EAST AFRICA

1956 No. 1891

The East Africa (High Commission) (Amendment) Order in Council, 1956

Made - - - - 29*th November*, 1956
Laid before Parliament 5*th December*, 1956
Coming into Operation 12*th December*, 1956

At the Court at Buckingham Palace, the 29th day of November, 1956

Present,

The Queen's Most Excellent Majesty in Council

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

Citation construction and commencement

1.—(1) This Order may be cited as the East Africa (High Commission) (Amendment) Order in Council, 1956, and shall be construed as one with the East Africa (High Commission) Orders in Council, 1947 to 1955(**c**).

(2) The East Africa (High Commission) Orders in Council, 1947 to 1955, and this Order may be cited together as the East Africa (High Commission) Orders in Council, 1947 to 1956.

(3) This Order shall come into operation on the twelfth day of December, 1956.

Amendment of East Africa (High Commission) Order in Council, 1947

2. Section 1 of the East Africa (High Commission) Order in Council, 1947(**d**), (hereinafter called "the principal Order") is hereby amended—

(*a*) by the deletion from subsection (1) of the definition of "Nominated Official Member" and the definition of "Unofficial Member"; and

(*b*) by the deletion of subsection (4) and by the substitution therefor of the following subsection:—

"(4) (*a*) For the purposes of this Order a person shall not be considered to hold an office of emolument in the service of the High Commission or under the Crown in one of the Territories by reason only that he is in receipt of a pension or other like allowance in respect of service in an office of emolument in the service of the High Commission or under the Crown in that Territory, as the case may be.

(**a**) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7. (**b**) 53 & 54 Vict. c. 37.
(**c**) S.R. & O. 1947/2863 (Rev. XI, p. 695: 1947 I, p. 758); S.I. 1951/2126, 1953/975, 1955/550 (1951 I, p. 1222; 1953 I, p. 584; 1955 I, p. 684).
(**d**) S.R. & O. 1947/2863 (Rev. XI, p. 695: 1947 I, p. 758).

(*b*) If it is declared by any law enacted by the High Commission, with the advice and consent of the Assembly, that the person holding or acting in any office in the service of the High Commission shall be deemed not to be a person holding or acting in an office of emolument in that service for the purposes of this Order, the provisions of this Order shall have effect accordingly.

(*c*) For the purposes of this Order, a person shall not be considered to be a person holding or acting in an office of emolument under the Crown in a Territory if, for the purposes of membership of the Legislative Council of that Territory, he is deemed not to be such a person."

3. Part III of the principal Order (which comprises sections 14 to 26 inclusive) is hereby revoked, and the following Part is substituted therefor:—

"PART III

THE ASSEMBLY

Establishment of Assembly.

14. There shall be an East Africa Central Legislative Assembly.

Composition of Assembly.

15.—(1) The members of the Assembly shall be—

(*a*) the Speaker, who shall be appointed by the High Commission by Instrument under the Official Seal;

(*b*) seven Ex-officio Members, that is to say, the officers specifically mentioned in subsection (1) of section 12 of this Order;

(*c*) six Nominated Members appointed in accordance with the provisions of section 16 of this Order;

(*d*) twenty Unofficial Members appointed or elected in accordance with the provisions of section 17 of this Order; and

(*e*) such temporary members as may be appointed under section 21 of this Order.

(2) The High Commission shall without delay report to Her Majesty, through a Secretary of State, all appointments to the office of Speaker and all appointments made under section 17 and section 21 of this Order.

(3) It is hereby declared for the avoidance of doubt that any person who has vacated his seat as a member of the Assembly may, if qualified, again be appointed or elected as a member of the Assembly.

Nominated Members.

16. The Nominated Members of the Assembly shall be—

(*a*) two persons appointed by the Governor of Kenya by Instrument under the Public Seal of Kenya from among the persons holding office of emolument under the Crown in Kenya;

(*b*) two persons appointed by the Governor of Tanganyika by Instrument under the Public Seal of Tanganyika, at

least one of whom shall be appointed from among the persons holding office of emolument under the Crown in Tanganyika;

(*c*) two persons appointed by the Governor of Uganda by Instrument under the Public Seal of Uganda from among the persons holding office of emolument under the Crown in Uganda.

