1958 No. 600

The Kenya (Constitution) Order in Council, 1958

Made - - - -	*3rd April*, 1958
Laid before Parliament	*3rd April*, 1958
Coming into Operation	*5th April*, 1958

At the Court at Buckingham Palace, the 3rd day of April, 1958

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), the Foreign Jurisdiction Act, 1890(b), the Colonial Courts of Admiralty Act, 1890(c), 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:—

PART I

INTRODUCTORY

Citation, commencement, and revocation

1.—(1) This Order may be cited as the Kenya (Constitution) Order in Council, 1958.

(2) This Order shall come into operation on the 5th day of April, 1958:

Provided that paragraph (*c*) of subsection (3) of section 40, section 55 and subsection (2) of section 58 shall come into operation on such date as the Governor may, in his discretion, appoint by proclamation published in the Gazette.

(3) The instruments set out in the First Schedule to this Order are hereby revoked.

Interpretation

2.—(1) In this Order, unless it is otherwise provided or required by the context—

" the Colony " means the Colony of Kenya ;

" the Gazette " means the Kenya Gazette ;

" the Governor " means the Governor and Commander-in-Chief of Kenya ;

" Kenya " means the Colony and the Protectorate ;

" legislature of Kenya " means the legislature established for Kenya by this Order and includes any legislature previously established for the Colony or the Protectorate or the former East Africa Protectorate ;

" the Protectorate " means the Protectorate of Kenya ;

" public office " means an office in the service of the Crown in respect of the government of Kenya, but does not include the office of member of the Council of Ministers, Assistant Minister, member

(a) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7. (b) 53 & 54 Vict. c. 37.
(c) 53 & 54 Vict. c. 27.

of the Legislative Council, member of the Council of State, judge of the Supreme Court, or judge of Her Majesty's Court of Appeal for Eastern Africa ;

" public officer " means the holder of any public office and includes any person appointed to act in any such office ;

" the public seal " means the public seal of Kenya ;

" session " means, in relation to the Legislative Council, the sittings of the Council commencing when it first meets after its prorogation or dissolution and terminating when the Council is prorogued or is dissolved without having been prorogued ;

" sitting " means, in relation to the Legislative Council, a period during which the Council is sitting continuously without adjournment, and includes any period during which the Council is in committee.

(2) In this Order, unless it is otherwise provided or required by the context—

(*a*) any reference to Her Majesty's dominions shall be construed as including a reference to all territories under Her Majesty's protection or in which Her Majesty has for the time being jurisdiction ;

(*b*) any reference to the holder of an office by the term designating his office shall be construed as including a reference to any person, who, under and to the extent of any authority in that behalf, is for the time being performing the functions of that office.

(3) (*a*) For the purposes of this Order a person shall not be deemed to be a public officer by reason only that he is in receipt of a pension or other like allowance in respect of the service of the Crown.

(*b*) If it is declared by any law enacted under this Order that an office shall not be a public office for all or any of the purposes of this Order, this Order shall have effect accordingly as if that law were enacted herein.

(4) This Order shall be construed—

(*a*) as if subsection (1) of section 1 of the India (Consequential Provision) Act, 1949(**a**), applied to it in the same way as that subsection applies to laws in force on the date mentioned in that subsection ;

(*b*) as if subsection (2) of section 3 of the British Nationality Act, 1948(**b**) (as interpreted by subsection (1) of section 3 of the Ireland Act, 1949(**c**)) and subsection (2) of section 3 of the Ireland Act, 1949, applied to it as those subsections apply to laws in force at the dates of the commencement of those Acts respectively ;

(*c*) as if subsection (1) of section 1 of the Pakistan (Consequential Provision) Act, 1956(**d**), applied to it in the same way as that subsection applies to laws in force on the date mentioned in that subsection ; and

(*d*) as if subsection (1) of section 2 of the Federation of Malaya Independence Act, 1957(**e**), applied to it in the same way as that subsection applies to existing laws as defined by subsection (4) of that section.

(5) For the avoidance of doubts it is hereby declared that any person who has vacated his seat in any council, or has vacated any office, established by this Order, may, if qualified, again be elected, appointed

(**a**) 12, 13 & 14 Geo. 6. c. 92. (**b**) 11 & 12 Geo. 6. c. 56.
(**c**) 12, 13 & 14 Geo. 6. c. 41. (**d**) 4 & 5 Eliz. 2. c. 31. (**e**) 5 & 6 Eliz. 2. c. 60.

or otherwise selected as a member of that council or appointed to that office, as the case may be, from time to time.

(6) Subject to the provisions of this section and save where the context otherwise requires, the Interpretation Act, 1889(a), shall apply for the purpose of interpreting this Order as it applies for the purpose of interpreting an Act of Parliament.

PART II

THE GOVERNOR

The Governor

3.—(1) There shall be a Governor and Commander-in-Chief in and over Kenya who shall be appointed by Her Majesty by Commission under Her Sign Manual and Signet and shall hold office during Her Majesty's pleasure.

(2) The Governor shall have such powers and duties as are conferred or imposed upon him by or under this Order or any other law, and such other powers and duties as Her Majesty may from time to time be pleased to assign to him, and, subject to the provisions of this Order and of any other law by which any such powers or duties are conferred or imposed, shall do and execute all things that belong to his office (including the exercise of any powers with respect to which he is empowered or required by this Order to act in his discretion) according to such instructions, if any, as Her Majesty may from time to time see fit to give him:

Provided that the question whether the Governor has in any matter complied with such instructions shall not be enquired into in any court.

(3) A person appointed to the office of Governor shall, before entering upon the functions of that office, make oaths or affirmations of allegiance and for the due execution of that office in the forms set out in the Second Schedule to this Order.

Acting Governor

4.—(1) During any period when the office of Governor is vacant or the Governor is absent from Kenya or is for any other reason unable to perform the functions of his office—

(*a*) such person as Her Majesty may designate in that behalf by Instructions given under Her Sign Manual and Signet or through a Secretary of State, or

(*b*) if there is no person in Kenya so designated and able to perform those functions, the person who, if he were not directed by this section to perform the functions of the office of Governor, would for the time being be performing the functions of the office of Chief Secretary of Kenya,

shall, during Her Majesty's pleasure, assume and perform the functions of the office of Governor and administer the Government of Kenya accordingly.

(2) Before assuming the functions of the office of Governor any such person as aforesaid shall make the oaths or affirmations directed by the last foregoing section to be made by the Governor.

(3) Any such person as aforesaid shall not continue to perform the functions of the office of Governor after the Governor or some other person having a prior right to perform those functions has notified him that he is about to assume or resume those functions.

(a) 52 & 53 Vict. c. 63.

(4) The Governor or any other person as aforesaid shall not, for the purposes of this section, be regarded as absent from Kenya or as unable to perform the functions of the office of Governor—

(*a*) by reason only that he is in passage from one part of Kenya to another, or

(*b*) by reason only that, in the performance of the functions of the office of Governor conferred by this Order or otherwise, he is in any territory adjacent to Kenya or in passage between Kenya and any such territory, or

(*c*) at any time when there is a subsisting appointment of a Deputy under the next following section.

Deputy to Governor

5.—(1) Whenever the Governor—

(*a*) has occasion to be absent from the seat of Government but not from Kenya,

(*b*) has occasion to be absent from Kenya for a period which he has reason to believe will be of short duration,

(*c*) is suffering from an illness which he has reason to believe will be of short duration, or

(*d*) considers for any other reason that the public interest so requires,

he may, in his discretion, by instrument under the public seal, appoint any person to be his Deputy, and in that capacity to perform on his behalf such of the functions of the office of Governor as may be specified in that instrument.

(2) The power and authority of the Governor shall not be abridged, altered or in any way affected by the appointment of a Deputy under this section, and a Deputy shall conform to and observe all instructions that the Governor may from time to time address to him:

Provided that the question whether or not a Deputy has conformed to or observed any such instructions shall not be enquired into by any court.

(3) Any appointment under this section may be revoked at any time by Her Majesty by instructions given through a Secretary of State or by the Governor, in his discretion, by instrument under the public seal, and, subject thereto, a person appointed as a Deputy under this section shall hold that appointment for such period as may be specified in the instrument by which he is appointed.

(4) The terms of any appointment under this section may be varied by the Governor, in his discretion, by further instrument under the public seal, and references in this section to the instrument by which any person is appointed as a Deputy under this section shall include references to any such instrument as varied by any further instrument.

(5) In subsection (1) of this section the references to the functions of the office of Governor do not include a reference to any function conferred upon the Governor by any Act of Parliament or by any Order of Her Majesty in Council or other instrument made under any Act of Parliament other than this Order.

Governors' powers with respect to land

6.—(1) All rights of Her Majesty in or in relation to any Crown lands in Kenya shall vest in the Governor in trust for Her Majesty and, subject to the provisions of any law for the time being in force in Kenya, may be exercised by him in Her Majesty's name and on Her Majesty's behalf.

(2) The property in and control of all minerals and mineral oils in, under or upon any lands in Kenya shall, save in so far as rights in respect of the same have by or under any law in force in Kenya been expressly granted to, or recognised as vested in, any other person before the date of commencement of this Order, be vested in the Governor in trust for Her Majesty, and, subject to the provisions of any law for the time being in force in Kenya, the rights vested in the Governor by this subsection may be exercised by him in Her Majesty's name and on Her Majesty's behalf.

