government of Tanganyika, the Uganda Protectorate or the Zanzibar Protectorate, and who can show that he was resident in any one of such territories at the time of the coming into operation of this Ordinance or that he is the child of any such resident;
- (iii) a person in the service of the Government of the Colony, or the East Africa High Commission.

*Class B—*

A person intending to engage on his own account in the business of agriculture or animal husbandry in the Colony who is in possession of a certificate issued by the prescribed authority that—

- (i) he has acquired, or received permission to acquire, an interest in land of an area commensurate with and suitable for the type of business he proposes to undertake in the Colony;
- (ii) he has in his own right and at his full and free disposition such sum as may be prescribed or such lesser sum as such prescribed authority may determine in respect of any particular class of agriculture or animal husbandry; and
- (iii) his engaging in such business will not be to the prejudice of the inhabitants generally of the Colony.

*Class C—*

A person intending to engage on his own account in prospecting for minerals or mining in the Colony who is in possession of a certificate issued by the prescribed authority that—

- (i) he is in possession of, or will be able to obtain, any prospecting right or licence that may be necessary to enable him to engage in prospecting or mining;
- (ii) he has in his own right and at his full and free disposition such sum as may be prescribed or such lesser sum as such prescribed authority may determine in respect of any particular type of prospecting or mining; and
- (iii) his engaging in such prospecting or mining will not be to the prejudice of the inhabitants generally of the Colony.

*Class D—*

A person intending to carry on a trade, business or profession other than a prescribed profession, on his own account in the Colony who is in possession of a certificate issued by the prescribed authority that—

- (i) if a licence is required to enable him to engage in the trade, business or profession other than a prescribed profession which he intends

to carry on, he is in possession of such licence or will be able to obtain one;

- (ii) he has in his own right and at his full and free disposition such sum as may be prescribed or such lesser sum as such prescribed authority may determine in respect of any particular class of trade, business or profession other than a prescribed profession;
- (iii) his engaging in such trade, business or profession other than a prescribed profession will not be to the prejudice of the inhabitants generally of the Colony.

*Class E—*

A person intending to engage in manufacture on his own account in the Colony who is in possession of a certificate issued by the prescribed authority that—

- (i) if a licence is required to enable him to engage in the manufacture which he intends to carry on, he is in possession of such licence or will be able to obtain one;
- (ii) he has in his own right and at his full and free disposition such sums as may be prescribed or such lesser sum as such prescribed authority may determine in respect of any particular class of manufacture; and
- (iii) his engaging in such manufacture will not be to the prejudice of the inhabitants generally of the Colony.

*Class F—*

A member of a prescribed profession who intends to practise such profession in the Colony who is in possession of a certificate issued by the prescribed authority that—

- (i) he is in possession of such qualifications as may be prescribed;
- (ii) he is in possession of sufficient capital or assured income to enable him to give effect to his intention; and
- (iii) his practising such profession will not be to the prejudice of the inhabitants generally of the Colony.

*Class G—*

A person who has been offered and has accepted employment other than temporary employment, in the Colony and is in possession of a certificate issued by the prescribed authority that the taking up of such employment by him will not be to the prejudice of the inhabitants generally of the Colony.

*Class H—*

A person who is in possession of a certificate issued by the prescribed authority that he has in his own right and at his full and free disposition an assured income of such amount as may be prescribed.

(2) Where any person has been granted an entry permit under paragraph (iii) of Class A or under Class B, C, D, E, F or G, of sub-section (1) of this section and at any time before the expiration of four years of the granting of such permit—

- (a) In the case of a person in the service of the Colony or the East Africa High Commission he fails to engage in or does not continue in such service; and
- (b) in any other case, he fails to engage in, or does not continue in the same occupation as, or in a similar occupation to, that in respect of which he obtained such entry permit,

then such person shall be deemed to be a person seeking to enter the Colony with effect from the date when he failed to engage in or ceased to continue in the said service or occupation or a similar occupation as the case may be.

(3) Any applicant who is aggrieved by a decision refusing him an entry permit under Class A of sub-section (1) of this section may appeal against such decision to the Supreme Court in accordance with any rules made in that behalf under the provisions of section 14 of this Ordinance.

