

No. 10039

**UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND
and
KENYA**

Exchange of notes constituting an agreement concerning the provision of personnel of the United Kingdom Armed Forces to assist in the staffing, administration and training of the Armed Forces of Kenya (with appendix). Nairobi, 27 November 1964

Authentic text: English.

Registered by the United Kingdom of Great Britain and Northern Ireland on 26 November 1969.

**ROYAUME-UNI DE GRANDE-BRETAGNE
ET D'IRLANDE DU NORD
et
KENYA**

Échange de notes constituant un accord relatif à l'envoi de personnel des forces armées du Royaume-Uni chargé d'aider au recrutement, à l'administration et à l'instruction des forces armées kényennes (avec appendice). Nairobi, 27 novembre 1964

Texte authentique: anglais.

Enregistré par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 26 novembre 1969.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE GOVERNMENT OF THE UNITED KING-
DOM OF GREAT BRITAIN AND NORTHERN IRELAND
AND THE GOVERNMENT OF KENYA CONCERNING
THE PROVISION OF PERSONNEL OF THE UNITED
KINGDOM ARMED FORCES TO ASSIST IN THE STAFF-
ING, ADMINISTRATION AND TRAINING OF THE
ARMED FORCES OF KENYA

I

*The Acting British High Commissioner at Nairobi to the Prime Minister
of Kenya*

OFFICE OF THE HIGH COMMISSIONER FOR THE UNITED KINGDOM
NAIROBI

27th November, 1964

Sir,

I have the honour to refer to the discussions which have taken place between representatives of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Kenya concerning the provision of personnel of the United Kingdom Armed Forces to assist in the staffing, administration and training of the Armed Forces of Kenya.

I propose that the arrangements as to the composition and duties, status and conditions of service of such personnel and the consequent financial arrangements set out in the Appendix to this letter shall have effect.

If the Government of Kenya accept this proposal, I suggest that this letter, together with your reply to that effect, shall constitute an agreement in this matter between the Government of the United Kingdom and the Government of Kenya which shall be deemed to have entered into force on the 1st day of April, 1964.

I have the honour to be, Sir, your obedient servant.

H. S. H. STANLEY

¹ Came into force on 27 November 1964 with retroactive effect from 1 April 1964, in accordance with the provisions of the said notes.

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DEFINITIONS

“Loaned Personnel” means personnel of the land, sea or air armed forces of the United Kingdom who are for the time being present within the Receiving State assisting in the staffing administration and training of the Armed Forces of the Receiving State and “Loaned Person” and “Loan” shall be construed accordingly.

“Dependant” of a Loaned Person means

- (1) the spouse of that Loaned Person, or
- (2) any person wholly or mainly maintained by, or in the custody or charge of or who forms part of the family of, that Loaned Person, or

- (3) any other person (not being a national of nor ordinarily resident in the Receiving State) who is in domestic employment in the household of that Loaned Person.

“United Kingdom Service Authorities” means the authorities of the United Kingdom empowered by the Law of the United Kingdom to exercise command or jurisdiction over the Armed Forces of the United Kingdom and their dependants.

“Service Regulations” means any Statute Order Regulation, Warrant or Instruction relating to naval military or air forces.

“Unit” includes a headquarters, ship or establishment.

“the Receiving State” means the State of Kenya.

“Other ranks” includes all personnel of any of the United Kingdom Armed Forces who do not hold a commissioned rank.

“Entitled Dependants” means the spouse of a member of the Loaned Personnel and his dependants for whom the United Kingdom Government or, in the case of personnel serving with the Armed Forces of the Receiving State on the 1st day of April, 1964, the Receiving State have provided or will provide a free passage to or from the Receiving State.

Section I

COMPOSITION

The Government of the United Kingdom will endeavour to obtain volunteers from the land, sea and air forces of the United Kingdom for loan to the Armed Forces of the Receiving State in such numbers as shall from time to time be agreed between the Receiving State and the Government of the United Kingdom. Such Loaned Personnel will constitute the “United Kingdom element of the Armed Forces of Kenya”.