(3) In this section "Crown lands" means all public lands in Kenya which are for the time being subject to the control of Her Majesty and all lands which shall have been acquired by Her Majesty for the public service or otherwise and shall include all lands occupied by the native tribes of Kenya or reserved for the use of members of any such tribes other than the lands included in the Native Lands as defined in the Kenya (Native Areas) Order in Council, 1939(a).

Governor's powers to constitute offices and make appointments thereto

7.—(1) Subject to the provisions of any law for the time being in force in Kenya, the Governor, in Her Majesty's name and on Her Majesty's behalf, may constitute such offices for Kenya as may be lawfully constituted by Her Majesty and may abolish such offices, and may make appointments to any office so constituted, and any person so appointed shall, unless it is otherwise provided by law, hold office during Her Majesty's pleasure.

(2) The powers conferred upon the Governor by this section shall be exercised by him in his discretion.

Governor's powers to dismiss and discipline public officers

8.—(1) Subject to the provisions of any law for the time being in force in Kenya, the Governor may, for cause shown to his satisfaction, dismiss or suspend from the exercise of his office any public officer or take such other disciplinary action as may seem to him desirable.

(2) The powers conferred upon the Governor by this section shall be exercised by him in his discretion.

Governor's powers of pardon, etc.

9. The Governor, in his discretion, may, in Her Majesty's name and on Her Majesty's behalf—

(*a*) grant to any person concerned in the commission of any offence for which he may be tried in Kenya or to any person convicted of an offence in any court in Kenya a pardon, either free or subject to lawful conditions ;

(*b*) grant to any person a respite, either indefinite or for a specified period, of the execution of any sentence passed on that person in any court in Kenya ;

(*c*) substitute a less severe form of punishment for that imposed by any sentence of any such court ; or

(*d*) remit the whole or any part of any such sentence or of any penalty or forfeiture otherwise due to Her Majesty on account of any offence in respect of which a person has been convicted by any court in Kenya.

Public seal

10. The Governor shall keep and use the public seal of Kenya for sealing all things whatsoever that shall pass the said seal.

(a) S.R. & O. 1939/516 (Rev. XI, p. 685: 1939 II, p. 1820).

PART III

THE COUNCIL OF MINISTERS

Council of Ministers

11.—(1) There shall be a Council of Ministers in and for Kenya.

(2) Subject to section 16 of this Order, the Council of Ministers shall consist of sixteen persons who shall be appointed by the Governor by instrument under the public seal in pursuance of instructions given to him by Her Majesty through a Secretary of State, and of whom not more than eight and not less than six shall be public officers.

(3) The members of the Council of Ministers appointed under this section shall be styled " Ministers ".

(4) The Ministers shall have seniority and take precedence in such order as may be assigned by, or in pursuance of, instructions given by Her Majesty through a Secretary of State.

Governor to consult Council of Ministers

12.—(1) In the formulation of policy and in the exercise of the powers conferred upon him by or under this Order or any other law the Governor shall, subject to subsections (3) and (4) of this section, consult the Council of Ministers except in cases—

(*a*) which are of such a nature that, in his judgment, Her Majesty's service would sustain material prejudice if the Council were consulted thereon ;

(*b*) in which the matters to be decided are, in his judgment, too unimportant to require the advice of the Council of Ministers ; or

(*c*) in which, in his judgment, the urgency of the matter requires him to act before the Council of Ministers can be consulted.

(2) In every case falling within paragraph (*c*) of the last foregoing subsection the Governor shall, as soon as practicable, communicate to the Council of Ministers the measures which he has adopted and the reasons therefor.

(3) Subsection (1) of this section shall not apply to the exercise by the Governor of—

(*a*) any power to make regulations conferred upon him by this Order and any other power so conferred that he is empowered or required to exercise in his discretion or is required to exercise in pursuance of instructions from Her Majesty ;

(*b*) any power conferred upon him by any law other than this Order in respect of which it is expressly provided that he shall not be obliged to consult the Council of Ministers in the exercise thereof ;

(*c*) any power (other than a power expressed, in whatever terms, to be exercisable by the Governor in Council of Ministers) conferred upon the Governor by any law of the legislature of Kenya or instrument made thereunder that is in force on the date of commencement of this Order, so long as such power continues to be exercisable by virtue of such law or instrument ; or

(*d*) the power referred to in the next following subsection and the authority conferred by section 17 of this Order.

(4) In the exercise of the power to pardon or reprieve an offender who has been condemned to suffer death by the sentence of any court in Kenya the Governor shall consult the Council of Ministers in accordance with the directions contained in any Instructions under Her

Majesty's Sign Manual and Signet addressed to the Governor in that behalf, or, if any committee of the Council is established for the purpose by or in pursuance of any such Instructions, shall consult that committee instead of the Council in accordance with the directions contained in such Instructions.

(5) The question whether the Governor has consulted the Council of Ministers or any committee thereof in any case in which he is required so to do shall not be enquired into in any court.

Governor may act in opposition to advice of Council

13. In any case in which the Governor is required by subsection (1) of the last foregoing section to consult the Council of Ministers he may act in opposition to the advice given to him by the Council if he considers it right so to do; but in any such case he shall report the matter to a Secretary of State at the first convenient opportunity with the reasons for his action.

Tenure of office of Ministers

14.—(1) Subject to the next following subsection, the Ministers shall hold their offices during Her Majesty's pleasure.

(2) A Minister shall vacate his office—

(*a*) at such date or in such circumstances as may be specified in the instrument by which he is appointed;

(*b*) if he resigns his office by writing under his hand addressed to the Governor and his resignation is accepted by the Governor;

(*c*) if, having been a public officer at the date of his appointment, he ceases to be such an officer; or

(*d*) if, not having been such an officer at the date of his appointment, he becomes such an officer.

Inability of Minister to perform his functions and suspension of Minister

15.—(1) The Governor may, by instrument under the public seal, declare that a Minister is, by reason of illness, absence or other cause, unable to perform his functions as a Minister, and thereupon that Minister shall not perform his said functions until he is declared in manner aforesaid to be again able to perform them.

(2) (*a*) The Governor may, by instrument under the public seal, declare that a Minister is suspended from the exercise of his functions as a Minister, and thereupon that Minister shall not perform his said functions.

(*b*) Every suspension under paragraph (*a*) of this subsection shall forthwith be reported to Her Majesty through a Secretary of State and shall remain in force until it is revoked by Her Majesty by instructions given through a Secretary of State or by the Governor by instrument under the public seal or the person suspended ceases to be a Minister.

(3) The powers conferred upon the Governor by this section shall be exercised by him in his discretion.

Temporary Ministers

16.—(1) Whenever there is a vacancy in the number of persons sitting in the Council of Ministers by reason of the fact that—

(*a*) the office of any Minister is vacant, or

(*b*) a Minister is unable to perform his functions as a Minister by reason of a declaration made under the last foregoing section,

the Governor, in his discretion, may, by instrument under the public seal, appoint a person to be temporarily a member of the Council of Ministers.

(2) Members of the Council of Ministers appointed under this section shall be styled " temporary Ministers ".

(3) Section 14 of this Order shall apply in relation to a temporary Minister as it applies in relation to other Ministers ; and a temporary Minister shall also vacate his office—

(*a*) if appointed on account of a vacancy in the office of any Minister, when he is notified by the Governor that that vacancy has ceased to exist ; or

(*b*) if appointed on account of the inability of a Minister to perform his functions, when that Minister is again able to perform those functions or when that Minister vacates his office.

(4) Any temporary Ministers shall have seniority and take precedence after the Ministers according to the order of the dates of the instruments by which they were respectively appointed.

Summoning of Council of Ministers

17. The Council of Ministers shall not be summoned except by the authority of the Governor.

Presiding in Council of Ministers

18.—(1) The Governor shall, so far as is practicable, attend and preside at meetings of the Council of Ministers.

(2) In the absence of the Governor from any meeting of the Council of Ministers the senior member of the Council shall preside at the meeting.

Quorum of Council of Ministers

19. The Council of Ministers shall not transact any business unless three members, besides the member, if any, presiding, are present.

Council may transact business notwithstanding vacancies, etc.

20. Subject to the last foregoing section, the Council of Ministers shall not be disqualified for the transaction of business by reason of any vacancy among the members thereof ; and any proceedings therein shall be valid notwithstanding that some person who was not entitled so to do took part in those proceedings.

Determination of questions of membership

21. Any question whether—

(*a*) any person has become a Minister or a temporary Minister or has vacated his office as such a Minister or temporary Minister, or

(*b*) any Minister is unable to perform his functions by reason of a declaration made under section 15 of this Order,

shall be referred to and determined by the Governor in his discretion.

Assistant Ministers

22.—(1) The Governor may, by instrument under the public seal, appoint not more than six persons (who shall be styled " Assistant Ministers ") to assist the Ministers in the performance of their functions.

(2) (*a*) Subject to paragraph (*b*) of this subsection, an Assistant Minister shall hold office during the Governor's pleasure.

(*b*) An Assistant Minister shall vacate his office—

(i) at such date or in such circumstances as may be specified in the instrument by which he is appointed ; or

(ii) if he resigns his office by writing under his hand addressed to the Governor and his resignation is accepted by the Governor.

(3) The powers conferred upon the Governor by this section shall be exercised by him in his discretion.

PART IV

LEGISLATIVE COUNCIL

Legislative Council

23.—(1) There shall be a Legislative Council in and for Kenya.