(4) Any applicant for an entry permit under Class B, C, D, E, F, G or H of sub-section (1) of this section who is refused the certificate required under any such class may, in the manner and within the time prescribed, appeal against such decision to such Tribunal as may be prescribed.

## APPENDIX II

## Immigration (Control) Regulations, 1948

*Regulation 5 (1)*

The professions to be prescribed for the purpose of Class F shall be those set out in column one of the Second Schedule hereto.

*Regulation 5 (2)*

The qualifications to be prescribed in respect of a profession mentioned in column one of the Second Schedule hereto shall be the qualifications mentioned in column two of the said Schedule immediately opposite the reference to such profession.

## SECOND SCHEDULE

COLUMN ONE	COLUMN TWO
Medical Profession (Cap. 119).	Any qualification which would entitle its holder to register as a medical practitioner under the Medical Practitioners and Dentists Ordinance.
Profession of Dentist.	Any qualification which would entitle its holder to register as a dentist under the Medical Practitioners and Dentists Ordinance.
Legal Profession (Rules of Court) (Legal Practitioners).	Any qualifications which under the the Rules of Court (Legal Practitioners) Rules, or any rules from time to time amending or replacing the same would entitle a person to practise before the Supreme Court of Kenya and the Courts subordinate thereto.
Profession of Land Surveyor (Cap. 147).	Any qualification which would entitle a person to receive a licence as a Land Surveyor under the Land Surveyors Ordinance.
Pharmacists (Ord. No. 15 of 1942).	Any qualification which would entitle a person to be registered as a pharmacist under the Pharmacy and Poisons Ordinance, 1942.
Engineer.	Member or Associate Member of the Institution of Mining Engineers.
	Member or Associate Member of the Institution of Civil Engineers.
	Member or Associate Member of the Institution of Water Engineers.
	Member or Associate Member of the Institution of Municipal and County Engineers.
	Member or Associate Member of the Institution of Structural Engineers.
	Member or Associate Member of the Institution of Mechanical Engineers.

## COLUMN 1

## COLUMN 2

COLUMN 1	COLUMN 2
Engineer—(Contd.)	<p>Member or Associate Member of the Institution of Electrical Engineers.</p> <p>Member or Associate Member of the Institution of Mining and Metallurgy.</p> <p>Associate of the Royal School of Mines.</p> <p>Associate of the Cambourne School of Mines.</p> <p>Associate Fellow or Associate of the Institution of Aeronautical Engineers and Royal Aeronautical Society.</p> <p>Member or Associate Member of the Institution of Chemical Engineers.</p> <p>Member of the Association of Consulting Engineers.</p> <p>Fellow or Associate of the Royal Institution of Chartered Surveyors.</p>
Accountant.	Chartered and Incorporated.
Architect.	<p>Acceptable to the Boards of Registration of Architects and Quantity Surveyors established under the Architects and Quantity Surveyors Ordinance (Cap. 306).</p>
Veterinary Surgeon.	Member of the Royal College of Veterinary Surgeons.
Estate Agent, Valuer and Land Agent.	Fellow of the Royal Institute of Chartered Surveyors.
Minor Branches of the Medical Profession.	<p>(a) Nursing Sisters.</p> <p>S.R.N. (State Registered Nurses).</p> <p>S.C.N. (State Certificate Midwife).</p> <p>(b) Physiotherapists.</p> <p>C.S.P. (Chartered Society of Physiotherapy).</p>

## APPENDIX III

## Regulation 6 of the Immigration (Control) Regulations, 1948

The amount of assured income to be prescribed for the purposes of Class H shall in respect of a person belonging to a category mentioned in column one of the Third Schedule hereto be the amount per annum mentioned in column two thereof immediately opposite the reference to such category.

## THIRD SCHEDULE

COLUMN ONE	COLUMN TWO	
	<i>European</i>	<i>Non-European</i>
For an unmarried man, or a widower with no children under 16 years of age .. .. .	£400	£250
For an unmarried woman, or a widow with no children under 16 years of age .. .. .	£300	£200
For a widower with children under 16 years of age .. .. .	£400 plus £50 for each child.	£250 plus £30 for each child.
For a widow with children under 16 years of age .. .. .	£300 plus £50 for each child.	£200 plus £30 for each child.
For a married man with a wife and no children under 16 years of age	£500	£350
For a married man with more than one wife and no children under 16 years of age .. .. .	—	£350 plus £50 for each wife in excess of one.
For a married man with wife and children under 16 years of age ..	£500 plus £50 for each child.	£350 plus £50 for each child.
For a married man with more than one wife and with children under 16 years of age .. .. .	—	£350 plus £50 for each wife in excess of one plus £30 for each child.

