1952 No. 869

The Colonial Air Navigation (Amendment) Order, 1952

Made - - - -	*29th April*, 1952
Laid before Parliament	30*th April*, 1952
Coming into Operation	1*st July*, 1952

At the Court at Windsor Castle, the 29th day of April, 1952

Present,

The Queen's Most Excellent Majesty in Council

Whereas in pursuance of the powers conferred upon Him by the Air Navigation Acts, 1920(**a**) to 1947(**b**), and the Colonial Air Navigation (Application of Acts) Orders, 1937(**c**) to 1947(**d**), His late Majesty King George the Sixth was pleased to make the Colonial Air Navigation Order, 1949(**e**), which Order, as amended by the Colonial Air Navigation (Amendment) Order, 1950(**f**), and the Colonial Air Navigation (Amendment) Order, 1951(**g**), is hereinafter referred to as the " principal Order ":

And Whereas the Civil Aviation Act, 1949(**h**), repealed the Air Navigation Acts, 1920 to 1947, but saved certain provisions thereof:

And Whereas in pursuance of the powers conferred upon Her by the Civil Aviation Act, 1949, Her Majesty was pleased to make the Colonial Civil Aviation (Application of Act) Order, 1952(**i**):

And Whereas the Colonial Civil Aviation (Application of Act) Order, 1952, revoked the Air Navigation (Application of Acts) Orders, 1937 to 1947, but saved, together with certain other instruments, any Order in Council made in pursuance of those Orders prior to their revocation:

And Whereas it is expedient that the principal Order should be amended to make special provision for the powers of the East Africa High Commission in relation to the territories of Kenya, Tanganyika and the Uganda Protectorate and for other purposes:

Now, therefore, Her Majesty, in pursuance of the powers conferred upon Her by the Civil Aviation Act, 1949, and the Colonial Civil Aviation (Application of Act) Order, 1952, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered as follows:—

Short title and commencement

1.—(1) This Order may be cited as the Colonial Air Navigation (Amendment) Order, 1952 and this Order and the principal Order may be cited together as the Colonial Air Navigation Orders, 1949 to 1952.

(2) This Order shall come into operation on the first day of July, 1952.

(**a**) 10 & 11 Geo. 5. c. 80. (**b**) 10 & 11 Geo. 6. c. 18.
(**c**) S.R. & O. 1937/378; Rev. I, p. 1200; 1937, p. 141.
(**d**) S.R. & O. 1947/2738; Rev. I, p. 1200; 1947 I, p. 70.
(**e**) S.I. 1949/2000; 1949 I, p. 359. (**f**) S.I. 1950/1188; 1950 I, p. 329.
(**g**) S.I. 1951/1776; 1951 I, p. 215. (**h**) 12, 13 & 14 Geo. 6. c. 67.
(**i**) S.I. 1952/868, p. 565 below.

Insertion of new Article 71A

2. Immediately after Article 71 of the principal Order there shall be inserted the following Article:—

"Provisions for East African Territories.

71A.—(1) The provisions of this Order except—

(*a*) Articles 54, 58, 61, 70, 71 and 72 thereof and

(*b*) Article 64 in so far as it relates to the purposes of Article 54;

shall have effect in relation to each of the East African Territories as if for references in this Order to the Governor there were substituted references to the High Commission.

(2) The High Commission may by order published in the Official Gazette of the High Commission declare that, subject to such limitations and conditions as may be specified in the order, any of the powers conferred or duties imposed upon the High Commission by virtue of paragraph (1) of this Article may be exercised or shall be performed in relation to any of the East African Territories by the Governor of that territory.

(3) Where by virtue of a declaration made under paragraph (2) of this Article any power may be exercised or any duty is to be performed by the Governor of any of the East African Territories then—

(*a*) the High Commission shall not exercise such power or perform such duty in relation to that territory; and

(*b*) in the exercise of such power or the performance of such duty the Governor may, in relation to that territory, revoke or vary any instrument or thing previously made or done by the High Commission to the same extent as such instrument or thing could, but for the provisions of sub-paragraph (*a*) of this paragraph, have been revoked or varied by the High Commission.

(4) (*a*) The High Commission may by a further order published in like manner, revoke or vary any order made under paragraph (2) of this Article.

(*b*) Where, by reason that any such order has been so revoked or varied, or has otherwise ceased to have effect, any power or duty ceases to be exercisable or is no longer to be performed by the Governor of any East African territory, any instrument made or other thing done by the Governor in the exercise or performance of such power or duty shall, if in force immediately before such revocation or variation, continue in force, but may be revoked or varied by the High Commission as if it had been made or done by the High Commission.

(5) Any references to the Governor in Articles 61, 70 and 71 of this Order shall, in relation to each of the East African Territories, be construed as including references to the High Commission."

Amendment of Article 72

3. Article 72 of the principal Order shall be amended as follows:—

(*a*) in paragraph (1) thereof—

(i) after the definition of "Description" there shall be inserted the following definition:—

"'The East African Territories' means the Colony and Protectorate of Kenya, Tanganyika and the Uganda Protectorate;"

(ii) after the definition of "Governor" there shall be inserted the following definition:—

"'The High Commission' means the East Africa High Commission established by the East Africa (High Commission) Order in Council, 1947(a);"

(*b*) immediately after paragraph (3) thereof there shall be inserted the the following paragraph:—

"(4) (*a*) Any power conferred by this Order to issue, make, serve or grant any instrument shall be construed as including a power exercisable in the like manner and subject to the like conditions, if any, to vary, revoke, cancel or otherwise terminate the instrument.

(*b*) In this paragraph, 'instrument' includes any regulation, direction, instruction, rule or other requirement, any notice and any certificate, licence, validation or other authority."

Insertion of new Article 72A

4. Immediately after Article 72 of the principal Order there shall be inserted the following Article:—

"Interpretation in relation to the East African Territories.

72A. Article 72 of this Order shall have effect in relation to the East African Territories—

(*a*) as if for the definition of "Prescribed" in paragraph (1) of the said Article there were substituted the following definition—

"'Prescribed' means prescribed by regulations made by the High Commission or by the Governor under this Order, or made by the Governor by virtue of any powers conferred upon him by any declaration made under paragraph (2) of Article 71A of this Order"; and

(*b*) as if a reference to the High Commission were substituted for the reference to the Governor in the definition of 'Type' contained in paragraph (1) of the said Article; and

(*c*) as if a reference to the High Commission were substituted for the reference to the Governor in paragraph (2) of the said Article."

F. J. Fernau.

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

This Order in Council, made under the Civil Aviation Act, 1949, and the Colonial Civil Aviation (Application of Act) Order, 1952, amends the Colonial Air Navigation Orders, 1949 to 1951. The amendments relate to the powers and duties of the East Africa High Commission, and of the several Governors, in the East African Territories of Kenya, Tanganyika and Uganda, under the Colonial Air Navigation Orders, 1949 to 1951.

(a) S.R. & O. 1947/2863; Rev. XI, p. 695; 1947 I, p. 758.