(2) The Legislative Council shall consist of—

(*a*) a Speaker, who shall be appointed by the Governor by instrument under the public seal in pursuance of instructions given to him by Her Majesty through a Secretary of State ;

(*b*) the persons (who shall be styled " Ex officio Members ") who for the time being are Ministers or temporary Ministers and are not members of the Legislative Council of any of the classes mentioned in the following paragraphs of this subsection ;

(*c*) thirty-six persons (who shall be styled " Constituency Elected Members ") elected in accordance with the provisions of section 24 of this Order and of any law enacted in pursuance of that section ;

(*d*) such persons (who shall be styled " Specially Elected Members ") as may be elected in accordance with the provisions of regulations made under section 25 of this Order ;

(*e*) such persons (who shall be styled " Nominated Members ") as may be appointed by the Governor by instrument under the public seal in pursuance of instructions given to him by Her Majesty through a Secretary of State ;

(*f*) such persons (who shall be styled " Substitute Elected Members ") as may be appointed or otherwise selected to fill vacancies among the Elected Members under any provision of any law or regulations such as is referred to in section 26 of this Order ;

(*g*) such persons (who shall be styled " Temporary Members ") as may be appointed or otherwise selected under section 27 of this Order or any provision of any law or regulations such as is referred to therein.

Constituency Elected Members

24.—(1) Of the Constituency Elected Members—

(*a*) fourteen shall be Europeans and shall be elected by Europeans ;

(*b*) fourteen shall be Africans and shall be elected by Africans ;

(*c*) six shall be Asians, of whom two shall be of the Muslim faith and shall be elected by Asians of that faith and four shall not be of that faith and shall be elected by Asians not of that faith ;

(*d*) two shall be Arabs and shall be elected by Arabs.

(2) Subject to subsection (1) of this section, provision may be made by, or in pursuance of, any law enacted under this Order for the election in Kenya of persons as Constituency Elected Members, including (without prejudice to the generality of the foregoing power) the following matters:—

(*a*) qualifications for election as such Members;

(*b*) qualifications for voting at such elections;

(*c*) the establishment of constituencies (by whatever name called) for the purpose of returning such Members to the Legislative Council; and

(*d*) the definition and trial of offences relating to elections and the imposition of penalties therefor.

Specially Elected Members

25.—(1) During the period of ten years beginning with the date of the commencement of this Order and thereafter until any regulations made under this section otherwise provide—

(*a*) of the total number of Specially Elected Members, one third shall be European, one third shall be African and one third shall be composed in the manner specified in paragraph (*b*) of this subsection;

(*b*) of the one third last referred to, one quarter shall be Arab, one quarter shall be Asian of the Muslim faith and one half shall be Asian not of that faith.

(2) Subject to the provisions of this section, the Governor may, by regulations, prescribe the number of Specially Elected Members who are to be elected and make provision for their election by members of the Legislative Council including (without prejudice to the generality of the foregoing power) the following matters—

(*a*) qualifications for election as such Members;

(*b*) the manner in which such Members shall be elected; and

(*c*) the application, subject to such exceptions and modifications (if any) as may be specified in the regulations, to the election of the Specially Elected Members of any provisions of any law for the time being in force in Kenya with respect to offences relating to the election of Constituency Elected Members.

(3) The Governor shall make regulations (hereinafter in this section referred to as "the first regulations") for the purpose of making provision as aforesaid before the end of thirty days beginning with the date of commencement of this Order; and no regulations shall be made after the end of that period altering the provisions of the first regulations with respect to the number of Specially Elected Members or the manner in which they are elected unless the Governor has caused a draft of the regulations making any such alteration to be considered by the Council of State and the Council of State has approved the terms of that draft.

Substitute Elected Members

26.—(1) Provision may be made by law enacted under this Order for the filling, by appointment by the Governor or otherwise, of any vacancy in the number of Constituency Elected Members by reason of the fact that no person has been nominated as a candidate for election as such a Member in any constituency.

(2) The Governor may, by regulations, make provision for the filling, by appointment by the Governor or otherwise, of any vacancy in the number of Specially Elected Members by reason of the fact that no person has been nominated as a candidate for election to the seat of any such Member.

Temporary Members

27.—(1) Whenever there is a vacancy in the number of persons sitting as Members of the Legislative Council by reason of the fact that an Ex officio Member or a Nominated Member is incapable of taking part in the proceedings of the Council by reason of a declaration made under section 29 of this Order, the Governor, in his discretion, may, by instrument under the public seal, appoint a person to be a Temporary Member of the Council.

(2) Provision may be made by law enacted under this Order for the filling, by appointment by the Governor or otherwise, of any vacancy in the number of persons sitting in the Legislative Council as Constituency Elected Members by reason of the fact that any such Member is absent from Kenya.

(3) The Governor may, by regulations, make provision for the filling, by appointment by the Governor or otherwise, of any vacancy in the number of persons sitting in the Legislative Council as Specially Elected Members by reason of the fact that any such Member is absent from Kenya.

Tenure of seats in Legislative Council

28.—(1) Subject to the provisions of this section, the Speaker, the Nominated Members and Temporary Members appointed under subsection (1) of the last foregoing section shall hold their seats in the Legislative Council during Her Majesty's pleasure.

(2) Every member of the Legislative Council (other than the Speaker) shall vacate his seat in the Council at a dissolution of the Council.

(3) The Speaker, a Nominated Member or a Temporary Member appointed under subsection (1) of the last foregoing section shall vacate his seat in the Legislative Council—

(*a*) if he resigns his seat in the Council by writing under his hand addressed to the Governor ;

(*b*) if he takes any oath, or makes any declaration or acknowledgement, 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 shall become a subject or citizen of any foreign power or state ;

(*c*) if he is adjudged or otherwise declared bankrupt under any law in force in any part of Her Majesty's dominions ;

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

(*e*) if he is certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Kenya.

(4)—(*a*) A Temporary Member appointed under subsection (1) of the last foregoing section shall vacate his seat in the Legislative Council when the member on account of whose incapacity he was appointed is again able to take part in the proceedings of the Council or the seat of that member in the Council becomes vacant.

(*b*) A Temporary Member appointed or otherwise selected under any provision such as is referred to in subsection (2) or (3) of the last foregoing section shall vacate his seat in the Legislative Council when the Member on account of whose absence he was so appointed or selected returns to Kenya or the seat of that Member in the Council becomes vacant.

(5) Subject to subsection (2) and paragraph (*b*) of subsection (4) of this section, provision may be made by law enacted under this Order with respect to the circumstances in which the Constituency Elected Members, Substitute Elected Members appointed or otherwise selected under any provision such as is referred to in subsection (1) of section 26 of this Order and Temporary Members appointed or otherwise selected under any provision such as is referred to in subsection (2) of the last foregoing section shall vacate their seats in the Legislative Council.

(6) The Governor may, subject to subsection (2) and paragraph (*b*) of subsection (4) of this section, by regulations, make provision with respect to the circumstances in which the Specially Elected Members, Substitute Elected Members appointed or otherwise selected under any provision such as is referred to in subsection (2) of section 26 of this Order and Temporary Members appointed or otherwise selected under any provision such as is referred to in subsection (3) of the last foregoing section shall vacate their seats in the Legislative Council.

Inability of Ex officio or Nominated Member to perform his functions and suspension of such a Member

29.—(1) The Governor may, by instrument under the public seal, declare that an Ex officio Member or a Nominated Member is, by reason of illness, absence or other cause, unable to perform his functions as a member of the Legislative Council, and thereupon that member shall not take part in the proceedings of the Council until he is declared in manner aforesaid to be again able to perform his said functions.

(2) (*a*) The Governor may, by instrument under the public seal, declare that an Ex officio Member or a Nominated Member is suspended from the exercise of his functions as a member of the Legislative Council, and thereupon that member shall not take part in the proceedings of the Council.

(*b*) Every suspension under paragraph (*a*) of this subsection shall forthwith be reported to Her Majesty through a Secretary of State and shall remain in force until it is revoked by Her Majesty by instructions given through a Secretary of State or by the Governor by instrument under the public seal or the person suspended ceases to be a member of the Legislative Council.

(3) The powers conferred upon the Governor by this section shall be exercised by him in his discretion.

Determination of questions as to membership

30.—(1) Any question whether—

(*a*) any person has become the Speaker, a Nominated Member or a Temporary Member appointed under subsection (1) of section 27 of this Order,

(*b*) the seat of the Speaker, a Nominated Member or any such Temporary Member has become vacant, or

(*c*) any Ex officio Member or Nominated Member is incapable of taking part in the proceedings of the Legislative Council by reason of a declaration made under the last foregoing section,

shall be referred to and determined by the Governor in his discretion.

(2) Provision may be made by law enacted under this Order for the determination of any question that may arise whether—

(*a*) any person has become a Constituency Elected Member, a Substitute Elected Member appointed or otherwise selected under any provision such as is referred to in subsection (1) of section 26 of this Order or a Temporary Member appointed or otherwise selected under any provision such as is referred to in subsection (2) of section 27 of this Order ; or

(*b*) the seat of any such Member has become vacant.

(3) The Governor may, by regulations, make provision for the determination of any question that may arise whether—

(*a*) any person has become a Specially Elected Member, a Substitute Elected Member appointed or otherwise selected under any provision such as is referred to in subsection (2) of section 26 of this Order or a Temporary Member appointed or otherwise selected under any provision such as is referred to in subsection (3) of section 27 of this Order ; or

(*b*) the seat of any such Member has become vacant.

