STATUTORY INSTRUMENTS

1963 No. 791

EAST AFRICA

The Kenya Order in Council 1963

Made - - - -	11*th April* 1963
Laid before Parliament	18*th April* 1963
Coming into Operation	
Sections 1, 6 (2), 6 (8), 6 (9), 9 *and* 11 *of the Order* -	19*th April* 1963
Remainder - -	*On a day to be appointed by the Governor under section* 1 (2)

At the Court at Windsor Castle, the 11th day of April 1963

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue of and in exercise of the powers in that 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:—

Citation, commencement and construction.

1.—(1) This Order may be cited as the Kenya Order in Council 1963.

(2) This Order shall come into operation on such day (hereinafter referred to as "the appointed day") as the Governor, acting in his discretion, may, by Proclamation published in the Kenya Gazette, appoint which day shall not be earlier than 19th April 1963:

Provided that—

(*a*) this section and sections 6 (2), 6 (8), 6 (9), 9 and 11 of this Order shall come into operation on 19th April 1963; and

(*b*) without prejudice to the provisions of section 37 of the Interpretation Act 1889(d), where the Governor has power by or under the Constitution of Kenya set out in Schedule 2 of this Order to make any appointment or make any order or do any other thing for the purposes of that Constitution, that power may be exercised at any time on or after 19th April 1963 to such extent as may, in his opinion, be necessary or expedient to enable that Constitution to function as from the appointed day.

(3) References in this Order to "the Governor" shall be construed, in relation to any period before the appointed day, as references to the person holding the office of Governor constituted by the Orders set out in Part I of Schedule 1 of this Order or, to the extent of his authority, to any person who is for the time being authorised to perform the functions of that office.

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

(4) Save where the context otherwise requires, expressions used in sections 1 to 12 (inclusive) of this Order have the same meaning as in the Constitution of Kenya set out in Schedule 2 of this Order and the provisions of section 233 of that Constitution shall apply for the purpose of interpreting those sections as they apply for the purpose of interpreting that Constitution.

(5) References in Chapter IX of the said Constitution to any question as to the interpretation of that Constitution shall be construed as including references to any question as to the interpretation of this Order.

Revocation and adaptation.

2.—(1) The Orders in Council specified in Part I of Schedule 1 of this Order (hereinafter referred to as "the existing Orders"), other than the provisions of the Kenya (Constitution) Order in Council 1958 specified in Part II of that Schedule, are revoked.

(2) The provisions of the Kenya (Constitution) Order in Council 1958(a) specified in Part II of Schedule 1 of this Order shall be construed as if references therein to "the Colony and the Protectorate" were references to Kenya, references therein to "the Governor" were references to the person holding the office of Governor constituted by this Order or, to the extent of his authority, any person who is for the time being authorised to perform the functions of that office and references therein to "the Supreme Court" were references to the Supreme Court established by this Order.

Establishment of Constitution.

3. Subject to the provisions of this Order, the Constitution of Kenya set out in Schedule 2 of this Order (hereinafter referred to as "the Constitution") shall come into effect in Kenya on the appointed day.

Existing laws.

4.—(1) Subject to the provisions of this section, the existing laws shall, notwithstanding the revocation of the existing Orders, have effect as from the appointed day as if they had been made in pursuance of this Order and shall be construed with such modifications, adaptations, revocations and exceptions as may be necessary to bring them into conformity with this Order.

(2) Subject to the provisions of any regulations made by the Governor under section 11 of this Order, any existing law made by any legislature in Kenya with respect to any matter with respect to which, under the provisions of the Constitution, both the Central Legislature and a Regional Assembly may make laws shall, to the extent to which it has effect under this section as from the appointed day, have such effect as if it had been made by the Central Legislature.

(3) Where any matter that falls to be prescribed or otherwise provided for under the Constitution by the Central Legislature or by a Regional Assembly or by any other authority or person is prescribed or provided for by or under an existing law (including any amendment to any such law made under this Order) or is otherwise prescribed or provided for, immediately before the appointed day, by or under the existing Orders or by or under this Order, that prescription or provision shall have effect, as from the appointed day, as if it had been made under the Constitution by the Central Legislature or the Regional Assembly or, as the case may be, the other authority or person.