Section II

STATUS

1. RELATIONSHIP WITH THE ARMED FORCES OF THE RECEIVING STATE

(a) Loaned Personnel shall be treated except in so far as this Appendix otherwise provides as members of the Armed Forces of the Receiving State of equivalent rank.

(b) A Loaned Person shall, in particular, have powers of command over any member of the Armed Forces of the Receiving State as if he were a member of the Armed Forces of the Receiving State of relative rank and will be required to obey orders or instructions of superior officers under whose command he is placed provided that such orders or instructions are consistent with his duties under United Kingdom Service Regulations, and would if given by anyone subject to those Regulations constitute a lawful command under those Regulations.

(c) Loaned Personnel shall not be subject to the Service Regulations of the Receiving State nor to the jurisdiction of any authority, court or tribunal deriving its constitution or powers under the Service Regulations of the Receiving State.

(d) Loaned Personnel and their dependants shall not be subject to any legislation in the Receiving State relating to liability for compulsory service of any kind.

(e) Married Loaned Personnel will normally be accompanied by their wives and other dependants, subject to prior consultation between the Receiving State and the Senior United Kingdom Officer of the Service of the United Kingdom Armed Forces to which the individual belongs.

2. JURISDICTION

(a) Subject to the provisions of this paragraph :

(i) the service authorities of the United Kingdom shall have the right to exercise within the Receiving State or on board any ship or aircraft of the Receiving State all criminal

and disciplinary jurisdiction conferred on them by the law of the United Kingdom over Loaned Personnel and their dependants;

- (ii) the Courts of the Receiving State shall have jurisdiction over Loaned Personnel and their dependants with respect to offences committed in the Receiving State and punishable by the law of the Receiving State.

(b) Where both the Courts of the Receiving State and the United Kingdom Service Authorities have the right to exercise jurisdiction the United Kingdom Service Authorities shall have the primary right to exercise jurisdiction if:

- (i) the offence is an offence against the property or security of the United Kingdom, or against the property or person of another Loaned Person or a dependant of a Loaned Person, or
- (ii) the offence arises out of an act or omission done in the course of official duty.

In any other case the Courts of the Receiving State shall have the primary right to exercise jurisdiction. If the State having the primary right decides not to exercise jurisdiction, it shall notify the authorities of the other States as soon as practicable. The authorities of the State having the primary right shall give sympathetic consideration to a request from the authorities of the other State for a waiver of its right in cases where that other State considers such waiver to be of particular importance and in cases of minor offences where the Courts of the Receiving State have the primary right and where the service authorities of the United Kingdom can impose a suitable punishment by disciplinary action without recourse to a Court.

(c) (i) The authorities of the Receiving State and the United Kingdom shall assist each other in the arrest of Loaned Personnel or their dependants in the territory of the Receiving State for the purpose of handing them over to the authority which is to exercise jurisdiction in accordance with above provisions;

(ii) The authorities of the Receiving State shall notify the High Commissioner promptly of the arrest of a Loaned Person, or his dependants;

(iii) The authorities of the United Kingdom, if the Courts of the Receiving State are to exercise jurisdiction over a Loaned Person or his dependants, shall have the right to take custody of him until he is brought to trial by the Courts of the Receiving State, provided that the authorities of the United Kingdom undertake to present him to those Courts for investigatory proceedings and trial when required.

(d) (i) The authorities of the Receiving State and the United Kingdom will assist each other in the investigation and obtaining of evidence in relation to offences by Loaned Personnel.

(ii) The authorities of the Receiving State and of the United Kingdom shall notify each other of the disposition of all cases in which both the Courts of the Receiving State and the service authorities of the United Kingdom have the right to exercise jurisdiction.

(e) Where an accused has been tried in accordance with the provisions of this paragraph by the United Kingdom Service Authorities or the Courts of the Receiving State and has been convicted or acquitted, which expression includes a charge being dismissed by the Commanding Officer or other appropriate authority of the accused after investigation, he may not be tried again for the same offence or in respect of the same

circumstances within the Receiving State by either. This sub-paragraph shall not prevent the United Kingdom Service Authorities from trying a Loaned Person for any violation of rules of discipline arising from an act or omission which constituted an offence for which he was tried by the Courts of the Receiving State.

