# MALAYA

## 1954 No. 1143

## The Federation of Malaya (Amendment) Order in Council, 1954

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| *Made* - - - - | 30*th August*, 1954 |
| *Laid before Parliament* | 3*rd September*, 1954 |
| *Coming into Operation* | *On a date or dates to be appointed by the High Commissioner under Section* 1 (3).* |

At the Court at Balmoral, the 30th day of August, 1954

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by the Straits Settlements (Repeal) Act, 1946(a), and the British Settlements Acts, 1887(b) and 1945(c), or otherwise in Her Majesty vested, is pleased by and with the consent 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 Federation of Malaya (Amendment) Order in Council, 1954, and shall be construed as one with the Federation of Malaya Order in Council, 1948(d) (hereinafter referred to as " the principal Order ").

(2) The principal Order and this Order may be cited together as the Federation of Malaya Orders in Council, 1948 and 1954.

(3) This Order shall come into operation in relation to a Settlement on such date as the High Commissioner may, by notification in the *Gazette*, appoint for that Settlement; and the High Commissioner may so appoint different dates for different provisions of this Order:

Provided that any date so appointed shall not be earlier than the day after the day upon which this Order shall have been laid before both Houses of Parliament.*

*Amendment of section 2 of the principal Order*

**2.** Section 2 of the principal Order shall be amended as follows:

(*a*) in sub-section (1)—

(i) the definition of " Federal Citizen " shall be deleted; and

(ii) the following three definitions shall be inserted immediately after the definition of " the appointed day "—

' " citizen of the Federation of Malaya " means a person who is a citizen of the Federation of Malaya by virtue of the provisions of Part XII of the Federation Agreement; '

' " the Colony " means the Colony of Singapore; '

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(a) 9 & 10 Geo. 6. c. 37. (b) 50 & 51 Vict. c. 54.
(c) 9 & 10 Geo. 6. c. 7. (d) S.I. 1948/108 (Rev. VIII p. 420: 1948 I, p. 1231).
* Date appointed for ss. 3, 4, 14.10.54; for remaining provisions in respect of Penang, 10.1.55.
No date yet (June, 1955) appointed for remaining provisions in respect of Malacca.

' " the Commonwealth " means collectively the United Kingdom and any other part of Her Majesty's dominions, India, any territory under Her Majesty's protection and any territory administered by the government of any part of Her Majesty's dominions in accordance with a mandate from the League of Nations or under the trusteeship system of the United Nations : ' ;

(*b*) immediately after sub-section (1) there shall be inserted the following sub-section :

" (1A) For the purposes of this Order a person shall be deemed to have reached a specified age when he has, since his birth, completed that number of years of life reckoned in accordance with the Gregorian calendar." ;

(*c*) in paragraph (*b*) of sub-section (4) for the words " shall not be " there shall be substituted the words " shall or shall not be deemed to be ".

*Amendment of section* 12 *of the principal Order.*

**3.** In paragraph (*a*) of subsection (2) of section 12 of the principal Order the word " four " shall be substituted for the word " three ", and the words and comma " the Settlement Secretary," shall be inserted immediately after the words and comma " the Resident Commissioner,".

*Amendment of section* 18 *of the principal Order*

**4.** In paragraph (*b*) of section 18 of the principal Order the word " three " shall be substituted for the word " two " and the words and comma " the Settlement Secretary," shall be inserted immediately after the word " namely ".

*Replacement of section* 21 *of the principal Order*

**5.** Section 21 of the principal Order shall be revoked and the following new section shall be substituted therefor:

" Qualifications of Nominated Unofficial and Elected Members.

21. Subject to the provisions of this Order any person who at the date of his appointment as a Nominated Unofficial Member or nomination as a candidate for election as an Elected Member—

(*a*) is of the age of twenty one years or upwards ; and

(*b*) is either a British subject or a citizen of the Federation of Malaya ; and

(*c*) (i) if he is a British subject born in the Settlement, has been ordinarily resident in the Settlement for a period of six months immediately preceding such date ; or

(ii) if he is a British subject born elsewhere than in the Settlement (not being a citizen of the Federation of Malaya), has been ordinarily resident in the Settlement for a period of one year immediately preceding such date and has during the five years immediately preceding such date been resident in the Federation for periods amounting in the aggregate to not less than three years ; or

