STATUTORY INSTRUMENTS

1962 No. 1648

EAST AFRICA

The Kenya (Electoral Provisions) (Registration of Voters) Order in Council 1962

Made - - - -	*30th July* 1962
Laid before Parliament	*3rd August* 1962
Coming into Operation	*4th August* 1962

At the Court at Buckingham Palace, the 30th day of July 1962

Present,

The Queen's Most Excellent Majesty in Council

Whereas it is proposed that in due course there shall be established for the Colony and Protectorate of Kenya (hereinafter referred to as "Kenya") a constitution making provision for a legislature containing a Lower House and an Upper House and also for six Regional Assemblies;

And whereas it is further proposed that the said constitution shall prescribe the franchise for the election of persons to be members of the Lower House, the Upper House and the Regional Assemblies and shall also prescribe the franchise for the election of persons to be members of local government authorities throughout Kenya:

And whereas it is expedient that, for the avoidance of delay in constituting the Lower House, the Upper House and the Regional Assemblies, provision should be made permitting the registration of voters in elections to those bodies to take place before the said constitution has been established by Order of Her Majesty in Council and that provision should also be made permitting the registration of voters in elections to local government authorities to take place at the same time;

Now, therefore, 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, commencement and construction.

1.—(1) This Order may be cited as the Kenya (Electoral Provisions) (Registration of Voters) Order in Council 1962, and shall come into operation on the 4th August 1962.

(2) In this Order "the Governor" means the person holding the office of Governor and Commander-in-Chief of Kenya, and—

(*a*) includes any person for the time being lawfully performing the functions of that office; and

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

(*b*) to the extent to which the Governor, by writing under his hand, authorises the Deputy Governor or any person acting as Deputy Governor to perform any of the functions conferred upon the Governor by this Order, includes the Deputy Governor or that person.

(3) The Interpretation Act 1889(a) shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting and in relation to Acts of Parliament.

Franchise for elections.

2.—(1) The qualifications and disqualifications for registration as a voter in elections to the Lower House shall be as set out in schedule 1 of this Order.

(2) The qualifications and disqualifications for registration as a voter in elections to the Upper House shall be as set out in schedule 2 of this Order.

(3) The qualifications and disqualifications for registration as a voter in elections to the Regional Assemblies shall be as set out in schedule 3 of this Order.

(4) The qualifications and disqualifications for registration as a voter in elections to local government authorities shall be as set out in schedule 4 of this Order.

Registration of Voters.

3.—(1) The Governor may, by regulation published in the Kenya Gazette, make provision for the registration of voters in elections to the Lower House, the Upper House and the Regional Assemblies on the basis of the respective franchises set out in schedules 1, 2 and 3 of this Order and also for the registration of voters in elections to local government authorities on the basis of the franchise set out in schedule 4 of this Order.

(2) Regulations made under this section may contain any provision that appears to the Governor to be necessary or expedient for the purpose of carrying out the registration of voters as aforesaid or for the purpose of any matter incidental thereto or consequential thereon.

W. G. Agnew.

SCHEDULE 1

Franchise for Lower House Elections

1. Subject to the provisions of paragraph 2 of this schedule, a person shall be qualified for registration as a voter in elections to the Lower House if, and shall not be so qualified unless, at the date of his application for registration he—

(*a*) is a British subject or a British protected person ; and

(*b*) has attained the age of 21 years ; and

(*c*) has been ordinarily resident in Kenya either—

(i) for a period of not less than one year immediately preceding that date, or

(ii) for a period of, or periods amounting in the aggregate to, not less than four years in the eight years immediately preceding that date ; and

(*d*) has, for a period of, or periods amounting in the aggregate to, not less than five months in the twelve months immediately preceding that

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

date, has been ordinarily resident in the constituency in which he applies to be registered, or has for such a period or periods carried on business there, or has for such a period or periods been employed there or has for such a period or periods lawfully possessed any land or residential buildings there.