(f) Whenever a Loaned Person or a dependant of a Loaned Person is prosecuted under the jurisdiction of the Receiving State, he shall be entitled :

- (i) to a prompt and speedy trial;
- (ii) to be informed a reasonable time in advance of trial of the specific charge or charges made against him;
- (iii) to be confronted with the witnesses against him;
- (iv) to have compulsory process for obtaining witnesses in his favour, if they are within the jurisdiction of the Receiving State;
- (v) to have legal representation of his own choice for his defence, or to have free or assisted legal representation under the conditions prevailing for the time being in the Receiving State;
- (vi) if he considers it necessary, to have the services of a competent interpreter; and
- (vii) to communicate with a representative of the Government of the United Kingdom and, when the rules of the court permit, to have a representative of that Government present at his trial.

(g) A death sentence shall not be carried out in the Receiving State by the United Kingdom Service Authorities if the law of the Receiving State does not provide for such punishment in a similar case.

3. CLAIMS

(a) (i) The Government of the Receiving State waives any claim which it may have against a Loaned Person and the Government of the United Kingdom for damage to any property of the Receiving State caused by a Loaned Person in the course of his service in that capacity or for the death of or injury to any member of the Armed Forces of the Receiving State so caused.

(ii) The Government of the United Kingdom waives any claim which it may have against the Receiving State for the death of or injury to a Loaned Person caused by a member of the Armed Forces of the Receiving State in the course of his service in that capacity.

(b) All claims arising out of acts or omissions of Loaned Personnel done or omitted in the course of their service as such shall be dealt with by the Receiving State (or, in the case of claims brought or made in the United Kingdom by the Government of the United Kingdom) and in all cases settled at the cost of the Receiving State.

(c) A Loaned Person shall not be subject to any proceedings for the enforcement of any judgment given against him in the Receiving State in a matter which arises in the course of his service as a Loaned Person.

4. LOSSES AND DAMAGES

(a) The Receiving State will make good or pay compensation for loss or damage to the uniform and equipment of Loaned Personnel where such loss or damage is occasioned by the performance of military duties including while in transit to and from the Receiving State.

(b) The Receiving State will make good or pay compensation for loss or damage arising out of civil disturbance or riots to personal effects (including household goods, motor cars and motor cycles) of Loaned Personnel.

(c) Nothing in this paragraph shall prevent the Receiving State from holding a member or members of Loaned Personnel responsible for damage to public or service property (which includes only property of or held for any Department of the Receiving State or the Armed Forces of the Receiving State), or for loss of or misapplication of public or Service funds or property (as defined above) in their charge or care shown to be due to an act or omission involving fraud or dishonesty or to misconduct in the performance of official duty. Arrangements for the mode of assessment of compensation in such cases shall be those set out in the Second Schedule hereto.

5. TAXATION

(a) The presence in the Receiving State of Loaned Personnel shall not be regarded as constituting residence or domicile in the Receiving State for the purposes of determining the incidence of income tax which depends on residence or domicile.

(b) Loaned Personnel shall be exempt from income tax by the Receiving State on their pay, allowances and other emoluments and benefits (whether in cash or in kind) paid to them as such members and shall also be exempt from any other form of direct taxation.

6. IMPORTS, EXPORTS, ETC.

(a) Loaned Personnel may, while in the Receiving State, import free of duty equipment, provisions, supplies and other goods required for official purposes or for the personal consumption or use of Loaned Personnel or their dependants. In the event of the Government of the Receiving State withdrawing the duty free concession for personal consumption or use, the Receiving State will pay a compensating allowance in lieu to be paid at such rates and by such a method as shall be agreed in advance, such allowance to be reviewed from time to time on request.

(b) A Loaned Person may within three months of his first arrival or that of a dependant to join him, import free of duty his personal effects, and such amount of additional furniture and household goods (but not tobacco or its products, alcohol, piece goods, perfumed spirits, trade goods or other items for sale or disposal to other persons) as he may reasonably require.