APPENDIX IV

FIGURES SHOWING THE RESULT OF APPLICATIONS FOR ENTRY PERMITS IN CLASSES "A" TO "H" OF SECTION 7 (1) OF THE IMMIGRATION (CONTROL) ORDINANCE, 1948, FOR THE PERIOD 1-1-49 TO 31-12-55

	BRITISH		ITALIANS		GERMANS AND AUSTRIANS		DANES		SCANDINAVIANS		SWISS		CZECHS, POLES AND HUNGARIANS		GREEKS		OTHERS		TOTAL		ASIANS						
	Granted	Refused	Granted	Refused	Granted	Refused	Granted	Refused	Granted	Refused	Granted	Refused	Granted	Refused	Granted	Refused	Granted	Refused	Granted	Refused	Granted	Refused					
B	193	7	21	—	1	—	7	—	4	1	2	—	5	2	12	—	7	1	252	11	4	2					
C	11	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—	12	—	—	—					
D	129	7	20	3	6	2	3	—	3	—	1	1	5	2	11	—	14	8	192	23	117	111					
E	1	—	2	—	—	—	1	—	—	—	—	—	—	—	3	—	2	—	9	—	—	—					
F	102	1	—	—	—	—	—	—	—	—	—	—	—	—	1	—	1	—	105	1	70	4					
G	2,068	13	446	5	30	4	46	2	37	—	15	2	20	1	29	4	190	5	2,881	36	1,270	655					
TOTAL	2,504	28	489	8	37	6	57	2	44	1	19	3	30	5	56	4	215	14	3,451	71	1,461	772					
				A (i)	..	..	..	..	..	..	..	..	..	..	..	..	..	..	178	—	3,227	128					
				A (ii)	..	..	..	..	..	..	..	..	..	..	..	..	..	..	359	—	1,330	24					
				A (iii)	..	..	..	..	..	..	..	..	..	..	..	..	..	..	1,981	—	344	1					
				H	..	..	..	..	..	..	..	..	..	..	..	..	..	..	611	—	90	1					
				TOTAL ENTRY PERMITS																..	..	..	..	6,580	71	6,452	926

## APPENDIX V

## TEMPORARY EMPLOYMENT PASSES ISSUED AND REFUSED UNDER REGULATION 22 OF THE IMMIGRATION (CONTROL) REGULATIONS, 1948

	British	Italians	Germans and Austrians	Swiss	Danes	Scandi- navians	Czechs, Poles and Hungar- ians	Greeks	Others	Total	Asians	Grand Total
1949—												
Issued ..	1,779	223	15	15	—	63	63	21	60	2,239	2,389	4,628
Refused ..	3	4	6	1	—	1	3	—	2	20	904	924
1950—												
Issued ..	1,760	298	6	23	39	27	28	13	52	2,246	751	2,997
Refused ..	—	22	9	—	1	1	2	3	3	41	474	515
1951—												
Issued ..	1,836	206	4	8	26	31	6	17	68	2,202	611	2,813
Refused ..	—	9	12	—	1	1	2	5	7	37	463	500
1952—												
Issued ..	1,958	223	28	15	49	22	12	29	87	2,414	403	2,817
Refused ..	—	6	11	3	—	—	2	6	5	33	633	666
1953—												
Issued ..	2,326	156	39	10	39	19	8	18	177	2,792	283	3,075
Refused ..	1	10	4	1	—	—	1	1	5	23	224	247
1954—												
Issued ..	2,462	238	50	21	46	32	6	17	163	3,035	311	3,346
Refused ..	—	5	6	—	—	—	3	4	3	21	274	295
1955—												
Issued ..	2,971	303	27	26	93	21	9	31	137	3,618	629	4,247
Refused ..	—	13	13	—	1	—	9	15	9	60	377	437