2. No person shall be qualified to be registered as a voter in elections to the Lower House—

(*a*) if, under any law in force in Kenya, he is adjudged or otherwise declared to be of unsound mind; or

(*b*) if he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under a law in force in any part of the Commonwealth; or

(*c*) if he is under sentence of death imposed on him by any court in Kenya or is serving a sentence of imprisonment (by whatever name called) of or exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court; or

(*d*) if he is disqualified therefrom by or under any law (including any regulation made under section 3 of this Order) on the grounds of his having been convicted of an offence connected with elections.

3. Any question whether a person is qualified for registration as a voter in elections to the Lower House shall be determined in such manner as may be prescribed by regulation made under section 3 of this Order.

4. Where any person is qualified to be registered in more than one place as a voter in elections to the Lower House, he shall be so registered only in the first of those places in which he applies for such registration, and, without prejudice to the generality of section 3 of this Order, regulations made under that section may provide for the punishment of any person who, being already registered in one place as a voter in elections to the Lower House or having applied to be so registered there and not having had that application finally rejected, applies to be registered in another place as such a voter.

5. Regulations made under section 3 of this Order may, in order to permit any person who has been adjudged or declared to be of unsound mind, sentenced to death or imprisonment, adjudged or declared bankrupt or convicted of such an offence as is referred to in paragraph 2 (*d*) of this schedule to appeal against the decision in accordance with any law, provide that, subject to such conditions as may be prescribed by any such regulations, the decision shall not have effect for the purposes of paragraph 2 of this schedule until such time as may be so prescribed.

6. For the purposes of paragraph 2 (*c*) of this schedule—

(*a*) two or more sentences that are required to be served consecutively shall be regarded as separate sentences if none of them amounts to or exceeds twelve months but if any one of them amounts to or exceeds twelve months they shall be regarded as one sentence; and

(*b*) no account shall be taken of a sentence of imprisonment imposed as an alternative to, or in default of, the payment of a fine.

7. (*a*) Subject to sub-paragraph (*b*) of this paragraph, references in this schedule to constituencies are references to constituencies delimited by or under the authority of an Order of Her Majesty in Council for the purpose of elections to the Lower House.

(*b*) Until such time as constituencies have been delimited as aforesaid, references thereto in this schedule shall be construed as references to such areas as may be prescribed by regulations made under section 3 of this Order.

(*c*) Regulations made under section 3 of this Order may provide for any register of voters that, before constituencies have been delimited as aforesaid, has been compiled so as to give effect to paragraph 1 (*d*) of this schedule as interpreted by sub-paragraph (*b*) of this paragraph to be rectified after that delimitation so as to give effect to the said paragraph 1 (*d*) as interpreted by sub-paragraph (*a*) of this paragraph.

SCHEDULE 2

FRANCHISE FOR UPPER HOUSE ELECTIONS

1. Subject to the provisions of paragraph 2 of this schedule, a person shall be qualified for registration as a voter in elections to the Upper House if, and shall not be so qualified unless, at the date of his application for registration he—

(*a*) is a British subject or a British protected person ; and

(*b*) has attained the age of 21 years ; and

(*c*) possesses any one of the following qualifications, that is to say—

(i) is, in the current valuation roll, assessment roll, area roll or rate roll of a local government authority having jurisdiction over the place in which he applies for registration, named as the rateable owner of rateable property included in that roll and has paid all rates in respect of that property due from him in the year ending with the 31st December next before the date on which he so applies ; or

(ii) has, in respect of each year in the period of three years ending with the 31st December next before the date on which he applies for registration, paid to a local government authority having jurisdiction at the date of such payment over the place in which he so applies a rate or tax (by whatever name called) levied by that authority for general purposes ; or

(iii) has, for a period of, or for periods amounting in the aggregate to, not less than five years in the seven years immediately preceding the date of his application for registration, ordinarily resided in an area that, at that date, is within a local government authority area that includes the place in which he so applies or, where that place is not included in any local government authority area at the date of his application for registration, has ordinarily resided for such a period or periods in any area that includes that place and that is prescribed for that purpose by regulations made under section 3 of this Order ; or

(iv) is the spouse of any person falling within sub-paragraph (*c*) (i), sub-paragraph (*c*) (ii) or sub-paragraph (*c*) (iii) of this paragraph.