(c) A Loaned Person may on one occasion during the first three months of his period of loan import a motor vehicle free of duty or purchase one prior to clearance through

Customs in the Receiving State for his personal use free of duty or ad valorem tax, or purchase one from another Loaned Person without payment of duty.

(d) Goods imported or purchased under this paragraph shall not be disposed of within the Receiving State except to other Loaned Personnel without the prior permission of the Receiving State; they may, however, be freely exported without payment of duty and may be disposed of in the Receiving State :

- (i) provided that items imported or purchased under sub-paragraph (b) may be sold to anyone in the Receiving State without payment of duty during the period of one month immediately preceding the end of the tour of duty and one month thereafter;
- (ii) provided that motor vehicles imported or purchased under sub-paragraph (c) may only be disposed of in East Africa on the payment of the appropriate duty assessed at the rate applicable at the time of disposal based on the market value, or to another Loaned Person under the terms of sub-paragraph (c).

(e) In this paragraph "duty" means customs duties, purchase tax (except that on secondhand motor vehicles), and all duties and taxes payable on importation or exportation, except any due which is a charge for services rendered.

7. DRIVING LICENCES

The authorities of the Receiving State shall accept as valid United Kingdom or International Driving Licences or service driving permits issued to Loaned Personnel and United Kingdom or International Driving Licences issued to their dependants or issue, on production of such licences or permits, licences valid in the Receiving State without test.

8. REMITTANCE OF FUNDS

(a) Remittances between the territory of the Receiving State and the territory of the United Kingdom shall be freely permitted in respect of :

- (i) Funds derived by Loaned Personnel from services or employment in connection with their official duties whether as members of the United Kingdom Armed Forces or as Loaned Personnel.
- (ii) Funds derived by Loaned Personnel or dependants from sources outside the Receiving State subject to any laws or regulations of the United Kingdom in that respect.

(b) Remittances from the Receiving State to the United Kingdom shall be freely permitted in respect of funds derived from the proceeds of sale of personal effects, furniture, motor vehicles and other property used by Loaned Personnel while serving in the Receiving State which are disposed of in anticipation of the termination of loan.

9. MOVEMENT, ENTRY AND EXIT

No restriction shall be placed on the freedom of movement of Loaned Personnel and their dependants into, out of and within the Receiving State and Loaned Personnel and their dependants shall have the same freedom of movement as is accorded to citizens of the Receiving State.

10. UNIFORM AND ARMS

(a) Loaned Army and R.A.F. Personnel will normally wear uniform and insignia of the Armed Forces of Kenya. Loaned Royal Naval Personnel will normally wear the uniform and insignia of the Royal Navy.

(b) Loaned Personnel may possess and carry arms when authorised to do so by the United Kingdom Service Authorities or those of the Receiving State.

Section III

CONDITIONS OF SERVICE

1. PAY AND ALLOWANCES

The Government of the United Kingdom will, in accordance with United Kingdom Service Regulations, pay Loaned Personnel the pay and emoluments of the ranks which they hold during the period of loan.

2. PERIOD OF LOAN

(a) The Period of Loan will be from the day upon which the individual ceases to do duty with the Force in which he last served before his loan to the Armed Forces of the Receiving State until the day upon which he is taken back on the strength of the United Kingdom Armed Forces.

(b) The period will include :

- (i) Embarkation leave before embarking.
- (ii) A tour of duty in the country as follows :
 - A. Officers selected to fill staff appointments and Lieutenant Colonels and equivalent in Command will normally serve a $2\frac{1}{2}$ year tour in the Receiving State.
 - B. The tour for all others officers will initially be for 2 years, extendable by 1 year at the request of the Receiving State and with the agreement of the officer.
 - C. The tour for other ranks will be of up to $2\frac{1}{2}$ years.
 - D. Not less than 9 months before completion of their initial tour officers and other ranks may volunteer to serve a further consecutive tour of 2 years in the Receiving State.

- E. All tours include leave taken during the tour.
- F. Shorter or longer tours may be agreed between the Government of the United Kingdom and the Receiving State.
- (iii) End of tour leave (which may be taken in the United Kingdom) consisting of
 - (a) disembarkation leave of fourteen days;
 - (b) one additional day for each month of the period of loan (excluding end of tour leave) in excess of six months;
 - (c) any annual leave due during the tour of duty but not taken up to a maximum of one-quarter of the leave entitlement for each year of loan.

