



LAWS OF KENYA

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**MALARIA PREVENTION ACT**

CHAPTER 246

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**CHAPTER 246**

**MALARIA PREVENTION ACT**  
**ARRANGEMENT OF SECTIONS**

*Section*

1. Short title.
  2. Interpretation.
  3. Health authority may construct and maintain drainage systems.
  4. Power of entry upon land.
  5. No construction to obstruct flow of water.
  6. No trees to be planted without consent of health authority.
  7. Drains not to be connected without consent of health authority.
  8. Owner of land to do works in certain cases.
  9. Contribution by owner of land towards cost of drainage.
  10. Owner to pay to health authority value of area gained by readjustment.
  11. Health authority to pay to owner value of area lost by readjustment.
  12. Mode of determining compensation.
  13. Penalty.
  14. Saving of the Public Health Act.
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**CHAPTER 246****MALARIA PREVENTION ACT**

[Date of commencement: 31st July, 1929.]

**An Act of Parliament to enable health authorities to take measures for the prevention of malaria**

[Act No. 19 of 1929, Cap. 132 (1948), Act No. 21 of 1966, L.N. 41/1970.]

**1. Short title**

This Act may be cited as the Malaria Prevention Act.

**2. Interpretation**

In this Act—

“**drain**” means a pipe or channel, whether open or closed, used or intended to be used for the drainage of land;

“**health authority**” means health authority as defined in the Public Health Act (Cap. 242);

“**land**” includes all buildings thereon;

“**owner**”, as regards immovable property, includes any person, other than the Government, receiving the rent or profits of lands or premises from a tenant or occupier thereof, or who would receive the rent or profits if the land or premises were let, whether on his own account or as agent for another person, other than the Government, entitled thereto or interested therein; and includes a lessee or licensee from the Government, and a superintendent, overseer or manager of the lessee or licensee residing on the holding.

[Act No. 21 of 1966, First Sch., L.N. 41/1970, Sch.]

**3. Health authority may construct and maintain drainage systems**

A health authority may, for the purpose of prevention or suppression of malaria, construct and maintain within the area subject to its control a system or systems of drainage for the removal of water from any land within the area, and may level or adjust the surface of the land as part of the system or systems, and may readjust the boundaries, areas and shapes of any plot or holding affected.

[L.N. 41/1970, Sch.]

**4. Power of entry upon land**

(1) For the purpose of enabling the provisions of section 3 to be carried out, a health authority by its duly authorized agents or servants may enter upon land upon which a system or systems of drainage is or are to be constructed, and may do thereon all such work as may be necessary for the construction of the system or systems of drainage, and may, at any time after the completion of the work, from time to time by its duly authorized servants or agents enter upon the land for the purpose of working, maintaining and keeping in good condition the system or systems of drainage.

(2) All drains constituting part of such a system or systems of drainage shall be under the control of the health authority.

[L.N. 41/1970, Sch.]

#### **5. No construction to obstruct flow of water**

No person shall, within an area subject to the control of a health authority, build or maintain a dam or other construction so as to obstruct the flow of water into or out of a drain under the control of the health authority, nor by any means alter the level of any water so as to reduce its flow, nor construct any steps, bridge or platform over a drain under the control of the health authority without the consent in writing of that health authority; and the health authority may cause any such dam or other construction, or any steps, bridge or platform so built or constructed without written consent to be demolished, altered, re-made or otherwise dealt with, as it may think fit, at the expense of the person building or constructing it, and any money becoming due from a person under this section shall be a civil debt recoverable summarily.

[L.N. 41/1970, Sch.]

#### **6. No trees to be planted without consent of health authority**

No person shall, within an area subject to the control of a health authority, plant trees or otherwise cultivate land in such a manner as is likely, in the opinion of that health authority, to obstruct the flow of water into or out of or in a drain or culvert under the control of the health authority; and the health authority may, by notice in writing, require the removal of any tree or vegetation which is likely to cause such obstruction; and, in the event of non-removal within a time to be specified by the health authority, the health authority may cause the tree or vegetation to be removed at the expense of the person planting or cultivating it, and any money becoming due from a person under this section shall be a civil debt recoverable summarily.

