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).

Native Lands Trust Ordinance, as from time to time varied in pursuance of the provisions of that Ordinance, or by or in pursuance of the provisions of any other Ordinance amending that Ordinance, and, subject to paragraph (*b*) of this subsection, such lands are hereby vested in the Trust Board.

(*b*) Where it is provided by any law for the time being in force in the Colony that the title to land in the Native Lands may be registered, and in pursuance of any such law a person becomes registered as the proprietor of the freehold estate in any registered land in the Native Lands, then on such registration the land concerned shall cease to be vested in the Trust Board and shall become vested in the registered proprietor thereof for the time being :

Provided that nothing in this paragraph shall prevent the registration of the Trust Board as the proprietor of the freehold estate in any registered land, by virtue of any such law, or the vesting of any such land in the Trust Board as the registered proprietor thereof." ;

(*b*) in subsection (2) the word " nine " is omitted, and for the words " in each Native Land Unit in trust for the native tribes ordinarily resident in those areas at the coming into operation of this Order " there are substituted the words " in each Native Land Unit, and vested in the Trust Board, in trust for the native tribes ordinarily resident in those areas " ;

(*c*) for subsection (4) there is substituted the following subsection—

" (4) (*a*) The Native Lands vested in the Trust Board, otherwise than as the registered proprietor thereof, shall be administered in accordance with the provisions of the Native Lands Trust Ordinance, and shall be subject generally to the provisions of that Ordinance.

(*b*) Where, in pursuance of the provisions of any such law as is mentioned in paragraph (*b*) of subsection (1) of this section, a person (which term shall include the Trust Board) becomes registered as the proprietor of the freehold estate in any registered land in the Native Lands, then such land shall, although remaining part of the Native Lands, cease to be subject to the provisions of the Native Lands Trust Ordinance, and shall, with the exception of that Ordinance, be subject in all respects to the general law for the time being in force in the Colony." ;

(*d*) in subsection (5) the words " Subject to the provisions of this Order " are inserted immediately before the words " The Native Lands " ;

(*e*) subsection (6) is revoked ;

(*f*) in subsection (7) for the words " or any other Ordinance " there are substituted the words " or any other law ".

3. Section 6 of the principal Order is amended—

(*a*) by substituting for paragraphs (*b*) (*c*) and (*d*) of subsection (2) the following paragraphs—

" (*b*) two of the Elected Members of the Legislative Council of the Colony who are Africans, who shall be nominated by the Governor ;

(*c*) one of the Elected Members of the Legislative Council of the Colony who is a European, who shall be nominated by the Governor;

(*d*) two persons nominated by the Governor."

(*b*) by deleting subsections (3) and (4) and by substituting therefor the following new subsections—

"(3) The Governor shall cause to be published in the Gazette the names of the persons nominated by him under subsection (2) of this section.

(4) Any person nominated by the Governor under subsection (2) of this section may by writing under his hand addressed to the Governor resign his seat on the Board.

(5) The Elected Members of the Legislative Council who are members of the Board by virtue of paragraphs (*b*) and (*c*) of subsection (2) of this section at the time of any dissolution of the Legislative Council shall continue to be members of the Board notwithstanding such dissolution until new Elected Members are nominated as provided in those paragraphs.

(6) Where the seat in the Legislative Council of an Elected Member nominated under paragraph (*b*) or paragraph (*c*) of subsection (2) of this section becomes vacant for any reason other than the dissolution of the Council the Governor shall fill the vacancy so caused by nominating some other person to be a member of the Board under paragraph (*b*) or paragraph (*c*) of the said subsection (2), as the case may be.

(7) The Governor may revoke the appointment of a person nominated by him under paragraph (*d*) of subsection (2) of this section."

(*c*) by renumbering existing subsections (5) (6) and (7) as subsections (8) (9) and (10) respectively.

4. Paragraph (*b*) of section 9 of the principal Order is revoked.

W. G. Agnew.

EXPLANATORY NOTE

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

This Order alters the constitution of the Native Lands Trust Board and makes special provision to allow for the registration of private rights of ownership of lands in the Native Lands. Some minor and consequential amendments have also been made to the Kenya (Native Areas) Order in Council, 1939.