3. LEAVE

The leave entitlement for Loaned Personnel shall, subject to the exigencies of the Service, be as follows :

- (i) Embarkation Leave : 14 days;
- (ii) Annual Leave : A maximum of 42 days of which one-quarter may be postponed and included in End of Tour Leave in accordance with paragraph 2 (b) (iii) of this Section;
- (iii) End of Tour Leave : calculated in accordance with paragraph 2 (b) (iii) of this Section;
- (iv) Compassionate Leave, other Leave : in accordance with United Kingdom Service Regulations and practice.

Married Loaned Personnel not accompanied by their wives will be entitled to take leave in the United Kingdom once during the tour of duty in accordance with United Kingdom Service Regulations. When so taken, leave shall be deemed to commence on the day upon which the individual reaches the first point of disembarkation in the United Kingdom and to cease on the day upon which the individual reaches the first point of disembarkation in the Receiving State, provided he travels by air.

4. RANK AND PROMOTION

(a) If Loaned Personnel are selected to fill ranks in the Armed Forces of the Receiving State higher than their substantive rank they will be granted temporary or acting rank in accordance with United Kingdom Service Regulations and any subsequent relinquishment will also be in accordance with those Regulations.

(b) Loaned Personnel will be eligible for promotion or advancement in accordance with United Kingdom Service Regulations.

5. TERMINATION OF LOAN

(a) If a member of Loaned Personnel neglects or refuses to perform his duties, or becomes unable to perform his duties by reason of disciplinary action, ill health or for any other reason, or misconducts himself or is unsuitable or inefficient the Receiving State, after consultation with the senior United Kingdom officer of the service of the United Kingdom Armed Forces to which the individual belongs, may terminate the loan of the individual.

(b) In the event of an unforeseen reduction in the establishment of the Armed Forces of the Receiving State or in the requirement of the Receiving State for the services of Loaned Personnel the loan of an individual may be terminated after 6 months previous notice has been given to the United Kingdom High Commissioner.

(c) If the senior United Kingdom officer of the service of the United Kingdom Armed Forces to which an individual belongs is of the opinion that that individual has strong compassionate grounds for being relieved of his obligation to complete a full tour of duty, the loan of that individual will terminate on a date to be agreed between the Receiving State and the United Kingdom High Commissioner.

(d) The United Kingdom Government reserves the right to withdraw the services of any or all Loaned Personnel after consultation with the Receiving State.

6. APPLICABILITY OF UNITED KINGDOM SERVICE REGULATIONS

All Loaned Personnel will remain subject to United Kingdom Service Regulations and shall at all times be and remain subject to all powers exercisable by the United Kingdom Service Authorities thereunder.

7. POSTINGS AND EMPLOYMENT

Loaned Personnel will not be employed otherwise than in the capacities for which they were selected for loan without the concurrence of the appropriate United Kingdom Service Authority.

8. NOMINATIONS

The nomination of any officer or other rank shall be subject to the acceptance of the Receiving State who may refuse to accept such officer or other rank if, on the grounds of qualification, experience, suitability or other consideration such nomination is not considered by the Receiving State to be acceptable.

Section IV

OBLIGATIONS OF THE RECEIVING STATE

1. The Receiving State will pay, in addition to any sum payable under Section II paragraph 6 (a) and the following paragraphs of this Section, to the United Kingdom Government a contribution equal to the total amount of Gross Pay and Marriage Allowance and ration allowance of Loaned Personnel as issuable by the United Kingdom Government. Such contribution will be made by the payment of a sum in advance at the commencement of each quarter (the amount being an estimate of the said gross pay and marriage allowance, and ration allowance to be agreed from time to time by the appropriate Department of the Government of the Receiving State and the United Kingdom High Commissioner) and the payment or allowance as the case may be at the end of each quarter of a sum to adjust the advance payment to the actual amount payable. "Gross Pay" in this section means the total sums issuable as pay (before making any deductions authorised by the Law of the United Kingdom whether for tax or otherwise) to Loaned

Personnel under United Kingdom Service Regulations, other than sums issuable as Language Pay or Service Pay in respect of loan to the Receiving State.

