KENYA

The East Africa (High Commission) (Amendment) Order in Council, 1951

1951 No. 2126

Made - - - -	*4th December*, 1951
Laid before Parliament	*5th December*, 1951
Coming into Operation	*6th December*, 1951

At the Court at Buckingham Palace, the 4th day of December, 1951

Present,

The King's Most Excellent Majesty in Council

Whereas by the East Africa (High Commission) Order in Council, 1947(a) (hereinafter referred to as "the Principal Order"), provision was made for the control and administration of certain matters and services of common interest to the inhabitants of the Colony and Protectorate of Kenya, the Trust Territory of Tanganyika and the Protectorate of Uganda and for that purpose for the establishment of an East Africa High Commission and an East Africa Central Legislative Assembly for those territories:

And Whereas the Principal Order was brought into operation on the first day of January, 1948, by Proclamation duly made and notified in accordance with the provisions of section 2 of the said Order:

And Whereas by section 3 of the Principal Order it is provided that Parts III and IV thereof (whereby the East Africa Central Legislative Assembly is constituted and provision is made for legislation and legislative procedure by and in the said Legislative Assembly) shall continue in operation for a period of four years and shall then cease to have effect:

And Whereas it is expedient to provide for the continuance in operation of Parts III and IV of the Principal Order and otherwise to amend the provisions of the Principal Order in the matter hereinafter appearing:

Now, therefore, His Majesty, by virtue and in exercise of the powers in this behalf by the British Settlements Acts, 1887 and 1945(b), the Foreign Jurisdiction Act, 1890(c), or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered as follows:

Short title and commencement

1.—(1) This Order may be cited as the East Africa (High Commission) (Amendment) Order in Council, 1951, and shall be construed as one with the Principal Order; and the Principal Order and this Order may be cited together as "The East Africa (High Commission) Orders in Council, 1947 and 1951".

(2) This Order shall come into operation on the 6th day of December, 1951.

(a) S.R. & O. 1947 (No. 2863) I, p. 758.
(b) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7.
(c) 53 & 54 Vict. c. 37.

Amends section 3 *of Principal Order*

2. Section 3 of the Principal Order shall be amended by the deletion of the words " for a period of four years " and the substitution of the words and figures " until the 31st day of December, 1955 ".

Amends section 18 *of Principal Order*

3. Section 18 of the Principal Order shall be amended by the addition of the following at the end of subsection (3) thereof:—

" and subject thereto, and to the provisions of section 21 of this Order, for such period as may be specified in the Instrument by which he is appointed ".

Amends section 19 *of Principal Order*

4.—(1) With effect from the 1st day of January, 1952, section 19 of the Principal Order shall be amended as follows:—

(*a*) by the deletion of the present subsection (1) and the substitution therefor of the following new subsection:—

" (1) The Unofficial Members shall be—

(i) Three persons, being respectively a European, an Asian and an African, appointed by the Governor of Kenya:
Provided that—

(*a*) the European and the Asian to be so appointed shall be elected by resolution respectively of the Elected Members of the Legislative Council of Kenya who are Europeans and the Elected Members thereof who are Asians; and

(*b*) for the purposes of this proviso the Elected Members of the Legislative Council of Kenya shall be deemed to include any persons who may be appointed to be Nominated Indian Unofficial Members but not to include the Arab elected to be an Elected Member thereof;

(ii) Three persons, being respectively a European an Asian and an African, appointed by the Governor of Tanganyika;

(iii) Three persons, being respectively a European, an Asian and an African, appointed by the Governor of Uganda;

(iv) (*a*) One person not holding office of emolument under the Crown, being a resident of Kenya qualified to be a Member of the Legislative Council of Kenya;

(*b*) one person, being a Unofficial Member of the Legislative Council of Tanganyika;

(*c*) one person, being an Unofficial Member of the Legislative Council of Uganda;

elected by resolution respectively of the Members of the Legislative Council of Kenya, the Unofficial Members of the Legislative Council of Tanganyika and the Unofficial Members of the Legislative Council of Uganda; and

(v) One person, being an Arab, appointed by the High Commission."

(*b*) by the addition of a new subsection (4) as follows:—

" (4) Subject to the provisions of section 21 of this Order, any person appointed to be an Unofficial Member in accordance with the provisions of paragraph (i), paragraph (ii), paragraph (iii) or paragraph (v) of subsection (1) of this section shall hold his seat in the Assembly for such

period as may be specified in the Instrument by which he is appointed and any person elected to be an Unofficial Member in accordance with the provisions of paragraph (iv) of subsection (1) of this section shall hold his seat in the Assembly for such period as may be specified in the resolution by which he is elected."