(iii) if he is a citizen of the Federation of Malaya (not being a British subject born in the Settlement) has been ordinarily resident in the Settlement for a period of one year immediately preceding such date: and

(*d*) is to the satisfaction of the High Commissioner able to speak and (unless incapacitated by blindness or other physical cause) to read and write, in the case of the Settlement of Penang, the English language and, in the case of the Settlement of Malacca, the English or Malay language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of the Council ; and

(*e*) in the case of an Elected Member is registered as a voter in any constituency in the Settlement in accordance with any law providing for the registration of voters made under Part VI of this Order,

shall be qualified to be appointed as a Nominated Unofficial Member or elected as an Elected Member of a Settlement Council, as the case may be, and no other person shall be qualified to be so appointed or elected or having been so appointed or elected shall sit or vote in such Council:

Provided that the High Commissioner, whenever he is satisfied that it is desirable so to do, may appoint as a Nominated Unofficial Member of a Settlement Council a British subject who has not been resident in the Settlement in accordance with the requirements of this section if he has been resident in the Federation for periods amounting in the aggregate to not less than one year out of the two years immediately preceding his appointment.".

*Amendment of section 22 of the principal Order*

**6.** Section 22 of the principal Order shall be amended as follows :

(*a*) for paragraphs (*a*) (*b*) and (*c*) there shall be substituted the following paragraphs :

" (*a*) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a Power or State outside the Commonwealth ; or

(*b*) is a person found or declared to be of unsound mind or is detained as a criminal lunatic under any law for the time being in force in the Federation or any part thereof ; or

(*c*) has in any part of the Commonwealth been sentenced to death or to imprisonment (by whatever name called) for a term exceeding six months and has not either suffered the punishment to which he was sentenced or such other punishment as may by competent authority have been substituted therefor or received a free pardon ; or

(*d*) within the immediately preceding five years has in the Federation or the Colony been convicted of or released from prison after serving a sentence of imprisonment imposed in respect of a conviction for—

(i) any offence punishable with death ; or

(ii) any offence punishable with imprisonment for life under any regulation made under the Emergency Regulations Ordinance, 1948, or the corresponding provisions of any law from time to time in force in the Colony ; or

(iii) any offence mentioned in Chapter VI or any offence punishable with imprisonment for life mentioned in

Chapter VII or Chapter XI (other than section 222) of the Penal Code of the Federated Malay States(a), as extended to have effect throughout the Federation by the Penal Code (Amendment and Extended Application) Ordinance, 1948(b), or the corresponding provisions of the Penal Code from time to time in force in the Colony; or

(iv) any offence committed by virtue of the making of any false statement in connection with the acquisition by any person of the status of British subject or citizen of the Federation of Malaya,

and has not received a free pardon.

For the purposes of this paragraph any reference to conviction for an offence shall be deemed to include a reference to conviction for the abetment of or an attempt to commit such offence; or

(*e*) is an undischarged bankrupt, having been adjudged or declared bankrupt under any law in force in any part of the Commonwealth; or";

(*b*) paragraphs (*d*), (*e*) and (*f*) shall be relettered as paragraphs (*f*), (*g*) and (*h*);

(*c*) in relettered paragraph (*f*) a colon shall be substituted for the semi-colon and the word "or" at the end of sub-paragraph (ii), and immediately thereafter shall be inserted the following proviso:

"Provided that—

(*a*) a person shall not be deemed to be interested in any such contract by reason only of his being a shareholder in a company which is a party to such contract unless he has a controlling interest in such company; and

(*b*) nothing in this paragraph shall be construed as referring to—

(i) any contract to subscribe to or any subscription to a loan to be issued to the public on advertised terms; or

(ii) any contract the consideration for which is less than one thousand dollars; or"; and

(*d*) in relettered paragraph (*h*) for the words "the election of Members of the Legislative Council or of a Settlement Council" there shall be substituted the words "elections (whether of Members of the Settlement Council or otherwise)".

*Amendment of section* 23 (3) *of the principal Order*

**7.** Sub-section (3) of section 23 of the principal Order shall be amended as follows:

(*a*) for paragraph (*b*) there shall be substituted the following new paragraph:

"(*b*) if, being a Nominated Unofficial or Elected Member, he shall cease to be qualified for appointment or election in accordance with paragraph (*b*) of section 21 of this Order; or";

(a) Cap. 45. (b) F. of M. No. 32 of 1948.