2. The Receiving State will provide the facilities and benefits or cash in lieu listed in the First Schedule to this Appendix. In the event of any facilities or benefits therein being withdrawn, the Receiving State will pay a compensating Allowance.

3. The Receiving State will pay in respect of individuals whose loan is terminated pursuant to paragraph 5 (b) of Section III of this Appendix the balance of the Loan Service Pay in respect of loan to the Receiving State the individual would have received had he completed his full tour, or for six months whichever is the less.

4. All payments and benefits made or given by the Receiving State under this Appendix shall be made free of taxes of the Receiving State and Loaned Personnel and their dependants shall not be liable for assessment in respect of any taxes or duties of the Receiving State in respect of such payments and benefits.

Section V

PAYMENTS BY THE UNITED KINGDOM GOVERNMENT

The United Kingdom will make payments to and in respect of Loaned Personnel (subject to the recovery of the contribution referred to in Section IV, paragraph 1) as follows :

- (1) All pay, including Loan Service Pay but excluding any Language Pay provided for in this Appendix or in the Schedule hereto.
- (2) All allowances other than those for which the Receiving State is responsible under this Appendix.
- (3) All pensions, gratuities and similar benefits, and employers share of United Kingdom National Insurance contributions.
- (4) Travel Expenses as follows :
 - (i) The cost of all passages of Loaned Personnel and entitled dependants to the port or airfield of first disembarkation in the Receiving State and from the port or airfield of final embarkation in the Receiving State made on any of the following occasions :
 - A. Commencement of loan.
 - B. Termination of loan.
 - C. Leave to the United Kingdom of married personnel not accompanied by their wives.
 - (ii) The cost of all passages of Loaned Personnel entitled dependants (including travel within the Receiving State where necessary) made for the following purposes or occasions :
 - A. Visits of children of Loaned Personnel receiving education or residing elsewhere than in the Receiving State.

- B. Medical treatment outside the Receiving State authorised for Loaned Personnel or entitled dependants.
 - C. Compassionate leave of Loaned Personnel or related arrangements for dependants.
 - D. Compassionate visits by next-of-kin to Loaned Personnel in accordance with United Kingdom Service Regulations.
 - E. Travel for United Kingdom purposes outside the Receiving State required or authorized by United Kingdom Service Authorities.
- (5) Funeral expenses in the event of the death of Loaned Personnel during the tour.
- (6) Medical treatment of Loaned Personnel and their dependants.
- (7) Education costs in Kenya.

THE FIRST SCHEDULE

FACILITIES AND BENEFITS IN CASH OR KIND TO BE PROVIDED BY THE RECEIVING STATE TO BRITISH SERVICE LOANED PERSONNEL

1. The Receiving State will provide Loaned Personnel with accommodation, equipment, transport and supplies necessary for the satisfactory performance of their duties.

2. The Receiving State will provide Loaned Personnel, free of charge to the United Kingdom Government (except as may be agreed between the Receiving State and the Government of the United Kingdom), with benefits in kind such as are normally accorded to members of the United Kingdom armed services when serving outside the United Kingdom, or such other benefits in lieu as may be agreed between these Governments : in particular the Receiving State will :

- (a) (i) provide messing facilities and fully furnished accommodation, according to Queen's Regulations, with free fuel, light and water for Loaned Personnel, not accompanied by dependants to the scales and standards obtaining for the United Kingdom armed services serving overseas;
- (ii) provide free quarters furnished not below the current scales and standards ruling on 12th December, 1963, free water, fuel and light for single or married unaccompanied Loaned Personnel so long as they are not provided with the facilities specified in (i) above;
- (iii) provide a free fully furnished house or quarter with free fuel, light and water to single or unaccompanied married officers of the rank of Lieutenant Colonel and equivalent and above in Command;