Unofficial Members.

17.—(1) The Unofficial Members of the Assembly shall be—

(*a*) three persons appointed by the Governor of Kenya by Instrument under the Public Seal of Kenya;

(*b*) three persons appointed by the Governor of Tanganyika by Instrument under the Public Seal of Tanganyika;

(*c*) three persons appointed by the Governor of Uganda by Instrument under the Public Seal of Uganda, at least two of whom shall be appointed from among the members of the Legislative Council of Uganda;

(*d*) (i) three persons, one of whom shall be elected by the Elected Members of the Legislative Council of Kenya who are Europeans, one of whom shall be elected by the Elected Members of that Council who are Asians, and one of whom shall be elected by the Elected Members of that Council who are Africans;

(ii) three persons elected from among the members of the Legislative Council of Tanganyika by the Representative Members of that Council;

(iii) three members elected from among their own number by the Representative Members of the Legislative Council of Uganda; and

(*e*) two persons, being Arabs, appointed by the High Commission by Instrument under the Official Seal.

(2) No person shall be qualified for appointment or election as an Unofficial Member if at the time of such appointment or election he holds an office of emolument under the Crown in any of the Territories or an office of emolument in the service of the High Commission.

(3) Any election of an Unofficial Member by members of the Legislative Council of one of the Territories under this section shall be held at such time and in such manner as the Governor of that Territory may direct.

(4) Before any such election is held, the Governor shall specify the period for which the person elected shall hold his seat in the Assembly.

Summoning of persons to assist Assembly.

18.—(1) The High Commission may summon any person to the Assembly notwithstanding that he is not a member of the Assembly, when, in the opinion of the High Commission, the business before the Assembly renders his presence desirable.

(2) Any person so summoned shall be entitled to take part in the proceedings of the Assembly relating to the matters in respect of which he was summoned as if he were a member of the Assembly except that he shall not have the right to vote in the Assembly.

Tenure of office.

19.—(1) Subject to the provisions of this section, the Speaker shall hold his office, and the Nominated members and any temporary members of the Assembly shall hold their seats in the Assembly, during Her Majesty's pleasure.

(2) The office of the Speaker shall become vacant—

(*a*) at the expiration of such period as may be specified in the Instrument by which he is appointed;

(*b*) if by writing under his hand addressed to the High Commission he resigns his office; or

(*c*) if his appointment is revoked by the High Commission by Instrument under the Official Seal.

(3) The seat of a Nominated or Unofficial Member or of a temporary member of the Assembly shall become vacant—

(*a*) in the case of a member appointed by Instrument under the Official Seal or under the Public Seal of one of the Territories, at the expiration of such period as may be specified in that Instrument;

(*b*) in the case of an Unofficial Member elected by members of the Legislative Council of one of the Territories, at the expiration of such period as the Governor may have specified in relation to the election of that member in pursuance of subsection (4) of section 17 of this Order;

(*c*) if, without the leave of the High Commission previously obtained, he is absent from the meetings of the Assembly for a continuous period of more than twelve months; or if he is absent from two consecutive sessions of the Assembly;

(*d*) if he takes any oath, or makes any declaration or acknowledgment, of allegiance, obedience or adherence to any foreign power or state; or does, concurs in or adopts any act done with the intention that he should become a subject or citizen of any foreign power or state;

(*e*) if he is declared a bankrupt under any law in force in any part of Her Majesty's dominions;

(*f*) if in any part of Her Majesty's dominions he is sentenced to death or to imprisonment (by whatever name called) for a term of or exceeding six months;

(*g*) in the case of an Unofficial Member, if, without the prior consent of the High Commission, he becomes a party to any contract with the High Commission or with any of the Governments of the Territories in relation to the public service;

(*h*) if he is found to be of unsound mind under any law for the time being in force in any of the Territories;

(*i*) if by writing under his hand addressed to the High Commission he resigns his seat in the Assembly;

(*j*) in the case of an Unofficial Member, if he is appointed to any office of emolument under the Crown in any of the Territories or any office of emolument in the service of the High Commission;

(*k*) in the case of a Nominated Member who was appointed as such while holding an office under the Crown in any of the Territories, if he ceases to hold such office;

(*l*) in the case of a temporary member, when the member in respect of whose incapacity he was appointed is declared to be able again to discharge his functions as a member of the Assembly or when the seat of that member in the Assembly becomes vacant.