PART V

LEGISLATION AND PROCEDURE IN LEGISLATIVE COUNCIL

Power to make laws

31. Subject to the provisions of this Order, it shall be lawful for the Governor, with the advice and consent of the Legislative Council, to make laws for the peace, order and good government of Kenya.

Royal Instructions

32. Subject to the provisions of this Order, the Governor and the Legislative Council shall, in the transaction of business and the making of laws, conform as nearly as may be to the directions contained in any Instructions under Her Majesty's Sign Manual and Signet which may be addressed to the Governor in that behalf.

Standing Orders

33. Subject to the provisions of this Order and of any such Instructions as aforesaid, the Legislative Council may make, amend and revoke Standing Orders for the regulation and orderly conduct of its proceedings and the despatch of business, and the passing, intituling and numbering of Bills and the presentation of the same to the Governor for assent ; but no such Orders shall have effect until they have been approved by the Governor.

Oath of allegiance

34. No member of the Legislative Council shall be permitted to take part in the proceedings of the Council (other than proceedings necessary for the purposes of this section) until he has made and subscribed before the Council an oath or affirmation of allegiance in the form set out in the Second Schedule to this Order.

Presiding in Legislative Council

35. There shall preside at any sitting of the Legislative Council—

(*a*) the Speaker ; or

(*b*) in the absence of the Speaker, such member of the Council as the Governor may, in his discretion, appoint to preside at sittings of the Council in the absence of the Speaker ; or

(*c*) in the absence of both the Speaker and any member so appointed, such member of the Council as the senior member of the Council of Ministers present may appoint.

Voting in Legislative Council

36.—(1) All questions proposed for decision in the Legislative Council shall be determined by a majority of the votes of the members present and voting.

(2) The Speaker shall not have an original vote, but if upon any question before the Legislative Council the votes are equally divided shall have a casting vote.

(3) A member presiding in the absence of the Speaker shall retain his original vote as a member but shall not have a casting vote.

(4) If upon any question before the Legislative Council the votes are equally divided, the motion shall (subject to the exercise by the Speaker of his casting vote) be declared to be lost.

Quorum of Legislative Council

37.—(1) If at any sitting of the Legislative Council any member who is present draws the attention of the person presiding at the sitting to the absence of a quorum and, after such interval as may be prescribed in the Standing Orders of the Council, the person presiding at the sitting ascertains that a quorum of the Council is still not present the Council shall be adjourned.

(2) If at any sitting of the Legislative Council it appears to the person presiding that a quorum of the Council is not present when the votes of the members on any question proposed for decision are counted, the voting on that question shall be invalid, that question shall stand over until the next sitting of the Council and the attention of the person presiding shall be deemed to have been drawn to the absence of a quorum for the purposes of the last foregoing subsection.

(3) A quorum of the Legislative Council shall consist of twelve members besides the person presiding at the sitting.

Council may transact business notwithstanding vacancies, etc.

38. Subject to the last foregoing section, the Legislative Council shall not be disqualified for the transaction of business by reason of any vacancy among the members thereof ; and any proceedings therein shall be valid notwithstanding that some person who was not entitled so to do took part in those proceedings.

Governor may address Council

39. The Governor may attend and address the Legislative Council at any time.

Introduction of Bills, etc.

40.—(1) Subject to the provisions of this Order any member may introduce any Bill or propose any motion for debate in, or may present any petition to, the Legislative Council, and the same shall be debated and disposed of according to the Standing Orders of the Council.

(2) Except on the recommendation or with the consent of the Governor, the Legislative Council shall not—

(*a*) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding in the Council, would dispose of or charge any public revenue or public funds of Kenya or revoke or alter any disposition thereof or charge thereon, or impose, alter or repeal any rate, tax or duty ;

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding in the Council, is that provision should be made for any of the purposes aforesaid ; or

(*c*) receive any petition which, in the opinion of the person presiding in the Council, requests that provision be made for any of the purposes aforesaid.

(3) (*a*) No Bill shall be introduced in the Legislative Council unless it has been published in the Gazette and unless, in the case of a Consolidated Fund Bill a period of seven days, in the case of an Appropriation Bill (other than a Consolidated Fund Bill) a period of fourteen days, and in the case of any other Bill a period of forty days, beginning in each case with the day of such publication, or such shorter period as the Council may resolve with respect to the Bill, has ended.

(*b*) Except with the recommendation or consent of the Governor, the Legislative Council shall not proceed upon any motion to the effect that the period between publication of a Bill in the Gazette and its introduction in the Council should be reduced.

(*c*) Before making any recommendation or giving any consent for the purposes of this subsection the Governor shall consult the chairman, or, if the office of chairman is vacant or the chairman is absent from Kenya or is for any other reason not available for consultation, the deputy chairman of the Council of State.

Governor's reserved powers

41.—(1) If the Governor considers that it is expedient in the interests of public order, public faith or good government that any Bill introduced or any motion proposed in the Legislative Council should have effect, then, if the Council fail to pass such Bill or to carry such motion or, in the case of an Appropriation Bill or a Consolidated Fund Bill, is unable to pass such Bill by virtue of the provisions of section 56 of this Order within such time and in such form as the Governor thinks reasonable and expedient, the Governor, at any time that he thinks fit, may, notwithstanding any provisions of this Order or of any Standing Orders of the Legislative Council, declare that such Bill or motion shall have effect as if it had been passed or carried by the Council, either in the form in which it was so introduced or proposed or with such amendments as the Governor thinks fit that have been moved or proposed in the Council or any committee thereof ; and thereupon the Bill or the motion shall be deemed to have been so passed or carried, and the provisions of this Order, and in particular the provisions of sections 42, 43 and 57, shall have effect accordingly.

(2) In this section the expressions "public order, public faith or good government" shall, without prejudice to their generality, include—

(*a*) the responsibility of Kenya as a component part of the British Commonwealth of Nations, and relations with other parts of that Commonwealth and with foreign powers and states;

(*b*) all matters relating to defence; and

(*c*) all matters relating to the creation or abolition of any public office or to the appointment, salary or other conditions of service of any public officer.

(3) The Governor shall forthwith report to a Secretary of State every case in which he makes any declaration under this section and the reasons therefor.

(4) If any member of the Legislative Council objects to any declaration made under this section, he may, within seven days of the making thereof, submit to the Governor a statement in writing of his reasons for so objecting, and a copy of such statement shall, if furnished by such member, be forwarded by the Governor as soon as practicable to a Secretary of State.

(5) Any declaration made under this section, other than a declaration relating to a Bill, may be revoked by a Secretary of State, and the Governor shall cause notification of such revocation to be published in the Gazette; and from the date of such publication any motion that is deemed to have been carried by virtue of the declaration shall cease to have effect, and the provisions of subsection (2) of section 38 of the Interpretation Act, 1889(a), shall apply to such revocation as they apply to the repeal of an Act of Parliament.

Assent to Bills

42.—(1) A Bill shall not become a law until either—

(*a*) the Governor has assented thereto in Her Majesty's name and on Her Majesty's behalf and has signed the same in token of such assent, or

(*b*) Her Majesty has given Her assent thereto through a Secretary of State and the Governor has signified such assent by proclamation published in the Gazette.

(2) When a Bill is presented to the Governor for assent he shall, in his discretion but subject to the provisions of this Order, declare that he assents or refuses to assent thereto or that he reserves the Bill for the signification of Her Majesty's pleasure.

Disallowance of Laws

43.—(1) Any law assented to by the Governor may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever any law has been disallowed by Her Majesty the Governor shall cause notice of such disallowance to be published in the Gazette and the law shall be annulled with effect from the date of publication of that notice.

(3) On the annulment of any law under this section, any enactment repealed or amended by or in pursuance of that law shall have effect as from the date of the annulment as if that law had not been made; but save as provided in the foregoing provisions of this subsection the

(a) 52 & 53 Vict. c. 63.

provisions of subsection (2) of section 38 of the Interpretation Act, 1889(a), shall apply to that annulment as they apply to the repeal of an Act of Parliament.

Prorogation and dissolution of Council

44.—(1) The Governor may at any time, by proclamation published in the Gazette, prorogue or dissolve the Legislative Council.

(2) Unless the Legislative Council has been sooner dissolved, the Governor shall dissolve the Council at the expiration of four years from the date when the Council first meets after any dissolution of the Council.

(3) A general election of the Constituency Elected Members and a general election of the Specially Elected Members shall be held at such times within four months after a dissolution of the Council as the Governor may, by proclamation published in the Gazette, respectively appoint.

Sessions of Council

45.—(1) The sessions of the Legislative Council shall be held at such times and places as the Governor may from time to time appoint by proclamation.

(2) The Governor shall exercise the power conferred upon him by subsection (1) of this section so that a period of twelve months does not elapse between the date when the Council last sat in one session and the date appointed for its first sitting in the next session.

Privileges of Council and its Members

46. Provision may be made by, or in pursuance of, a law made under this Order for the determination and regulation of the privileges, immunities and powers of the Legislative Council and its members; but no such privileges, immunities or powers shall exceed those of the Commons' House of Parliament of the United Kingdom of Great Britain and Northern Ireland or of the members thereof.