(*b*) in paragraph (*g*)—

(i) immediately after the words "British subject" there shall be inserted the words "or a citizen of the Federation of Malaya";

(ii) for the words "foreign Power or State" where they occur for the first time there shall be substituted the words "Power or State outside the Commonwealth"; and

(iii) for the word "foreign" where it occurs for the second time there shall be substituted the word "such";

(*c*) in paragraph (*h*) for the words "Federal Citizen" there shall be substituted the words "citizen of the Federation of Malaya":

(*d*) in paragraph (i) immediately after the words "unsound mind" there shall be inserted the words "or detained as a criminal lunatic" and immediately after the word "Federation" there shall be inserted the words "or any part thereof";

(*e*) for paragraphs (*j*) and (*k*) there shall be substituted the following new paragraphs:

"(*j*) if in any part of the Commonwealth he shall be sentenced to death or to imprisonment (by whatever name called) for a term exceeding six months, or convicted in the Federation or the Colony of any offence referred to in paragraph (*d*) of section 22 of this Order; or

(*k*) if he shall be declared a bankrupt under any law in force in any part of the Commonwealth; or";

(*f*) paragraph (*l*) shall be amended as follows:

(i) immediately after the words "shall become a party to" where they occur for the second time there shall be inserted the words "any such contract or if he shall become a partner in a firm or a director or manager of any company which is a party to any subsisting contract as aforesaid";

(ii) the word "otherwise" shall be transposed from its existing position to a position immediately before the words "to his knowledge";

(iii) immediately before the proviso thereto there shall be inserted the following proviso:

"Provided that—

(*a*) a person shall not be deemed to be interested in any such contract by reason only of his being a shareholder in a company which is a party to such contract unless he has a controlling interest in such company; and

(*b*) nothing in this paragraph shall be construed as referring to—

(i) any contract to subscribe to or any subscription to a loan to be issued to the public on advertised terms; or

(ii) any contract the consideration for which is less than one thousand dollars:" and

(iv) immediately after the word "Provided" in the existing proviso there shall be inserted the word "further"; and

(*g*) in paragraphs (*m*) and (*n*), for the references to paragraph (*e*) and to paragraph (*f*) of section 22 of the principal Order there shall be

substituted respectively references to paragraph (*f*) and to paragraph (*g*) of that section.

*Amendment of the proviso to section* 36 (2) *of the principal Order*

**8.** The proviso to subsection (2) of section 36 of the principal Order shall be amended by the insertion after the words "this Order", where they appear for the second time, of the words "or any Bill which determines or regulates the privileges, immunities or powers of a Settlement Council or its members,".

*Replacement of section* 40 *of the principal Order*

**9.** Section 40 of the principal Order shall be revoked and the following new section shall be substituted therefor:

"Official language.

40. The official language of each Settlement Council shall be English:

Provided that, in the Settlement of Malacca, any Member may, with the approval of the Resident Commissioner, if present, or, in his absence, the Member presiding, address the Council in Malay."

*Amendment of section* 46 (3) *of the principal Order*

**10.** Subsection (3) of section 46 of the principal Order shall be amended by the deletion of the words "(if provision shall be made for Elected Members)".

*New section* 46A *inserted in the principal Order*

**11.** Immediately after section 46 of the principal Order there shall be inserted the following new section:

"Privileges of Settlement Councils.

46A. It shall be lawful by laws enacted under this Order to determine and regulate the privileges, immunities and powers of a Settlement Council and the members thereof:

Provided that such privileges, immunities or powers shall in no case exceed those held, enjoyed and exercised by the Commons' House of Parliament of the United Kingdom of Great Britain and Northern Ireland and by the members thereof.".

*W. G. Agnew.*

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## EXPLANATORY NOTE

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

This Order amends the Federation of Malaya Order in Council, 1948, with respect to the qualifications and disqualifications of Nominated Members and Elected Members of the Settlement Councils of the two Settlements of Penang and Malacca.

This Order also amends the 1948 Order in Council—

(i) to provide that in each of the settlements the Settlement Secretary shall be an *ex-officio* Member of the Nominated Council and Settlement Council, and

(ii) to enable the Settlement Councils to legislate with regard to their privileges and powers.