- (iv) provide a free fully furnished house or quarter with free fuel, light and water to single or unaccompanied married officers of the rank of Colonel (and equivalent) and above on the staff, where mess facilities appropriate to their rank and status are not available;
- (b) (i) provide married accompanied personnel from the date of their arrival in the Receiving State or as soon as possible thereafter with family accommodation including light, fuel and water and furnishing to the scales and standards not below those applicable on 12th December, 1963;
- (ii) where accommodation cannot be provided furnished fully to scales and standards applicable on 12th December, 1963, provide quarters or other accommodation of a size and standard comparable with those provided for British Forces serving overseas, but furnished only to hard furniture scales applicable to Civil Servants of the Receiving State. In this case the Receiving State will provide a Setting-up-Grant to enable Loaned Personnel to purchase soft furnishings, cutlery, crockery, refrigerator, etc. The grant will be £230 for officers and £200 for other ranks, and will be paid to Loaned Personnel direct and tax free;
- (iii) the Receiving State will be entitled to recover from such Loaned Personnel rent at rates laid down in current United Kingdom Service Instructions, and fuel and light charges at local rates.
- (c) Where married quarters are not available on first arrival in the Receiving State, or on change of station in the Receiving State and for up to 14 days at the end of the tour, pay the full hotel expenses of Loaned Personnel and their entitled dependants subject to the Receiving State's right to recover from any Loaned Person concerned :
 - (i) the amount he otherwise would have paid in respect of fuel, light and accommodation charges, and
 - (ii) an amount equal to the total number of the family multiplied by the current applicable daily rate of ration allowance. Children under 12 at half the rate and children under 4 free;
- (d) provide Loaned Personnel with batmen or servants on the scale of two for officers with rank of Brigadier or equivalent or above and one for all other officers and WO 1 or, if batmen are not available, an allowance in lieu;
- (e) provide Loaned Personnel and their entitled dependants with free transport (or an allowance in lieu) for medical treatment;

- (f) provide Loaned Personnel with free transport between their residence and place of duty or a refund of expenses in lieu in accordance with British Service Regulations;
- (g) (i) (aa) Will provide places at English-medium Government day or boarding schools for children of members of the Loaned Personnel at the following annual rates payable by the United Kingdom Government :
- primary day schools £58 per annum,
 - secondary day schools £192 per annum,
 - secondary boarding schools £384 per annum;
- (bb) The charges given in paragraph (aa) above to include entrance and registration fees, the cost of medical and dental inspections and capitation fees, compulsory insurance, costs of books and stationery, examination fees for authorized external exams, mid-morning milk or other mid-morning refreshments and in the case of boarding schools normal board and laundry.
- (ii) provide an allowance in respect of transport for children travelling between home and school : where travel is between home and boarding school the cost will be limited to a second class rail or bus fare;
- (h) provide entitled Lieutenant Colonels and equivalent and above with tax free entertainment allowance at a rate not less than current British Service rates;
- (j) pay Loaned Personnel who travel on duty appropriate travelling allowances, refund of hotel and travelling expenses and motor mileage allowances at rates applicable to the expatriate officers of the Kenya Civil Service of equivalent status;
- (k) provide free rail travel for local leave in Kenya, at a class appropriate to rank, or pay motor mileage in lieu for Loaned Personnel and their entitled dependants up to a maximum equivalent cost of a return journey between the place of duty and Mombasa or in the case of personnel serving in Mombasa a return journey to Nairobi, once per year;
- (l) provide a tax free uniform grant of £30 for Army officers and WO 1s and RAF officers and WOs on first arrival for the purchase of items of uniform special to the Armed Forces of the Receiving State and provide free any special uniform which it may introduce in future; provide and maintain other ranks with tropical kit;
- (m) sponsor loans up to a maximum of £730, in accordance with Kenya Government Regulations, for the purchase of motor vehicles, duty free; the repayment of such loans, with interest thereon (currently p.a.) to be by monthly instalments and to be completed before the end of the tour;

- (n) grant "Forces Rate" postal concessions to Loaned Personnel;
- (o) pay Loaned Personnel local language awards for proficiency in Swahili at the following rates tax free (language award will *not* be paid during inter-tour leave):