2. No person shall be qualified to be registered as a voter in elections to the Upper House—

(*a*) if, under any law in force in Kenya, he is adjudged or otherwise declared to be of unsound mind ; or

(*b*) if he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under a law in force in any part of the Commonwealth ; or

(*c*) if he is under sentence of death imposed on him by any court in Kenya or is serving a sentence of imprisonment (by whatever name called) of or exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court ; or

(*d*) if he is disqualified therefrom by or under any law (including any regulation made under section 3 of this Order) on the grounds of his having been convicted of an offence connected with elections.

3. Any question whether a person is qualified for registration as a voter in elections to the Upper House shall be determined in such manner as may be prescribed by regulation made under section 3 of this Order.

4. Where any person is qualified to be registered in more than one place as a voter in elections to the Upper House he shall be so registered only in the first of those places in which he applies for such registration, and, without prejudice to the generality of section 3 of this Order, regulations made under that section may provide for the punishment of any person who, being already registered in one place as a voter in elections to the Upper House or having applied to be so registered there and not having had that application finally rejected, applies to be registered in another place as such a voter.

5. In this schedule references to a local government authority are references to such an authority established by or under the Townships Ordinance(a), the Municipalities Ordinance(b), the African District Councils Ordinance 1950(c), or the Local Government (County Councils) Ordinance 1952(d), or by or under any law amending or replacing any of those Ordinances; and references to a local government authority area are references to an area falling within the jurisdiction of any such authority.

6. Regulations made under section 3 of this Order may, in order to permit any person who has been adjudged or declared to be of unsound mind, sentenced to death or imprisonment, adjudged or declared bankrupt or convicted of such an offence as is referred to in paragraph 2 (*d*) of this schedule to appeal against the decision in accordance with any law, provide that, subject to such conditions as may be prescribed by any such regulations, the decision shall not have effect for the purposes of paragraph 2 of this schedule until such time as may be so prescribed.

7. For the purposes of paragraph 2 (*c*) of this schedule—

(*a*) two or more sentences that are required to be served consecutively shall be regarded as separate sentences if none of them amounts to or exceeds twelve months, but if any one of them amounts to or exceeds twelve months they shall be regarded as one sentence; and

(*b*) no account shall be taken of a sentence of imprisonment imposed as an alternative to, or in default of, the payment of a fine.

SCHEDULE 3

Franchise for Regional Assembly Elections

1. Subject to the provisions of paragraph 2 of this schedule, a person shall be qualified for registration as a voter in elections to a Regional Assembly if, and shall not be so qualified unless, at the date of his application for registration he—

(*a*) is a British subject or a British protected person; and

(*b*) has attained the age of 21 years; and

(*c*) possesses any one of the following qualifications, that is to say—

(i) is, in the current valuation roll, assessment roll, area roll or rate roll of a local government authority having jurisdiction over the place in which he applies for registration, named as the rateable owner of rateable property included in that roll and has paid all rates in respect of that property due from him in the year ending with the 31st December next before the date on which he so applies; or

(ii) has, in respect of each year in the period of three years ending with the 31st December next before the date on which he applies for registration, paid to a local government authority having

(a) Laws of Kenya, 1948, Cap. 133. (b) Laws of Kenya, 1948, Cap. 136.
(c) Ordinance No. 12 of 1950. (See Revised Edition, 1959).
(d) Ordinance No. 30 of 1952.

jurisdiction at the date of such payment over the place in which he so applies a rate or tax (by whatever name called) levied by that authority for general purposes ; or

(iii) has, for a period of, or periods amounting in the aggregate to, not less than five years in the seven years immediately preceding the date of his application for registration, ordinarily resided in an area that, at that date, is within a local government authority area that includes the place in which he so applies or, where that place is not included in any local government authority area at the date of his application for registration, has ordinarily resided for such a period or periods in any area that includes that place and that is prescribed for that purpose by regulations made under section 3 of this Order ; or

(iv) is the spouse of any person falling within sub-paragraph (*c*) (i), sub-paragraph (*c*) (ii) or sub-paragraph (*c*) (iii) of this paragraph.