PART VI

THE COUNCIL OF STATE

Council of State

47.—(1) There shall be a Council of State in and for Kenya.

(2) Subject to section 50 of this Order, the Council shall consist of a chairman and ten other members or such greater number of other members, not being more than sixteen, as Her Majesty may direct by instructions given through a Secretary of State.

(3) Of the members of the Council of State other than the chairman—

(*a*) not less than four nor more than six shall each be appointed to serve as a member for ten years beginning on the date of his appointment;

(*b*) not less than three nor more than five shall each be appointed to serve as a member for seven years beginning as aforesaid; and

(*c*) not less than three nor more than five shall each be appointed to serve as a member for four years beginning as aforesaid.

(a) 52 & 53 Vict. c. 63.

(4) The members of the Council of State shall be appointed by the Governor by instrument under the public seal in pursuance of instructions given to him by Her Majesty through a Secretary of State.

(5) The Governor shall, by writing under his hand, appoint as the deputy chairman of the Council such one of the members thereof as he may, in his discretion, think fit, and may in the same manner vary that appointment from time to time.

Qualifications and disqualifications for appointment as a member

48.—(1) Subject to the next following subsection, a person shall be qualified to be appointed as a member of the Council of State if, and shall not be qualified to be so appointed unless, he is a British subject or a British protected person and has attained the age of twenty-five years.

(2) A person shall not be qualified to be appointed as a member of the Council of State if he is a member of the Legislative Council.

Tenure of office of members

49.—(1) Subject to the provisions of this section, the members of the Council of State shall hold their seats in the Council during Her Majesty's pleasure.

(2) Every member of the Council of State (other than the chairman) shall vacate his seat therein at the end of the period for which he was appointed to serve as a member.

(3) A member of the Council of State shall vacate his seat therein—

(*a*) if any circumstances arise that, if he were not a member of the Council, would cause him not to be qualified for appointment as such under the last foregoing section ;

(*b*) if he resigns his seat in the Council by writing under his hand addressed to the Governor and his resignation is accepted by the Governor in his discretion ;

(*c*) if he takes any oath or makes any declaration or acknowledgement 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 shall become a subject or citizen of any foreign power or state ;

(*d*) if he is adjudged or otherwise declared bankrupt under any law in force in any part of Her Majesty's dominions ;

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

(*f*) if he is certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Kenya.

(4) The deputy chairman of the Council of State may resign his office as such by writing under his hand addressed to the Governor.

Incapacity of member and appointment of another member during such incapacity

50.—(1) The Governor, in his discretion, may, by instrument under the public seal, declare that any member of the Council of State is, by reason of illness, absence or other cause, unable to perform his functions as a member of the Council, and thereupon that member shall not take part in the proceedings of the Council until he is declared in manner aforesaid to be again able to perform his said functions.

(2) Whenever a member of the Council of State is incapable of taking part in the proceedings of the Council by reason of a declaration made under the last foregoing subsection the Governor, in his discretion, may, by instrument under the public seal, appoint to serve as a member of the Council for the period of that incapacity a person who is qualified to be so appointed under section 48 of this Order.

(3) The last foregoing section shall apply in relation to a member of the Council of State appointed under this section as it applies in relation to other members of the Council, and a member appointed under this section shall also vacate his seat in the Council if the member on account of whose incapacity he was appointed vacates his seat in the Council.

Determination of questions as to membership

51. Any question whether—

(*a*) any person has become a member of the Council of State or has vacated his seat as such a member, or

(*b*) any member of the Council of State is incapable of taking part in the proceedings by reason of a declaration made under the last foregoing section,

shall be referred to and determined by the Governor in his discretion.

Procedure of Council

52.—(1) (*a*) The Council of State shall meet on the summons of the chairman.

(*b*) The chairman may summon the Council at any time, and shall summon it if any member of the Council requests him so to do for the purpose of the consideration by the Council of—

(i) any Bill that has been published in the Gazette and has not been presented to the Governor for assent, being a Bill that has not previously been considered by the Council of State or that has been amended since it was previously so considered ; or

(ii) any instrument that has the force of law and is made in exercise of a power conferred by any law of the legislature of Kenya and has been so made within the period of forty days immediately preceding the making of that request.

(*c*) Whenever the office of chairman is vacant or the chairman is for any reason unable to perform the functions conferred upon him by this subsection those functions shall be performed by the deputy chairman.

(2) The chairman or, in the absence of the chairman, the deputy chairman shall preside at meetings of the Council of State.

(3) (*a*) Any decision of the Council of State shall be made by a majority of the votes of the members present and voting.

(*b*) The chairman or deputy chairman when presiding shall, in the event of an equality of votes, have and exercise a casting vote in addition to his original vote.

(4) (*a*) The Council of State shall not transact any business unless a quorum of the Council is present.

(*b*) The quorum of the Council of State, where the total number of members of the Council is an even number, shall be one half of that number, and, where the total number of members is an uneven number, shall be one half of the even number that is greater than that number by one.

(*c*) Any members of the Council of State appointed under section 50 of this Order shall not be included in reckoning the total number of members of the Council for the purposes of paragraph (*b*) of this subsection.

(5) Subject to the last foregoing subsection, the Council of State shall not be disqualified for the transaction of business by reason of any vacancy among the members thereof; and any proceedings therein shall be valid notwithstanding that some person who was not entitled so to do took part in those proceedings.

(6) Any Minister and any Assistant Minister shall be entitled to attend and take part in the proceedings of the Council of State, other than any proceedings which the Council may decide to hold in private, as if he were a member of the Council except that he shall not have the right to vote in the Council.

(7) (*a*) Subject to the provisions of this Order, the Council of State may make rules with respect to the regulation and conduct of its proceedings and the despatch of business; but no such rules shall have effect until they have been approved by the Governor in his discretion.

(*b*) Until such time as any rules have been made under this subsection and approved by the Governor, the Council of State shall, subject to the provisions of this Order, regulate and conduct its proceedings and despatch its business in such manner as the Council thinks fit.

General function of Council

53. It shall be the general function of the Council of State to give to the Governor or the Legislative Council, if the Governor or the Legislative Council, as the case may be, so requests, any assistance which the Council of State can provide in relation to the study of matters affecting persons of any racial or religious community in Kenya and, in particular, assistance in the form of information or advice relating to any such matter.

Particular function of Council with respect to differentiating measures

54.—(1) It shall be the particular function of the Council of State to draw attention to any Bill and to any instrument which has the force of law and is made in exercise of a power conferred by any law of the legislature of Kenya if that Bill or instrument is, in the opinion of the Council of State, a differentiating measure; and for that purpose the Council of State shall have the powers conferred by the following provisions of this Part of this Order.

(2) In this section and in the following provisions of this Part of this Order the expression "differentiating measure" means any Bill or instrument any of the provisions of which are, or are likely in their practical application to be, disadvantageous to persons of any racial or religious community and not equally disadvantageous to persons of other such communities, either directly, by prejudicing persons of that community, or indirectly, by giving an advantage to persons of another community.

Copies of Bills and amendments thereto to be sent to members

55. The Clerk of the Legislative Council shall send to each member of the Council of State a copy of every Bill on its publication in the Gazette and of every amendment thereto on its being agreed to by the Legislative Council.

Power to report Bill as differentiating measure and to recommend amendment

56.—(1) If, in the opinion of the Council of State, any Bill that has been published in the Gazette, whether as so published or as amended at any time before the final stage of its passage through the Legislative Council, is a differentiating measure, the Council of State may lay before the Legislative Council a statement to that effect (hereinafter in this section referred to as "a preliminary statement") which shall state the reasons of the Council of State for considering that the Bill is a differentiating measure:

Provided that a preliminary statement shall not be so laid—

(*a*) in the case of a Consolidated Fund Bill or an Appropriation Bill, after the introduction of the Bill in the Legislative Council; and

(*b*) in the case of any other Bill, after the Legislative Council has proceeded to the final stage of the passage of the Bill.

(2) If the Council of State lays a preliminary statement before the Legislative Council with respect to any Bill, then—

(*a*) the Council of State shall, in the case of a Consolidated Fund Bill, during the period of seven days beginning with the day on which that statement was so laid, in the case of an Appropriation Bill (other than a Consolidated Fund Bill) during the period of twenty-eight days beginning as aforesaid, and in the case of any other Bill, during the period of four months beginning as aforesaid, lay before the Legislative Council either—

(i) a report on the Bill specifying, with reasons, the Council of State's objections to the differentiating nature or effect of the Bill or any provisions thereof, and including, if the Council of State thinks fit, any recommendations for amendment of the Bill which, if adopted, would, in the opinion of the Council of State, remove the grounds of its objections or any of them; or

(ii) if the Council of State no longer considers that the Bill is a differentiating measure, or does not wish to raise any such objection as aforesaid, a further statement to that effect; and

(*b*) the Legislative Council shall not proceed to the final stage of the passage of that Bill unless—

(i) a report has been laid before the Legislative Council as aforesaid and has been considered by that Council; or

(ii) a further statement has been laid before the Council as aforesaid; or

(iii) the period during which such a report or further statement should be so laid has ended and no such report or further statement has been so laid.

(3) In the three next following subsections references to a Bill do not include references to a Consolidated Fund Bill or an Appropriation Bill.