[L.N. 41/1970, Sch.]

#### **7. Drains not to be connected without consent of health authority**

No person shall, without the written consent of a health authority, make or connect, or cause to be made or connected, any drain into another drain or into a canal or stream under the control of the health authority, and a health authority may cause any such drain constructed without written consent to be demolished, altered, re-made or otherwise dealt with as it may think fit at the expense of the person making or connecting it, and any money becoming due from a person under this section shall be a civil debt recoverable summarily.

[L.N. 41/1970, Sch.]

#### **8. Owner of land to do works in certain cases**

Whenever it appears to a health authority that any land, or any pond, tank, well, spring, drain, stream, waterlogged ground or swamp, irrigation canal or other collection of water within the area under its control, is or is likely to be favourable to the existence or propagation of mosquitoes, the health authority may, by notice in writing, require the owner or occupier of the land within a reasonable time to be specified in the notice to comply with such requirements in regard to the land, pond, tank, well, spring, drain, stream, waterlogged ground or swamp, irrigation canal or other collection of water as it may specify for the



purpose of preventing or suppressing the existence or propagation of mosquitoes therein or thereupon; and if within the time specified in the notice the owner or occupier of the land has not complied with the requirements thereof he shall be guilty of a contravention of this Act, and thereupon the health authority may enter upon the land and carry out or complete the required work thereon, and may recover the cost of carrying out or completing the work from the person in default, and all moneys due from a person to the health authority under this section shall be a civil debt recoverable summarily.

[L.N. 41/1970, Sch.]

#### **9. Contribution by owner of land towards cost of drainage**

(1) A health authority may require the owner of land benefited by the construction or maintenance, or both, of a system or systems of drainage under section 3 to contribute the whole or a portion of the cost of construction or maintenance or both.

(2) For the purposes of subsection (1)—

- (a) the question as to whether or not the owner of land is benefited by the construction or maintenance or both shall be decided by mutual agreement between the health authority and the owner of the land, or, failing agreement, by reference to arbitration under the Arbitration Act (Cap. 49), and any sum of money awarded against the owner of the land under that Act shall be a civil debt recoverable summarily;
- (b) the amount of any contribution towards construction shall in no case exceed the difference between the selling value of the land prior to construction and the selling value of the land after construction;
- (c) a contribution made under this section shall be in addition to and not in substitution for any other contribution that may be required by the health authority for work or service under any law for the time being in force.

[L.N. 41/1970, Sch.]

#### **10. Owner to pay to health authority value of area gained by readjustment**

(1) If a plot or holding is increased in size by readjustment of boundaries under section 3, the owner of the plot or holding shall pay to the health authority the value of the area by which the plot or holding is so increased; and all moneys due to the health authority under this section shall be a civil debt recoverable summarily.

(2) The value of the area by which the plot or holding is so increased shall be agreed upon between the owner of the plot or holding and the health authority, or, failing agreement, shall be decided by arbitration under the Arbitration Act (Cap. 49).

[L.N. 41/1970, Sch.]

#### **11. Health authority to pay to owner value of area lost by readjustment**

If a plot or holding is diminished in size by readjustment of boundaries under section 3, the owner of the plot or holding shall receive as compensation from the health authority the value of the area by which the plot or holding is diminished,

and the amount of the compensation shall be agreed between the owner of the plot or holding and the health authority, or, failing agreement, shall be decided by arbitration under the Arbitration Act (Cap. 49).

[L.N. 41/1970, Sch.]

#### **12. Mode of determining compensation**

In the event of the owner of the land claiming compensation for damage caused to his land by action taken by the health authority in pursuance of the powers granted by this Act, the amount of compensation shall be agreed upon between the owner of the land and the health authority, or, failing agreement, shall be decided by arbitration under the Arbitration Act (Cap. 49).

#### **13. Penalty**

A person who contravenes any of the provisions of this Act or of any notice thereunder, or who obstructs any person in the execution of his duty under this Act, shall be guilty of an offence and liable to a fine not exceeding one thousand shillings.

#### **14. Saving of the Public Health Act**

The powers and provisions contained in this Act shall be in addition to and not in derogation of the powers and provisions contained in the Public Health Act (Cap. 242).

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