2. No person shall be qualified to be registered as a voter in elections to a Regional Assembly—

(*a*) if, under any law in force in Kenya, he is adjudged or otherwise declared to be of unsound mind ; or

(*b*) if he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under a law in force in any part of the Commonwealth ; or

(*c*) if he is under sentence of death imposed on him by any court in Kenya or is serving a sentence of imprisonment (by whatever name called) of or exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court ; or

(*d*) if he is disqualified therefrom by or under any law (including any regulation made under section 3 of this Order) on the grounds of his having been convicted of an offence connected with elections.

3. Any question whether a person is qualified for registration as a voter in elections to a Regional Assembly shall be determined in such manner as may be prescribed by regulation made under section 3 of this Order.

4. Where any person is qualified to be registered in more than one place as a voter in elections to a Regional Assembly he shall be so registered only in the first of those places in which he applies for such registration, and, without prejudice to the generality of section 3 of this Order, regulations made under that section may provide for the punishment of any person who, being already registered in one place as a voter in elections to a Regional Assembly or having applied to be so registered there and having had that application finally rejected, applies to be registered in another place as such a voter.

5. In this schedule references to a local government authority are references to such an authority established by or under the Townships Ordinance, the Municipalities Ordinance, the African District Councils Ordinance 1950, or the Local Government (County Councils) Ordinance 1952, or by or under any law amending or replacing any of those Ordinances ; and references to a local government authority area are references to an area falling within the jurisdiction of any such authority.

6. Regulations made under section 3 of this Order may, in order to permit any person who has been adjudged or declared to be of unsound mind, sentenced to death or imprisonment, adjudged or declared bankrupt or convicted of such an offence as is referred to in paragraph 2 (*d*) of this schedule to appeal against the decision in accordance with any law, provide that, subject to such conditions as may be prescribed by any such regulations as aforesaid, the decision shall not have effect for the purposes of paragraph 2 of this schedule until such time as may be so prescribed.

7. For the purposes of paragraph 2 (*c*) of this schedule—

(*a*) two or more sentences that are required to be served consecutively shall be regarded as separate sentences if none of them amounts to or exceeds twelve months, but if any one of them amounts to or exceeds twelve months they shall be regarded as one sentence ; and

(*b*) no account shall be taken of a sentence of imprisonment imposed as an alternative to, or in default of, the payment of a fine.

SCHEDULE 4

FRANCHISE FOR LOCAL GOVERNMENT AUTHORITY ELECTIONS

1. Subject to the provisions of paragraphs 2 and 3 of this schedule, a person shall be qualified for registration as a voter in elections to local government authorities if, and shall not be so qualified unless, at the date of his application for registration he—

(*a*) has attained the age of 21 years ; and

(*b*) possesses any one of the following qualifications, that is to say—

(i) is, in the current valuation roll, assessment roll, area roll or rate roll of a local government authority having jurisdiction over the place in which he applies for registration, named as the rateable owner of rateable property included in that roll and has paid all rates in respect of that property due from him in the year ending with the 31st December next before the date on which he so applies ; or

(ii) has, in respect of each year in the period of three years ending with the 31st December next before the date on which he applies for registration, paid to a local government authority having jurisdiction at the date of such payment over the place in which he so applies a rate or tax (by whatever name called) levied by that authority for general purposes ; or

(iii) has, for a period of, or periods amounting in the aggregate to, not less than five years in the seven years immediately preceding the date of his application for registration, ordinarily resided in an area that at that date is within a local government authority area that includes the place in which he so applies or, where that place is not included in any local government authority area at the date of his application for registration, has ordinarily resided for such a period or periods in any area that includes that place and that is prescribed for that purpose by regulations made under section 3 of this Order ; or

(iv) is the spouse of any person falling within sub-paragraph (*b*) (i), sub-paragraph (*b*) (ii) or sub-paragraph (*b*) (iii) of this paragraph.