(4) The provisions of this section shall be without prejudice to any powers conferred by this Order upon any person or authority to make

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

provision for any matter, including the amendment or repeal of any existing law, and shall, in particular, be without prejudice to the generality of section 11 of this Order.

(5) For the purposes of this section, the expression "existing law" means any Ordinance, law, rule, regulation, order or other instrument made or having effect as if it had been made in pursuance of the existing Orders and having effect as part of the law of Kenya or any part thereof immediately before the appointed day.

First holders of certain offices.

5.—(1) The person who, immediately before the appointed day, holds the office of Governor constituted by the existing Orders shall be deemed to have been appointed on that day to the office of Governor constituted by this Order.

(2) The person who, immediately before the appointed day, holds the office of Deputy Governor constituted by the existing Orders shall be deemed to have been appointed on that day to the office of Deputy Governor constituted by this Order.

(3) The persons who, immediately before the appointed day, hold the following offices constituted by or under the existing Orders, that is to say, the offices of Chief Justice, puisne judge of the Supreme Court established by the existing Orders, Attorney-General, Controller and Auditor-General and Commissioner of Police, shall be deemed respectively to have been appointed on that day to the following offices constituted by this Order, that is to say, Chief Justice, puisne judge of the Supreme Court established by this Order, Attorney-General, Controller and Auditor-General and Inspector-General of Police.

(4) Any person who, by virtue of this section, is deemed to have been appointed to any office on the appointed day shall also be deemed to have taken any necessary oath under this Order.

National Assembly and Regional Assemblies.

6.—(1) Notwithstanding the provisions of section 84 (3) of the Constitution, each of the constituencies into which the several Districts within the North-Eastern Region are divided for the purpose of electing Elected Members to the Regional Assembly of that Region shall, until the first dissolution of that Regional Assembly after the appointed day, elect two members to that Regional Assembly.

(2) For the avoidance of doubt it is hereby declared that elections may be held at any time after the coming into operation of this subsection under the authority of regulations made by the Governor under section 2 of the Kenya (Electoral Provisions) Order in Council 1963(a).

(3) The persons who are elected, at elections held in pursuance of such regulations as are referred to in subsection (2) of this section, as members of the proposed Upper House shall be deemed on and after the appointed day to have been elected as Senators in accordance with the provisions of this Order; the persons who are elected at such elections as members of the proposed Lower House shall be deemed on and after the appointed day to have been elected as Elected Members of the House of Representatives in accordance with the provisions of this Order; and the persons who are elected at such elections as members of the proposed Regional Assemblies shall be deemed on and after the appointed day to have been elected as Elected Members of the Regional Assemblies in accordance with the provisions of this Order.

(a) S.I. 1963/611 (1963 I, p. 734).

(4) The registers of voters compiled under the Kenya (Electoral Provisions) (Registration of Voters) Order in Council 1962(a) shall be deemed as from the appointed day to have been compiled in accordance with the provisions of this Order.

(5) The number of the constituencies constituted within each Region under the Kenya (Regional Assembly Constituencies) Order in Council 1963(b) shall be deemed as from the appointed day to be the number of Elected Members of the Regional Assembly of that Region prescribed under section 95 of the Constitution but in the case of the North-Eastern Region the number of Elected Members of the Regional Assembly so deemed to be prescribed shall be twice the number of the constituencies so constituted within that Region.

(6) The person who, immediately before the appointed day, holds the office of Speaker of the Legislative Council established by the existing Orders shall, as from that day, hold the office of Speaker of the House of Representatives and shall be deemed to have taken any necessary oath under this Order but, if he has not otherwise previously vacated that office in accordance with the provisions of section 36 of the Constitution, he shall so vacate it when the House of Representatives first meets after the appointed day.

(7) The first meeting of the two Houses of the National Assembly on or after the appointed day shall, for the purposes of the Constitution, be deemed to be the first meeting of those two Houses after the dissolution of the Central Legislature.

(8) The Governor may, by regulations which shall be published in the Kenya Gazette and, after the appointed day, in the Regional Gazette of the Region concerned, make provision for the holding, as nearly as may be in accordance with the provisions of Schedule 6 of the Constitution, of a general election of the Specially Elected Members of a Regional Assembly before that Regional Assembly first meets after the appointed day notwithstanding that there is then no person holding or capable of exercising the functions of the office of President of the Regional Assembly.