(4) If the Council of State has laid a preliminary statement before the Legislative Council with respect to any Bill and, during the period of four months beginning with the day on which that statement was so laid, the Bill has lapsed by reason of a prorogation of the Legislative Council, then—

(*a*) the provisions of paragraph (*a*) of subsection (2) of this section shall (unless the Legislative Council is dissolved before any report

or further statement such as is therein mentioned is laid before the Council with respect to the Bill) have effect in relation to the Bill notwithstanding that the Bill has lapsed and the Legislative Council stands prorogued ; and

(*b*) the Bill may (unless the Legislative Council is dissolved between the date of that prorogation and the commencement of the next ensuing session of that Council) be revived by order of the Legislative Council during its next ensuing session at the stage which it had reached in the Council in the preceding session and thereupon may be proceeded with accordingly.

(5) If a Secretary of State—

(*a*) is requested by the Council of State through the Governor to extend the period of four months referred to in subsection (2) of this section in relation to any Bill with respect to which the Council of State has laid a preliminary statement before the Legislative Council, and

(*b*) is satisfied that that period is insufficient to enable the Council of State to consider that Bill fully,

he may, by order, extend that period in relation to that Bill for such further period, not exceeding eight months, as may be specified in the order ; and where any such extension is so ordered references to the aforesaid period of four months in subsections (2) and (4) of this section shall, in relation to the Bill concerned, be construed accordingly.

(6) (*a*) If the Governor is satisfied that, in the interests of the security of Kenya, the passage through the Legislative Council of any Bill with respect to which the Council of State has laid a preliminary statement before the Legislative Council is an urgent necessity, he may in his discretion, by order, reduce in relation to that Bill the period of four months referred to in subsection (2) of this section to a period ending thirty days after the date of that order ; and where any such reduction is so ordered references to the aforesaid period of four months in that subsection shall, in relation to the Bill concerned, be construed accordingly.

(*b*) The Governor shall forthwith report to a Secretary of State every case in which he makes an order under this subsection and his reasons therefor, and any such order may be revoked by a Secretary of State at any time within thirty days after the date of that order.

(7) (*a*) If a report on any Bill laid by the Council of State before the Legislative Council in pursuance of subsection (2) of this section contains any recommendations for the amendment of the Bill, the Legislative Council shall consider each such recommendation separately and shall decide whether or not to accept each such recommendation.

(*b*) When the Legislative Council has considered any report on a Bill laid as aforesaid the Speaker shall, by writing under his hand, notify the chairman or, if the office of chairman is vacant or the chairman is for any reason unable to perform the functions of his office, the deputy chairman of the Council of State of the decisions of the Legislative Council on the report and on any recommendations for the amendment of the Bill contained therein ; and the consideration of the report by the Legislative Council shall not be deemed to be concluded for the purposes of paragraph (*b*) of subsection (2) of this section until those decisions have been so notified.

(*c*) Whenever the office of Speaker is vacant or the Speaker is for any reason unable to perform the functions conferred upon him by paragraph (*b*) of this subsection those functions shall be performed by the member of the Legislative Council appointed by the Governor to preside at sittings of the Council in the absence of the Speaker.

Power to cause Bill to be reserved for Her Majesty

57.—(1) On the passing of any Bill by the Legislative Council the Council of State may present to the Governor a request in writing that the Bill shall be reserved by the Governor for the signification of Her Majesty's pleasure on the ground that it is a differentiating measure, and any such request shall include the reasons why, in the opinion of the Council of State, the Bill is such a measure, and, if the decision to make the request was not unanimous, a statement to that effect.

(2) Where such a request is presented to the Governor, then, except as provided in subsection (3) of this section, he shall not himself assent to the Bill but shall reserve it for the signification of Her Majesty's pleasure and send the Council of State's request to a Secretary of State together with the Bill.

(3) Notwithstanding any such request by the Council of State, the Governor in his discretion may himself assent to the Bill if he is satisfied that it is urgently necessary in the public interest that the Bill be brought into immediate operation ; but if he does so assent the Governor shall forthwith send to a Secretary of State the Bill to which he has assented together with the request of the Council of State and a statement of his reasons for assenting.

Power to report subordinate legislation as differentiating measure and to annul such legislation

58.—(1) If any instrument which has the force of law and is made in exercise of a power conferred by any law of the legislature of Kenya is, in the opinion of the Council of State, a differentiating measure, the Council may, at any time within forty days after the making of the instrument, send to the Governor a report in writing to that effect which shall state the reasons of the Council for considering that the instrument is such a measure and may, if the Council thinks fit, recommend the annulment or amendment of the instrument.

(2) The person or authority making any such instrument shall, unless the instrument is published in the Gazette on the making thereof or within ten days thereafter, send a copy of the instrument to each member of the Council of State before the aforesaid period of ten days has ended.

(3) When such a report with respect to any instrument is received by the Governor he shall forward the report to a Secretary of State, and, if the Council of State shall at any time by notice in writing addressed to the Governor withdraw the report, the Governor shall likewise forward the notice to a Secretary of State.

(4) A Secretary of State may, at any time within twelve months after receiving such a report with respect to an instrument, if he has not received notice as aforesaid of the withdrawal of the report, send to the Governor a notification of annulment of that instrument ; and upon receiving such notification the Governor shall cause the same to be published in the Gazette and the instrument shall be deemed to be annulled as from such date, not being earlier than the date of publication of the notification, as may be specified in the notification.

(5) On the annulment of any instrument under this section, any other instrument or law amended, revoked or repealed by the instrument annulled shall have effect from the date of the annulment as if the instrument annulled had not been made; but, save as is provided in the foregoing provisions of this subsection, the provisions of subsection (2) of section 38 of the Interpretation Act, 1889(a), shall apply to that annulment as they apply to the repeal of an Act of Parliament.

PART VII

THE JUDICATURE

Supreme Court

59.—(1) There shall be a Supreme Court in and for Kenya and, subject to section 63 of this Order, the Judges of the Supreme Court shall be a Chief Justice, who shall be President of the Court, and such number of Puisne Judges as may from time to time be appointed under the next following section:

Provided that the office of any Puisne Judge shall not be abolished during his continuance in office.

(2) The Supreme Court shall be a court of record and shall have within Kenya unlimited original jurisdiction in civil and criminal matters and such appellate and revisional jurisdiction (including jurisdiction to determine reserved questions of law and cases stated) as may be prescribed by any law for the time being in force in Kenya.

(3) The Supreme Court shall be deemed to be duly constituted notwithstanding any vacancy in the office of any judge of that Court.

Appointment of judges

60.—(1) The Chief Justice and Puisne Judges of the Supreme Court shall be appointed by the Governor, by instrument under the public seal, in pursuance of instructions given to him by Her Majesty through a Secretary of State.

(2) (*a*) A person shall not be qualified to be appointed a judge of the Supreme Court unless he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of Her Majesty's dominions or he is qualified to practise as an advocate in such a court and has been qualified for not less than seven years to practise as an advocate or solicitor in such a court.

(*b*) In computing, for the purposes of this subsection, the period during which any person has been qualified to practise as an advocate or solicitor any period during which he has held judicial office after becoming so qualified shall be included.

Tenure of office of judges

61.—(1) Subject to the following provisions of this section, each judge of the Supreme Court shall hold office until he attains the age of sixty-two years:

Provided that the Governor may permit a judge who has attained that age to continue in office for a further period not exceeding one year.

(2) A judge of the Supreme Court may at any time resign his office by writing under his hand addressed to the Governor.

(a) 52 & 53 Vict. c. 63.

(3) A judge of the Supreme Court may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be removed except in accordance with the next following subsection.

(4) A judge of the Supreme Court shall be removed from office by the Governor by order under the public seal if the question of the removal of that judge from office has, at the request of the Governor, made in pursuance of the next following subsection, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under section 4 of the Judicial Committee Act, 1833(a), or any other enactment enabling Her Majesty in that behalf, and the Judicial Committee has advised Her Majesty that the judge ought to be removed from office for inability as aforesaid or misbehaviour.

(5) If the Governor considers that the question of removing a judge of the Supreme Court from office for inability as aforesaid or misbehaviour ought to be investigated, then

(*a*) the Governor shall appoint a tribunal, which shall consist of a chairman and not less than two other members, selected by the Governor from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of Her Majesty's dominions or a court having jurisdiction in appeals from any such court;

(*b*) that tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to the Governor whether he should request that the question of the removal of that judge should be referred by Her Majesty to the Judicial Committee; and

(*c*) if the tribunal so recommends, the Governor shall request that the question should be referred accordingly.

(6) The provisions of sections 6 and 8, section 9 (other than the words "not inconsistent with their commission" and "subject only to the terms of their commission"), sections 10 to 15 inclusive and section 17 of the Commissions of Inquiry Ordinance(b), as in force on the date of commencement of this Order, shall apply in relation to a tribunal appointed under the last foregoing subsection as they apply in relation to commissioners appointed under that Ordinance, and for that purpose those provisions shall have effect as if they formed part of this Order.

(7) If the question of removing a judge of the Supreme Court from office has been referred to a tribunal under subsection (5) of this section the Governor may suspend the judge from performing the functions of his office, and any such suspension may at any time be revoked by the Governor and shall in any case cease to have effect—

(*a*) if the tribunal recommends to the Governor that he should not request that the question of the removal of the judge from office should be referred by Her Majesty to the Judicial Committee; or

(*b*) if the Judicial Committee advises Her Majesty that the judge ought not to be removed from office.