## APPENDIX VI

## DEPENDANTS' PASSES ISSUED UNDER REGULATION 21 OF THE IMMIGRATION CONTROL REGULATIONS

	Wives	Children	Mothers	Fathers	Brothers	Sisters	Other Relations	Other Dependants	Total	Grand Total
1949—										
Europeans ..	659	564	51	13	1	18	67	15	1,388	—
Asians ..	2,219	3,231	214	78	72	48	147	4	6,013	—
Total ..	2,878	3,795	265	91	73	66	214	19	7,401	7,401
1950—										
Europeans ..	749	596	45	10	1	8	58	4	1,471	—
Asians ..	1,762	2,035	140	32	1	17	44	1	4,032	—
Total ..	2,511	2,631	185	42	2	25	102	5	5,503	5,503
1951—										
Europeans ..	930	751	43	8	1	4	58	5	1,800	—
Asians ..	1,746	2,210	203	65	7	24	47	3	4,305	—
Total ..	2,676	2,961	246	73	8	28	105	8	6,105	6,105
1952—										
Europeans ..	1,032	847	26	4	1	3	63	13	1,989	—
Asians ..	1,333	1,555	90	21	—	4	23	2	3,028	—
Total ..	2,365	2,402	116	25	1	7	86	15	5,017	5,017
1953—										
Europeans ..	1,095	894	30	7	—	4	61	4	2,095	—
Asians ..	1,348	1,393	97	70	—	5	11	1	2,925	—
Total ..	2,443	2,287	127	77	—	9	72	5	5,020	5,020
1954										
Europeans ..	1,184	980	28	5	—	9	48	10	2,264	—
Asians ..	1,443	1,660	95	48	—	6	12	—	3,264	—
Total ..	2,627	2,640	123	53	—	15	60	10	5,528	5,528
1955—										
Europeans ..	1,378	1,134	21	8	—	3	56	11	2,611	—
Asians ..	1,709	2,002	149	81	2	7	35	—	3,985	—
Total ..	3,087	3,136	170	89	2	10	91	11	6,596	6,596

APPENDIX VII

KENYA COLONY AND PROTECTORATE

ESTIMATES OF MID-YEAR CIVIL POPULATIONS AND ANNUAL CHANGES FROM NET IMMIGRATION AND NATURAL INCREASE BY RACE

YEAR	EUROPEANS				INDIANS AND GOANS			
	INCREASE OVER PREVIOUS YEAR				INCREASE OVER PREVIOUS YEAR			
	Population	Net Immigration	Natural	TOTAL	Population	Net Immigration	Natural	TOTAL
		Thousands				Thousands		
1948 .. ..	30.8	—	—	—	100.0	—	—	—
1949 .. ..	33.8	2.7	0.3	3.0	107.2	4.6	2.6	7.2
1950 .. ..	36.2	2.1	0.3	2.4	114.4	4.4	2.8	7.2
1951 .. ..	38.6	2.0	0.4	2.4	120.3	3.0	2.9	5.9
1952 .. ..	40.7	1.7	0.4	2.1	126.2	2.8	3.1	5.9
1953 .. ..	42.2	1.1	0.4	1.5	131.1	1.7	3.2	4.9
1954 .. ..	47.9	3.8	0.5	4.3	136.6	2.1	3.4	5.5
1955 .. ..	52.4	4.0	0.5	4.5	144.1	4.1	3.4	7.5

NOTES.—The results of the 1948 Census were used as a base. Natural increase per year was estimated at 1% for Europeans and 2½% for Indians and Goans. These estimates take into account information from a number of sources, but particularly from the data on child births and deaths recorded at the census. The 2½% for Indians and Goans is a conservative rate. The true value may be slightly greater owing to the substantial immigration of young adults, with a high fertility and low mortality. Net migration was found directly but certain adjustments had to be made to the emigration totals for under-enumeration of persons travelling by land routes, particularly to Uganda. In addition an allowance was made for the possibility that some of the emigrants who stated that they would return to the Colony did, in fact, leave permanently. If the estimates are in error it is probable that they are lower than the true values. Over the period the rates of increase from net immigration averaged about 6% for Europeans and 3% for Indians and Goans.