- (i) Shs. 2/6 per day for those who have passed the oral examination;
- (ii) Shs. 4/- per day for those who have passed both the oral and written examination. The examination to be the Government Swahili Examinations;

the award will only be paid to Loaned Personnel who are required by the nature of their duties to speak Swahili;

- (p) pay married accompanied Loaned Personnel personal disturbance allowance tax free at rates and conditions laid down in British Service Regulations:

- (i) in respect of their initial move to the Receiving State;
- (ii) in respect of moves from one place of duty to another in the Receiving State;
- (q) move Loaned Personnel, their dependants and their luggage at the class and at baggage rates applicable under United Kingdom allowance regulations between the port or airport of entry into the Receiving State and their duty stations and vice versa, and also between their duty stations when transferred within the Receiving State.

3. Loaned Personnel may also be allowed the use of all recreational, local leave, mess and welfare facilities that are available for the Armed Forces of the Receiving State.

4. Any facilities or benefits listed above in this agreement to be provided by the Receiving State and not so provided, may be paid for or provided by the United Kingdom Government in consultation with the Receiving State, the cost being recoverable from the Receiving State.

5. Where benefits are to be provided according to British rules, they shall be in accordance with the rules prevailing on 1st April, 1964. In the event of any change being made on these benefits, this agreement shall be subject to review.

6. In the event of the Receiving State reviewing the scale of allowance referred to at Clauses 2 (b) and (c) above, in order to equalise the allowances of personnel of the Receiving State and Loaned Personnel, special provision will be made to ensure that Loaned Personnel currently serving with the Armed Forces of the Receiving State suffer no loss of benefits.

7. The Receiving State will provide and maintain or meet the cost of providing and maintaining all special protective or flying clothes, working clothes and other service clothing and equipment made necessary by loan to the Receiving State (except items of uniform for which provision is made in sub-paragraph 2 (l) of the Schedule).

SECOND SCHEDULE

PROCEDURE FOR DEALING WITH LOSS OR DAMAGE OR MISAPPLICATION OF FUNDS

1. If the Ministry of Internal Security and Defense of the Receiving State or the Service authorities of the Receiving State are of the opinion that the circumstances set out in Section 11, paragraph 4 (c), or any of such circumstances have arisen the procedure set out below will apply :

- (a) the Ministry of Defense or Service Authorities of the Receiving State will give to the United Kingdom Service Authorities full particulars of the loss, damage or misapplication, including all records of proceedings, depositions, statements and of the evidence relating thereto;
- (b) the United Kingdom Service Authorities concerned shall make or cause to be made such investigation as they shall think fit and if satisfied that the loss, damage or misapplication was occasioned by any such act or commission, the Loaned Person will be invited to pay as or towards compensation for the loss or damage such sum as the United Kingdom Service Authorities shall in their discretion assess to be the amount which would have been awarded under United Kingdom Service Law had such loss or damage been occasioned to United Kingdom public or Service property or funds and the proceedings and investigations prescribed by United Kingdom Service Law been made.

2. If payment is made of the sum assessed in paragraph 1 (b) above it shall be accepted by the Receiving State in full and final settlement of any claims which the Receiving State may have against the Loaned Person in question under the laws of the Receiving State in respect of such loss or damage or misapplication of funds.

II

*The Prime Minister of Kenya to the Acting British High Commissioner
at Nairobi*

OFFICE OF THE PRIME MINISTER
NAIROBI

27 November, 1964

Sir,

I have received your letter of today's date setting out in an Appendix the arrangements which have been agreed in discussion between representatives of the Government of Kenya and representatives of the Government of the United Kingdom of Great Britain and Northern Ireland concerning the provision of personnel of the United Kingdom Armed Forces to assist in the staffing, administration and training of the Armed Forces of Kenya, a copy of which

letter with its Appendix is attached to this reply. The Government of Kenya accept your proposal and agree that your letter and this reply shall constitute an agreement between our two Governments which shall be deemed to have entered into force on the 1st day of April, 1964.

I have the honour to be, Sir, your obedient Servant

Mbiyu KOINANGE
Minister of State for Prime Minister

[*Enclosure as under note I*]