(8) The powers conferred upon the Governor by this Section shall be exercised by him in his discretion.

(a) 3 & 4 Will. 4. c. 41.
(b) Laws of Kenya, 1948, Chapter 40 (Vol. I, p. 679).

Acting Chief Justice

62. If the office of Chief Justice is vacant or if the Chief Justice is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the Chief Justice has resumed those functions, as the case may be, those functions shall be performed by such one of the Puisne Judges or such other person qualified for appointment as a judge of the Supreme Court as the Governor may, in his discretion, appoint for that purpose:

Provided that a person may be so appointed notwithstanding that he has attained the age of sixty-two years.

Temporary Puisne Judge

63.—(1) If the office of any Puisne Judge is vacant or if any Puisne Judge is for any reason unable to perform the functions of his office, the Governor, acting in his discretion after consultation with the Chief Justice, may appoint a person qualified for appointment as a judge of the Supreme Court to be temporarily a Puisne Judge of that Court:

Provided that a person may be so appointed notwithstanding that he has attained the age of sixty-two years.

(2) Any person appointed under this section to be temporarily a Puisne Judge of the Supreme Court shall hold office until his appointment is revoked by the Governor, acting in his discretion after consultation with the Chief Justice:

Provided that any such person may at any time resign his office by writing under his hand addressed to the Governor.

Salaries of judges

64. There shall be charged on the revenues of Kenya and paid thereout to the Chief Justice, to any Puisne Judge and to any person appointed to be temporarily a Puisne Judge such salaries as may be prescribed by any law made under this Order:

Provided that the salary of any judge shall not be reduced during his continuance in office.

PART VIII

MISCELLANEOUS

Oaths to be taken by certain persons

65. Before entering upon the functions of his office, every member of the Council of Ministers, Assistant Minister, member of the Council of State and judge of the Supreme Court shall make such oaths or affirmations before such person as may be provided in that behalf by any law for the time being in force in Kenya or, if no such provision is in force, as may be directed by the Governor in his discretion.

Authorization of persons to attend and summoning of persons to assist councils

66.—(1) The Governor may authorize any person to attend any or all of the meetings of the Council of Ministers, and the chairman of the Council of State may authorize any person to attend all or any of the meetings of the Council of State, notwithstanding that any such person is not a member of the Council of Ministers or the Council of State, as the case may be.

(2) The person presiding at any sitting of any council established by this Order may summon any person to that council, notwithstanding that such person is not a member of the council, when, in the opinion of the person presiding as aforesaid, the business before the council renders the presence of such person desirable.

(3) Any person authorised to attend meetings of any council or summoned to any council under this section shall be entitled to take part in the proceedings of the council at the meetings thereof which he is authorised to attend or the proceedings of the council relating to the matter in respect of which he was so summoned, as the case may be, as if he were a member of the council but shall not have the right to vote in the council.

Concurrent appointments

67.—(1) Where the holder of the office of Governor, Speaker, chairman of the Council of State, Chief Justice or Puisne Judge of the Supreme Court or of any office constituted under section 7 of this Order is on leave of absence pending relinquishment of his office, the person having power to make appointments to that office may appoint another person to that office.

(2) Where two or more persons are holding the same office by reason of an appointment made pursuant to subsection (1) of this section, then—

(i) for the purposes of any function conferred upon the holder of that office, and

(ii) for the purposes of any reference in this Order to the absence, illness or inability to perform the functions of his office of the holder of that office,

the person last appointed to the office shall be deemed to be the sole holder of the office.

Penalty for sitting or voting in Legislative Council when unqualified

68.—(1) Any person who sits or votes in the Legislative Council knowing, or having reasonable grounds for knowing, that he is not entitled to do so shall be liable to a penalty not exceeding five hundred shillings for every day upon which he so sits or votes.

(2) Any such penalty shall be recoverable by civil action in the Supreme Court at the suit of the Attorney-General of Kenya.

Supreme Court to be a Court of Admiralty

69.—(1) The Supreme Court shall be a Court of Admiralty and shall exercise Admiralty jurisdiction in the Colony and the Protectorate in all matters arising upon the high seas or elsewhere or upon any lake or navigable inland waters or otherwise relating to ships and shipping.

(2) The following provisions of the Colonial Courts of Admiralty Act, 1890(a), that is to say, subsections (2) to (4) of section 2, sections 5 and 6 and subsection (3) of section 16, shall apply to the Supreme Court in relation to the Protectorate as if in the said provisions the Court were mentioned in lieu of a Colonial Court of Admiralty and the Protectorate were referred to in lieu of a British possession.

(a) 53 & 54 Vict. c. 27.

Application of certain enactments to the Protectorate

70.—(1) The enactments described in the First Schedule to the Foreign Jurisdiction Act, 1890(**a**), shall extend to the Protectorate as if it were a Colony or British possession but subject to the provisions of this Order and to the exceptions, adaptations and modifications mentioned in the Third Schedule to this Order.

(2) Nothing in this section shall be construed as extending to the Protectorate the enactments described in the Schedule to the Foreign Jurisdiction Act, 1913(**b**).

Her Majesty's power to make laws not affected

71. Nothing in this Order shall affect the power of Her Majesty in Council to make laws for the peace, order and good government of Kenya.

PART IX

TRANSITIONAL PROVISIONS

Interpretation

72. In this Part of this Order—

"the existing Council of Ministers" and "the existing Legislative Council" mean respectively the Council of Ministers and the Legislative Council constituted in accordance with Instructions under Her Majesty's Sign Manual and Signet issued in pursuance of the existing instruments; and

"the existing instruments" means the instruments set out in the First Schedule to this Order.

Saving for acts done, existing laws, etc.

73.—(1) The revocation of the existing instruments shall not affect anything lawfully done thereunder.

(2) Without prejudice to the generality of subsection (1) of this section—

(*a*) the continued operation of any law, rules of court or other instrument having the force of law and in force in Kenya immediately before the date of commencement of this Order shall not be affected by reason only of such revocation, but any such law, rules of court or other instrument shall, until amended by the authority having power to amend the same or adapted or modified under Section 78 of this Order, be construed subject to such modifications as may be necessary to bring the same into conformity with the provisions of this Order;

(*b*) the persons who, immediately before the date of commencement of this Order, held the office of Governor constituted by the Kenya Letters Patent, 1920 to 1955(**c**), the office of any judge of the Supreme Court established by the Kenya Colony Order in Council, 1921(**d**), or any public office constituted under the existing instruments, shall continue to hold their respective offices as if they had been appointed under this Order;

(*c*) all proceedings commenced or pending immediately before the date of commencement of this Order before the Supreme Court established by the Kenya Colony Order in Council, 1921, shall be carried on before the Supreme Court established by this Order.

(**a**) 53 & 54 Vict. c. 37. (**b**) 3 & 4 Geo. 5. c. 16.
(**c**) See footnote (**e**) to the First Schedule.
(**d**) S.R. & O. 1921/1135 (Rev. XI, p. 691: 1921 p. 475).

Principles upon which jurisdiction of courts to be exercised

74. Notwithstanding the revocation of the Kenya Colony Order in Council, 1921, the jurisdiction of the Supreme Court and courts subordinate to the Supreme Court shall, subject to the provisions of this Order and until any law made under this Order otherwise provides, be exercised in accordance with the provisions of paragraph (2) of article 4 and article 7 of that Order as if those provisions extended to the Protectorate as well as to the Colony and references therein to the Colony were references to Kenya.

Council of Ministers

75. The persons who, immediately before the date of commencement of this Order, were members (other than temporary members) of the existing Council of Ministers shall be deemed to have been appointed under subsection (2) of section 11 of this Order as members of the Council of Ministers constituted by this Order and the provisions of this Order shall apply to them accordingly.

Legislative Council

76.—(1) Any person who, immediately before the date of commencement of this Order, was the Speaker or a Nominated Member of the existing Legislative Council shall be deemed to have been appointed as the Speaker or a Nominated Member, as the case may be, of the Legislative Council constituted by this Order, and the provisions of this Order shall apply to him accordingly.

(2) (*a*) Any person who, immediately before the date aforesaid, was an Elected Member of the existing Legislative Council shall be deemed to be a Constituency Elected Member of the Legislative Council constituted by this Order, and the provisions of this Order shall apply to him accordingly:

Provided that, until provision is made under subsection (5) of section 28 of this Order with respect to the circumstances in which the Constituency Elected Members shall vacate their seats in the Legislative Council, every such person shall hold his seat in the Council on the terms and conditions on which he held his seat in the existing Legislative Council.

(*b*) For the avoidance of doubt it is hereby declared that the reference to an Elected Member of the existing Legislative Council in this subsection includes a reference to any person elected to be a member of that Council under any law enacted by virtue of the Kenya (Electoral Provisions) Order in Council, 1957(a).

(3) The laws in force in Kenya immediately before the date of commencement of this Order with respect to the election of Elected Members of the existing Legislative Council, the filling of vacancies among those members and the determination of any question whether any person has become an Elected Member or a member selected to fill any such vacancy or whether the seat in that Council of an Elected Member or other such member has become vacant shall, subject to the provisions of this Order, any law enacted thereunder and any order made under Section 78 of this Order, apply with respect to the election of Constituency Elected Members of the Legislative Council established by this Order, the filling of vacancies among those members

(a) S.I. 1957/2220 (1957 I, p. 662).

by Substitute Elected Members and Temporary Members and the determination of any question such as is mentioned in subsection (2) of section 30 of this Order.

