1960 No. 1276

The Kenya (Electoral Provisions) Order in Council, 1960

Made - - - -	*3rd August*, 1960
Laid before Parliament	*4th August*, 1960
Coming into Operation	*5th August*, 1960

At the Court at Buckingham Palace, the 3rd day of August, 1960

Present,

The Queen's Most Excellent Majesty in Council

Whereas by the Kenya (Constitution) Orders in Council, 1958 to 1960(a) (hereinafter referred to as "the existing Orders") there is established a Legislative Council for the Colony and Protectorate of Kenya:

And Whereas it is proposed that in due course, in place of the aforesaid Legislative Council, there should be established for the Colony and Protectorate a Legislative Council (hereinafter referred to as "the proposed Legislative Council") containing, in addition to certain other members, fifty-three elected members to be called (and hereinafter referred to as) "Constituency Members":

And Whereas it is expedient that, for the avoidance of delay in constituting the proposed Legislative Council, provision should be made for the election of the Constituency Members notwithstanding that the proposed Legislative Council has not yet been established by Order of Her Majesty in Council:

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

Citation and commencement

1.—(1) This Order may be cited as the Kenya (Electoral Provisions) Order in Council, 1960.

(2) This Order shall come into operation on the fifth day of August, 1960.

Interpretation

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

"elector" includes an elector at a primary election;

"the Governor" means the Governor and Commander-in-Chief of the Colony and Protectorate of Kenya and includes any person for the time being performing the functions of that office;

(a) S.I. 1958/600, 1959/1302, 1960/703 (1958 I, p. 961; 1959 I, p 982; 1960 I, p. 1218).
(b) 50 & 51 Vict c. 54 and 9 & 10 Geo. 6. c. 7.
(c) 53 & 54 Vict. c. 37.

"primary election" means an election for the purpose of nominating a candidate or candidates for election to a seat in the proposed Legislative Council reserved for a European, Asian or Arab member.

Provision for election of Constituency Members

3.—(1) Provision may be made by or in pursuance of any law enacted under the existing Orders for the election of the Constituency Members including (without prejudice to the generality of the foregoing power) all or any of the following matters, that is to say—

(*a*) the qualifications and disqualifications of electors;

(*b*) the registration of electors;

(*c*) the establishment of constituencies for the purpose of returning the Constituency Members; and the division of such constituencies for any purpose connected with the registration of electors or with elections;

(*d*) the allocation to such constituencies of seats in the proposed Legislative Council;

(*e*) the reservation of seats in the proposed Legislative Council in such a manner that, of the Constituency Members, ten are required to be Europeans, three are required to be Asians of the Muslim faith, five are required to be Asians not of that faith, and two are required to be Arabs;

(*f*) the nomination of candidates for election, including, in relation to any reserved seat, nomination by means of a primary election by electors possessing the same qualifications as to race or, in the case of a seat reserved for Asians, as to race and faith as are required for election to the seat;

(*g*) the holding of elections, including primary elections, and the manner of voting at any such election;

(*h*) the determination of any question whether a person has been validly elected as one of the Constituency Members or the seat of such a Member has become vacant;

(*i*) the definition and trial of offences relating to elections and the imposition of penalties therefor including disqualification for election as a Constituency Member of any person concerned in any such offence; and

(*j*) the disqualification for election as a Constituency Member of any person holding, or acting in, any office the functions of which involve any responsibility for, or in connection with, the conduct of any election or the compilation or revision of any register of electors.

(2) (*a*) The Governor may by regulations make provision for all or any of the matters for which provision may be made by a law enacted in pursuance of the last foregoing subsection.

(*b*) Regulations made under this subsection—

(i) may empower any person or authority prescribed by the regulations to make rules or orders for any of the purposes for which such regulations may be made; and

(ii) may be amended or revoked by further regulations made under this subsection.

(*c*) A law enacted in pursuance of the last foregoing subsection may amend or revoke, or provide for the amendment or revocation of, regulations made under this subsection or rules or orders made under such regulations, and if any such regulations, rules or orders are inconsistent with any such law or any instrument made thereunder that law or instrument shall, to the extent of the inconsistency, prevail over the regulations, rules or orders.

(3) No election of members to the proposed Legislative Council shall be held under any law enacted or regulations made in pursuance of this section until provision has been made by Order of Her Majesty in Council for the establishment of the proposed Legislative Council and that provision has come into operation ; but registration of electors may take place and all other things necessary or expedient to prepare for such elections may be done in pursuance of such law or regulations at any time after the commencement of this Order.

Extension of term of existing Legislative Council

4. Until the Legislative Council constituted at the date of this Order under the Kenya (Constitution) Order in Council, 1958(a), has been dissolved, subsection (2) of section 44 of that Order shall have effect as if for the words " four years " there was substituted the words " five years ", and the reference in subsection (5) of section 76 of that Order to the period of four years mentioned in subsection (2) of section 44 shall be construed accordingly.

W. G. Agnew.

EXPLANATORY NOTE

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

This Order enables the Legislature of Kenya by law and the Governor of Kenya by regulations to make provision for the election of certain members to a new Legislative Council which it is proposed should hereafter be established for Kenya, and enables registration of electors in pursuance of any such provision to take place. It also extends the maximum term of the existing Legislative Council by one year.

(a) S.I. 1958/600 (1958 I, p. 961).