(9) Each Regional Assembly shall hold its first meeting at such time on or after the appointed day and at such place as may be prescribed by the Governor, acting in his discretion, by notice which shall be published in the Kenya Gazette and, after the appointed day, in the Regional Gazette of the Region.

(10) As soon as possible after the Senate first meets after the appointed day, the Speaker of the Senate shall, by lot, divide the Senators representing the several Districts in each Region into three classes as nearly equal in number as is practicable; and every Senator in the first class shall vacate his seat at the expiration of two years from the date when the Senate first meets under the Constitution, every Senator in the second class shall vacate his seat at the expiration of four years from that date and every Senator in the third class and the Senator representing the Nairobi Area shall vacate his seat at the expiration of six years from that date.

(11) The first Regional Assemblies to be constituted under the Constitution shall stand dissolved at the expiration of five years beginning with the appointed day.

(a) S.I. 1962/1648 (1962 II, p. 1952). (b) S.I. 1963/170 (1963 I, p. 153).

Ministers.

7. Notwithstanding the revocation of the existing Orders, a person who holds the office of Minister or Parliamentary Secretary immediately before the appointed day shall continue to hold that office as from that day but shall do so during the pleasure of the Governor, acting in his discretion, and shall in any event vacate his office when a Prime Minister is appointed in pursuance of section 65 of the Constitution.

Inspector-General of Police.

8. Until such date as the Governor, acting in his discretion, may prescribe by notice published in the Kenya Gazette, the provisions of section 152 of the Constitution shall not have effect and the power to appoint a person to hold or act in the office of Inspector-General of Police, the power to exercise disciplinary control over a person holding or acting in that office and the power to remove such a person from office shall vest in the Governor, acting in his discretion.

Independent members of Public Service Commissions.

9. Notwithstanding the provisions of section 176 of the Constitution, the first person to hold office after the appointed day as Chairman, the first person to hold office as Deputy Chairman and the first person to hold each of the other offices of independent member of a Public Service Commission shall be appointed by the Governor, acting in his discretion.

Attorney-General.

10. Until such date as the Governor, acting in his discretion, may prescribe by notice published in the Kenya Gazette, the provisions of section 180 of the Constitution shall not have effect and the power to appoint a person to hold or act in the office of Attorney-General, the power to exercise disciplinary control over a person holding or acting in that office and the power to remove such a person from office shall vest in the Governor, acting in his discretion.

Governor's power to make regulations to facilitate introduction of Constitution.

11.—(1) The Governor may, by regulations which shall be published in the Kenya Gazette and, if made on or after the appointed day, in the Regional Gazette of each Region concerned, make any provision which he considers necessary or expedient for giving effect or enabling effect to be given to the provisions of the Constitution or which he otherwise considers necessary or expedient for or in consequence of the coming into operation of the Constitution and may, in like manner, provide that any of the provisions of the Constitution shall have effect subject to such temporary adaptations, modifications, qualifications or exceptions as in his opinion are necessary or expedient for the purpose of avoiding any administrative or other difficulties that may be incidental to the transition from the constitutional arrangements provided for by the existing Orders to those provided for by the Constitution.

(2) Without prejudice to the generality of subsection (1) of this section, regulations made under that subsection may make provision—

(*a*) designating, whether by special or general description, any estate, interest or right in or over land situated in a Region as an estate, interest or right that, on the appointed day, vests in the Governor on behalf of Her Majesty in right of the Government of Kenya under the provisions of section 195 (2) of the Constitution;

(*b*) vesting, whether by special or general description, in the Central Land Board, the East African Common Services Organization, any officer or authority of that Organization, any body corporate established by law for public purposes or any other person or authority any estate, interest or right in or over land situated anywhere in Kenya, being an estate, interest or right that would otherwise be vested in the Governor on behalf of Her Majesty in right of the Government of Kenya or in a Region;

(*c*) declaring that any area of Trust land shall be deemed to have been set apart under any of the provisions in that behalf in Part 2 of Chapter XI of the Constitution and determining the provisions of that Part of that Chapter under which it shall be deemed to have been set apart, any estate, interest or right in or over the land that shall be deemed to have been vested in any person or authority in consequence of the setting apart and the person or authority in whom that estate, interest or right shall be deemed to have been so vested;