(4) The first general election of the Specially Elected Members shall be held at such time within three months after the date of commencement of this Order as the Governor may, by proclamation published in the Gazette, appoint.

(5) The period of four years mentioned in subsection (2) of section 44 of this Order shall, in relation to the Legislative Council first constituted under this Order, be deemed to have commenced on the date when the existing Legislative Council first met after that Council was last dissolved.

(6) Any business commenced in the existing Legislative Council during the session of that Council immediately preceding the date of commencement of this Order may be proceeded with in the first session of the Legislative Council established by this Order notwithstanding the revocation of the existing instruments, and accordingly the first session of the Legislative Council established by this Order shall be deemed to have commenced when the existing Legislative Council first met after that Council was last prorogued.

(7) The Standing Orders of the existing Legislative Council in force immediately before the date of commencement of this Order shall be the first Standing Orders of the Legislative Council established by this Order, but shall be construed subject to such modifications as may be necessary to bring them into conformity with the provisions of this Order.

Oaths

77. Any person who has made the oaths or affirmations required to be made by him before entering upon the functions of any office constituted by the existing instruments and held by him immediately before the date of commencement of this Order and who, by virtue of any of the foregoing provisions of this Part of this Order, holds any office constituted by this Order shall not be required by any provision of this Order or any other law in force in Kenya to make any oath or affirmation before he first enters upon the functions of that office after the date of commencement of this Order.

Adaptation of existing laws

78.—(1) The Governor may, by order published in the Gazette, at any time within six months after the date of commencement of this Order, provide that any existing law shall be read and construed with such adaptations and modifications as may appear to the Governor to be necessary or expedient for bringing the provisions of that law into conformity with the provisions of this Order or otherwise for giving effect or enabling effect to be given to those provisions; and any existing law shall have effect accordingly from such date as may be specified in the Order, not being a date earlier than the date of commencement of this Order.

(2) In this Section "existing law" means a law in force immediately before the date of commencement of this Order that was enacted by the legislature of Kenya and includes any instrument in force as aforesaid and made in exercise of a power conferred by any law of the legislature of Kenya.

(3) An order made under this Section may be revoked or amended, by a further order made under this section or, in relation to any law or instrument affected thereby, by the authority having power to repeal, revoke or amend that law or instrument.

W. G. Agnew.

THE FIRST SCHEDULE (Sections 1 (3) and 72)

INSTRUMENTS REVOKED

The East Africa Order in Council, 1902. The East Africa Order in Council, 1911. The East Africa Order in Council, 1912. The East Africa Order in Council, 1914.	(a)
The East Africa Order in Council, 1906. The East Africa Order in Council, 1907. The East Africa Order in Council, 1915. The East Africa Order in Council, 1919. The Kenya Protectorate (Disposition of Lands) Order in Council, 1927.	(b)
The Kenya Protectorate Order in Council, 1920. The Kenya Protectorate (Amendment) Order in Council, 1934. The Kenya Protectorate (Amendment) Order in Council, 1948. The Kenya Protectorate (Amendment) Order in Council, 1954. The Kenya Protectorate (Amendment) Order in Council, 1955.	(c)
The Kenya Colony Order in Council, 1921. The Kenya Colony Order in Council, 1939.	(d)
The Kenya Letters Patent, 1920. The Kenya (Amendment) Letters Patent, 1934. The Kenya (Amendment) Letters Patent, 1948. The Kenya (Amendment) Letters Patent, 1951. The Kenya (Amendment) Letters Patent, 1953. The Kenya (Amendment) Letters Patent, 1954. The Kenya Letters Patent, 1955.	(e)

THE SECOND SCHEDULE (Sections 3 (3) and 34)

FORMS OF OATHS AND AFFIRMATIONS

1. Oath of Allegiance

I.....
do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law. So help me God.

2. Affirmation of Allegiance

I.....
do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law.[1]

(a) S.R. & O. 1902/661, 1911/243, 1912/84, 1914/407 (Rev. VIII, p. 246: 1902, p. 134; 1911, p. 97; 1912, p. 163; 1914 I, p. 604).
(b) S.R. & O. 1906/806, 1907/861, 1915/227, 1919/773, 1927/70 (Rev. VIII, p. 254: 1906, p. 188; 1907, p. 176; 1915 I, p. 259; 1919 I, p. 735; 1927 p. 469).
(c) S.R. & O. 1920/2343, 1934/311; S.I. 1948/862 (Rev. VIII, p. 258: 1920 I, p. 658; 1934 I, p. 650; 1948 I, p. 1340); S.I. 1954/483, 1955/1652 (1954 I, p. 714; 1955 I, p. 687).
(d) S.R. & O. 1921/1135, 1939/293 (Rev. XI, p. 691: 1921 p. 475; 1939 II, p. 1819).
(e) Rev. XI, p. 674: 1920 II, p. 1612; 1934 II, p. 767; 1948 I, p. 4724. 1951 II, p. 1414; 1954 II, pp. 2988, 2987; 1955 II, p. 3183.

3. Oath for due execution of office

I.....
do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of Governor and Commander-in-Chief. So help me God.

4. Affirmation for due execution of office

I.....
do solemnly and sincerely affirm and declare that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of Governor and Commander-in-Chief.

THE THIRD SCHEDULE (Section 70)

EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS WITH RESPECT TO ENACTMENTS EXTENDED TO THE PROTECTORATE

1. The Governor shall be substituted for the Governor of a Colony or British possession, and a magistrate holding a subordinate court of the first class appointed under or by virtue of the Courts Ordinance(a), or any law amending or replacing the said Ordinance, shall be substituted for a Magistrate or Justice of the Peace of a Colony or British possession.

2. For the portions of the Merchant Shipping Acts, 1854 and 1867(b), referred to in the Schedule to the Foreign Jurisdiction Act, 1890(c), there shall be substituted Part XIII of the Merchant Shipping Act, 1894(d).

3. Where under the Merchant Shipping Act, 1894, or an Act amending that Act, anything is authorised to be done by, to or before a British Consular Officer, such thing may be done in the Protectorate by, to or before such public officer as the Governor may appoint.

4. In section 51 of the Conveyancing (Scotland) Act, 1874(e), and any enactment for the time being in force amending the same, the Supreme Court shall be substituted for a Court of Probate in a Colony.

5. With respect to the Fugitive Offenders Act, 1881(f)—

(*a*) so much of sections 4 and 5 of the Act as relates to sending a report of the issue of a warrant, together with the information or a copy thereof, or to the sending of a certificate of committal and report of a case, or to the information to be given by a Magistrate to a fugitive, shall be excepted, and in lieu of such information the person acting as a Magistrate shall inform the fugitive that in the territory to which he may be conveyed he has the right to apply for a writ of habeas corpus or other like process;

(*b*) so much of section 6 of the Act as requires the expiration of fifteen days before the issue of warrant shall be excepted;

(*c*) the Governor shall not be bound to return a fugitive offender to a British possession unless satisfied that the proceedings to obtain his return are taken with the consent of the Governor of that possession; and

(*d*) for the purposes of Part II of the Act, Kenya, Tanganyika, the Uganda Protectorate, Zanzibar, and all British possessions and protectorates in Africa south of the Equator shall be deemed to be one group of British possessions.

(a) Laws of Kenya, 1948, Chapter 3 (Vol. I p. 26).
(b) 17 & 18 Vict. c. 104 and 30 & 31 Vict. c. 124.
(c) 53 & 54 Vict. c. 37.
(d) 57 & 58 Vict. c. 60.
(e) 37 & 38 Vict. c. 94.
(f) 44 & 45 Vict. c. 69.

EXPLANATORY NOTE

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

This Order revokes the instruments set out in the First Schedule and makes new provision for Kenya with respect to the Governor, the Council of Ministers, the Legislative Council and the Supreme Court, and establishes a new body for Kenya, called the Council of State, having, in particular, the function of drawing attention to Bills and subordinate instruments which, in the opinion of the Council, are disadvantageous to persons of any racial or religious community.

1958 No. 1049

The Kenya (Native Areas) (Amendment) Order in Council, 1958

Made - - - -	*25th June*, 1958
Laid before Parliament	*1st July*, 1958
Coming into Operation	*2nd July*, 1958

At the Court at Buckingham Palace, the 25th day of June, 1958

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the British Settlements Acts, 1887 and 1945(a), 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 Kenya (Native Areas) (Amendment) Order in Council, 1958, and shall be construed as one with the Kenya (Native Areas) Orders in Council, 1939 and 1948(c).

(2) This Order and the Kenya (Native Areas) Orders in Council, 1939 and 1948, may be cited together as the Kenya (Native Areas) Orders in Council, 1939 to 1958.

(3) This Order shall come into operation on the second day of July, 1958.

Amendment of the Kenya (Native Areas) Order in Council, 1939

2. Section 4 of the Kenya (Native Areas) Order in Council, 1939, (hereinafter called " the principal Order ") is amended as follows :—

(*a*) for subsection (1) there is substituted the following subsection—

" (1) (*a*) The Native Lands shall be the areas of land the boundaries of which are set out in the First Schedule to the

(a) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7. (b) 53 & 54 Vict. c. 37.
(c) S.R. & O. 1939/516; S.I. 1948/2061 (Rev. XI, p. 685: 1939 II, p. 1820; 1948 I, p. 1667).