(2) In order to give effect to clause 9 of the Additional Instructions passed under the Royal Sign Manual and Signet to the Governor of Kenya dated the 21st day of November, 1951, which, with effect from a date to be fixed by the Governor of Kenya by Proclamation, will revoke and replace clause XVIII of the Instructions passed under the Royal Sign Manual and Signet to the Governor of Kenya dated the 29th day of March, 1934, as from time to time amended, the new subsection (1) of section 19 of the Principal Order set out in subsection (1) of this section, shall, without prejudice to anything lawfully done thereunder, be amended, with effect from the date to be fixed as aforesaid by the Governor of Kenya or the 1st day of January, 1952, whichever shall be the later, by the substitution for the words "Nominated Indian Unofficial Members" in subparagraph (*b*) of the proviso to paragraph (i) thereof of the words "Representative Indian Members".

Revokes section 27 of Principal Order

5. Section 27 of the Principal Order shall be revoked.

Transitional provisions

6.—(1) Subject to the provisions of subsection (3) of this section, the Nominated Official Members and the Unofficial Members of the Assembly shall vacate their seats on the 31st day of December, 1951.

(2) Subject to the provisions of subsection (6) of this section, the tenure of office of a Nominated Official Member of the Assembly or an Unofficial Member thereof appointed in accordance with the provisions of paragraph (i), paragraph (ii), paragraph (iii) or paragraph (v) of subsection (1) of section 19 of the Principal Order or elected in accordance with the provisions of paragraph (iv) of that subsection may be extended by the authority empowered to appoint or elect such Member to the Assembly for such period, not exceeding twelve months, as such authority shall think fit.

(3) If the tenure of office of a Member of the Assembly is extended for a specified period in accordance with the provisions of subsection (2) of this section, such Member shall, subject to the provisions of subsection (3) of section 18 and the provisions of section 21 of the Principal Order, vacate his seat at the expiration of that period; and he shall be deemed to have been duly appointed or elected for the duration of that period in accordance with the provisions of subsection (1) of section 18 of the Principal Order, or subsection (1) of section 19 of the Principal Order, as amended by subsection (1) of section 4 of this Order, as the case may be.

(4) (*a*) The provisions of subsection (2) of section 18 of the Principal Order shall apply in relation to an extension of the tenure of office of a Nominated Official Member as they apply in relation to an appointment made in accordance with the provisions of subsection (1) of section 18 of the Principal Order; and the High Commission shall without delay report every such extension to His Majesty, through a Secretary of State.

(*b*) The provisions of subsection (2) of section 19 of the Principal Order shall apply in relation to the extension of the tenure of office of an Unofficial

Member appointed in accordance with the provisions of paragraph (i), paragraph (ii) or paragraph (iii) of subsection (1) of that section as they apply in relation to an appointment under any of those paragraphs.

(*c*) Extension of the tenure of office of an Unofficial Member elected in accordance with the provisions of paragraph (iv) of subsection (1) of section 19 of the Principal Order shall be effected by resolution of the authority empowered to elect such Member.

(*d*) The provisions of subsection (3) of section 19 of the Principal Order shall apply in relation to an extension of the tenure of office of an Unofficial Member appointed in accordance with the provisions of paragraph (v) of subsection (1) of that section as they apply in relation to an appointment under that paragraph.

(5) Provision may be made at any time after the commencement of this Order in accordance with section 18 of the Principal Order as amended by section 3 of this Order or section 19 of the Principal Order as amended by subsection (1) of section 4 of this Order, for the filling by appointment or election, as the case may be, of vacancies in the number of Nominated Official Members and Unofficial Members of the Assembly that would, in the absence of an exercise of the powers conferred by subsection (2) of this section, occur when any such Members vacated their seats in accordance with the provisions of subsection (1) of this section.

(6) The powers conferred by subsection (2) of this section may be exercised at any time between the commencement of this Order and the 31st day of December, 1951:

Provided that if an appointment is made or an election is held in accordance with the provisions of subsection (5) of this section to fill any vacancy in the number either of Nominated Official Members or Unofficial Members of the Assembly that would, in the absence of an exercise of those powers, occur when any such Member vacated his seat in accordance with the provisions of subsection (1) of this section, such powers shall forthwith cease to be exercisable in respect of such Member.

(7) Any Member of the Assembly who vacates his seat in accordance with the provisions of subsection (1) or subsection (3) of this section shall be eligible, if qualified, for re-appointment or re-election to the Assembly.

F. J. Fernau.

EXPLANATORY NOTE

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

This Order provides for the continuance in force until 31st December, 1955, of Parts III and IV of the East Africa (High Commission) Order, 1947, which in the absence of such a provision, would expire on 31st December, 1951. It also amends sections 18 and 19 of the Order, which deal respectively with Nominated Official Members, and Unofficial Members of the East Africa Central Legislative Assembly, revokes section 27 of the Order, which is spent, and makes certain transitional provisions.