2. No person shall be qualified to be registered as a voter in elections to local government authorities—

(*a*) if, under any law in force in Kenya, he is adjudged or otherwise declared to be of unsound mind ; or

(*b*) if he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under a law in force in any part of the Commonwealth ; or

(*c*) if he is under sentence of death imposed on him by any court in Kenya or is serving a sentence of imprisonment (by whatever name called) of or exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court ; or

(*d*) if he is disqualified therefrom by or under any law (including any regulation made under section 3 of this Order) on the grounds of his having been convicted of an offence connected with elections.

3. A partnership that possesses the qualification set out in paragraph 1 (*b*) (i) of this schedule shall be qualified to be registered as a voter in elections to local government authorities, and a company that is registered under the Companies Ordinance 1959(a), or under any law amending or replacing that Ordinance, and that possesses that qualification shall, if it is not subject to such a disqualification as is referred to in paragraph 2 (*d*) of this schedule, also be qualified to be registered as such a voter.

4. Any question whether a person (including a partnership or a company) is qualified for registration as a voter in elections to local government authorities shall be determined in such manner as may be prescribed by regulation made under section 3 of this Order.

5. (*a*) A person (including a partnership or a company) who is qualified to be registered in more than one place as a voter in elections to local government authorities may apply to be registered in any or all of the places in which he is so qualified whether those places fall within the same local government authority area or within different local government authority areas, but a person (including a partnership or a company) who is qualified to be registered in two or more places as a voter in elections to local government authorities shall, on the final compilation of the register of voters in elections to any one authority, be registered only once in each electoral area for that authority.

(*b*) For the purposes of this paragraph, "electoral area" means one of of the areas into which local government authority areas are divided, under any law for the time being in force, for the purpose of elections to local government authorities.

(*c*) Without prejudice to the generality of section 3 of this Order, regulations made under that section may provide—

(i) for the determination, where any electoral area contains more than one place of registration, of the place in which any person who has applied and is qualified to be registered in more than one of those places shall be registered ; and

(ii) for the revision, when new electoral areas are created or the boundaries of any electoral area are changed, of any register of voters that has previously been compiled.

6. In this schedule references to a local government authority are references to such an authority established by or under the Townships Ordinance, the Municipalities Ordinance, the African District Councils Ordinance 1950, or the Local Government (County Councils) Ordinance 1952, or by or under any law amending or replacing any of those Ordinances ; and references to a local government authority area are references to an area falling within the jurisdiction of any such authority.

7. Regulations made under section 3 of this Order may, in order to permit any person who has been adjudged or declared to be of unsound mind, sentenced to death or imprisonment, or adjudged or declared bankrupt, or any person (including any company) who has been convicted of such an offence as is referred to in paragraph 2 (*d*) of this schedule, to appeal against the decision in accordance with any law, provide that, subject to such conditions as may be prescribed by any such regulations as aforesaid, the decision shall not have effect for the purposes of paragraph 2 or, as the case may be, paragraph 3 of this schedule until such time as may be so prescribed.

8. For the purposes of paragraph 2 (*c*) of this schedule—

(*a*) two or more sentences that are required to be served consecutively shall be regarded as separate sentences if none of them amounts to or exceeds twelve months, but if any one of them amounts to or exceeds twelve months they shall be regarded as one sentence ; and

(*b*) no account shall be taken of a sentence of imprisonment imposed as an alternative to, or in default of, the payment of a fine.

(a) Ordinance No. 50 of 1959.

EXPLANATORY NOTE

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

The purpose of this Order is to prescribe the respective franchises for elections to the Lower House, Upper House and Regional Assemblies that it is proposed should in due course be established in Kenya, and also for elections to local government authorities, and to authorise the making of regulations under which the registration of voters may be carried out in advance of the establishment of those bodies.