(4) It is hereby declared for the avoidance of doubt that the seat of an Unofficial Member of the Assembly shall not become vacant by reason only that he, having been a member of the Legislative Council of one of the Territories, has vacated his seat in that Council.

(5) Whenever the seat of a member of the Assembly becomes vacant under subsection (3) of this section the Speaker shall forthwith report the vacancy in writing to the High Commission.

Determination of questions as to membership.

20. Any question whether—

(*a*) any person has become a member of the Assembly;

(*b*) the seat of any member of the Assembly has become vacant; or

(*c*) any Nominated or Unofficial Member of the Assembly is incapable of taking part in the proceedings of the Assembly by reason of a declaration made under section 21 of this Order

shall be referred to and determined by the High Commission.

Temporary members.

21.—(1) The High Commission may, by Instrument under the Official Seal, declare that a Nominated or Unofficial Member of the Assembly is, by reason of absence or illness, temporarily unable to discharge his functions as a member of the Assembly; and thereupon that member shall not take part in the proceedings of the Assembly until he is declared in like manner to be able again to discharge those functions.

(2) When any Nominated or Unofficial Member is incapable of taking part in the proceedings of the Assembly by reason of a declaration made under subsection (1) of this section, the appropriate authority may appoint to be a temporary member of the Assembly a person qualified for appointment or election, as the case may be, to the seat held by that member.

(3) For the purposes of this section "the appropriate authority" means—

(*a*) in relation to a member appointed by the High Commission, the High Commission; and

(*b*) in relation to a member appointed by the Governor of one of the Territories, or elected by members of the Legislative Council of one of the Territories, the Governor of that Territory.

(4) Appointments made under this section by the High Commission shall be made by Instrument under the Official Seal, and appointments made under this section by the Governor of one of the Territories shall be made by Instrument under the Public Seal of that Territory.

Presiding in Assembly.

22.—(1) There shall preside at sitting of the Assembly—

(*a*) the Speaker;

(*b*) in the absence of the Speaker, such other member of the Assembly as the High Commission may appoint; or

(*c*) in the absence of the Speaker and of a member so appointed, the senior Ex-officio Member of the Assembly present.

(2) For the purposes of this section, the Ex-officio Members of the Assembly shall have seniority in the order in which their offices are specified in subsection (1) of section 12 of this order."

4. The Third Schedule to the principal Order (as amended by section 15 of the East Africa (High Commission) (Amendment) Order in Council, 1953(**a**), the Royal Technical College of East Africa (Addition to Schedule) Order, 1953(**b**), and the Merchant Shipping (Addition to Schedule) Order, 1953(**c**)), is hereby amended by the deletion from Item 18 of the word "included" and the substitution therefor of the word "including".

Vacation of seats

5. The seats in the Assembly of all persons holding office as Nominated Official and Unofficial Members immediately before this Order comes into operation shall become vacant forthwith.

Modification of s. 17 of Order of 1947, as amended

6. Until such time as the Additional Instructions to the Governor and Commander-in-Chief of the Colony of Kenya bearing date the twentieth day of July, 1956, come into effect, the reference in sub-paragraph (i) of paragraph (*d*) of subsection (1) of section 17 of the principal Order, as amended by section 3 of this Order, to the Elected Members of the Legislative Council of Kenya who are Asians shall have effect as if it were a reference to the Elected Members of that Council who are Indians, and the reference in that sub-paragraph to the Elected Members of that Council who are Africans shall have effect as if it were a reference to the Representative Members of that Council appointed to represent the interests of the African community in Kenya.

W. G. Agnew.

EXPLANATORY NOTE

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

This Order amends the East Africa (High Commission) Order in Council, 1947, so as to provide for changes in the composition of the East Africa Central Legislative Assembly.

(a) S.I. 1953/975 (1953 I, p. 584). (b) Legal Notice No. 20 in the High Commission Gazette Supplement No. 5 of 31st March, 1953.

(c) Legal Notice No. 21 in the High Commission Gazette Supplement No. 5 of 31st March, 1953.