(*d*) transferring to the Government of Kenya, to any officer or authority of that Government, to a Region, to any officer or authority of a Region or to any other authority established by or under the existing Orders or by or under this Order any property, right or other asset or any debt, liability or other obligation that was previously vested in or owed by any other of the said persons or authorities;

(*e*) substituting for any of the following persons or authorities that is a party to proceedings that are (or that were immediately before the appointed day) pending before any court any other of those persons or authorities, that is to say, the Government of Kenya, any officer or authority of that Government, a Region, any officer or authority of a Region or any officer or authority established by or under the existing Orders or by or under this Order;

(*f*) determining, for the purposes of section 177 of the Constitution, the establishment of the public service of the Government of Kenya or of any Region and appointing to or to act in any office in any such service (whether by way of secondment or otherwise and on any terms or conditions that may be specified) any person holding or acting in any other office in any of those services; and

(*g*) declaring that any function that, under the Constitution, may be or is required to be exercised by any person or authority may or shall be exercised by some other person or authority.

(3) Without prejudice to the generality of subsection (1) of this section, regulations made by the Governor under that subsection may—

(*a*) determine that any existing law with respect to any matter with respect to which, under the Constitution, both the Central Legislature and the Regional Assembly of a Region may make laws shall have effect in that Region as if it had been made by that Regional Assembly;

(*b*) make such amendments to any existing law as may appear to him to be necessary or expedient for bringing 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

(*c*) make any declaration, designation, prescription or other like provision that may be made under the Constitution by the Central Legislature or any officer or authority of the Government of Kenya or by a Regional Assembly or any officer or authority of a Region.

(4) Any regulation made by the Governor under this section—

(*a*) may be made at any time, whether before or after the appointed day;

(*b*) whenever made, may be expressed to have effect from any date (whether earlier or later than the date on which it was made) that may be specified therein, not being a date earlier than the appointed day; and

(*c*) shall have effect until such date (if any) as may be provided by or under the regulation or, subject to any such provision, until other provision is made by any authority competent so to do.

(5) In this section the expression "existing law" has the meaning assigned to it in section 4 of this Order.

(6) In the exercise of the powers conferred on him by this section the Governor shall act in his discretion.

12. 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. Reservation of Her Majesty's power to make laws.

W. G. Agnew.

SCHEDULE 1 OF THE ORDER

Section 2.

EXISTING ORDERS REVOKED OR ADAPTED BY THIS ORDER

PART I

REVOCATIONS

Titles of Orders	*References*
The Kenya Colony and Protectorate (Boundaries) Order in Council 1921.	S.R. & O. 1921/1134 (Rev. XI, p. 681: 1921, p. 260).
The Kenya Colony and Protectorate (Boundaries) Order in Council 1926.	S.R. & O. 1926/1733 (Rev. XI, p. 682: 1926, p. 569).
The Kenya Colony and Protectorate (Boundaries) Order in Council 1948.	S.I. 1948/2062 (Rev. XI, p. 681: 1948 I, p. 1665).
The Kenya (Validation) Order in Council 1956.	S.I. 1956/1207 (1956 I, p. 698).
The Kenya (Electoral Provisions) Order in Council 1957.	S.I. 1957/2220 (1957 I, p. 662).
The Kenya (Constitution) Order in Council 1958 (*except the provisions specified in Part II of this Schedule*).	S.I. 1958/600 (1958 I, p. 961).
The Kenya (Constitution) (Amendment) Order in Council 1959.	S.I. 1959/1302 (1959 I, p. 982).
The Kenya (Constitution) (Amendment) Order in Council 1960.	S.I. 1960/703 (1960 I, p. 1218).
The Kenya (Electoral Provisions) Order in Council 1960.	S.I. 1960/1276 (1960 I, p. 1240).
The Kenya (Constitution) (Amendment No. 2) Order in Council 1960.	S.I. 1960/2201 (1960 I, p. 1219).
The Kenya (Land) Order in Council 1960.	S.I. 1960/2202 (1960 I, p. 1243).
The Kenya (Constitution) (Temporary Provisions) Order in Council 1961.	S.I. 1961/835 (1961 I, p. 1630).
The Kenya (Constitution) (Amendment) Order in Council 1961.	S.I. 1961/2036 (1961 III, p. 3707).
The Kenya (Constitution) (Amendment No. 2) Order in Council 1961.	S.I. 1961/2273 (1961 III, p. 3984).

Titles of Orders	*References*
The Kenya (Electoral Provisions) (Registration of Voters) Order in Council 1962.	S.I. 1962/1648 (1962 II, p. 1952).
The Kenya (Constitution) (Amendment) Order in Council 1962.	S.I. 1962/2599 (1962 III, p. 3488).
The Kenya (Adaptation of Laws) Order in Council 1963.	S.I. 1963/167 (1963 I, p. 147).
The Kenya (Local Government) Order in Council 1963.	S.I. 1963/168 (1963 I, p. 149).
The Kenya (Lower House Constituencies) Order in Council 1963.	S.I. 1963/169 (1963 I, p. 151).
The Kenya (Regional Assembly Constituencies) Order in Council 1963.	S.I. 1963/170 (1963 I, p. 153).
The Kenya (Regions and Districts) Order in Council 1963.	S.I. 1963/171 (1963 I, p. 155).
The Kenya (Constitution) (Amendment) Order in Council 1963.	S.I. 1963/610 (1963 I, p. 732).
The Kenya (Electoral Provisions) Order in Council 1963.	S.I. 1963/611 (1963 I, p. 734).

PART II

PROVISIONS OF THE KENYA (CONSTITUTION) ORDER IN COUNCIL 1958 THAT ARE CONTINUED IN FORCE WITH ADAPTATIONS

Sections 69 and 70 and the Third Schedule.

Section 3.

SCHEDULE 2 OF THE ORDER

THE CONSTITUTION OF KENYA

ARRANGEMENT OF SECTIONS

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PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Section

1. Fundamental rights and freedoms of the individual.
2. Protection of right to life.
3. Protection of right to personal liberty.
4. Protection from slavery and forced labour.
5. Protection from inhuman treatment.
6. Protection from deprivation of property.
7. Protection against arbitrary search or entry.
8. Provisions to secure protection of law.
9. Protection of freedom of conscience.
10. Protection of freedom of expression.
11. Protection of freedom of assembly and association.
12. Protection of freedom of movement.
13. Protection from discrimination on the grounds of race, etc.
14. Derogation from fundamental rights and freedoms.
15. Protection of persons detained under emergency laws.
16. Enforcement of protective provisions.
17. Declaration of emergency.
18. Interpretation and savings.

CHAPTER II

THE GOVERNOR AND THE DEPUTY GOVERNOR

Section

19. Establishment of office of Governor.
20. Oaths to be taken by Governor.
21. Powers and duties of Governor.
22. Establishment of office of Deputy Governor.
23. Succession to government.
24. Exercise of Governor's functions by Deputy Governor.

CHAPTER III

CENTRAL LEGISLATURE

PART 1

Composition of Central Legislature

25. Establishment of Central Legislature.
26. Composition of Senate.
27. Election of Senators.
28. Composition of House of Representatives.
29. Election of Elected Members of House of Representatives.
30. Election of Specially Elected Members of House of Representatives.
31. Qualifications for election to National Assembly.
32. Disqualifications for election to National Assembly.
33. Tenure of seats of members of National Assembly.
34. Speaker of Senate.
35. Deputy Speaker of Senate.
36. Speaker of House of Representatives.
37. Deputy Speaker of House of Representatives.
38. Clerks to Houses of National Assembly and their staff.
39. Electoral Commission.
40. Constituencies.
41. Determination of questions as to membership of National Assembly.

PART 2

Procedure in National Assembly

42. Oaths to be taken by members of National Assembly.
43. Presiding in Senate.
44. Presiding in House of Representatives.
45. Quorum in Houses of National Assembly.
46. Official language.
47. Voting in National Assembly.
48. Unqualified persons sitting or voting.
49. Mode of exercise of legislative power.
50. Restrictions with regard to certain financial measures.
51. Limitation of powers of Senate.
52. Governor's reserved powers.
53. Disallowance of laws.
54. Regulation of procedure in National Assembly, etc.
55. Interpretation.

PART 3

Summoning, prorogation and dissolution

Section

56. Sessions of Central Legislature, etc.
57. Prorogation and dissolution of Central Legislature.

PART 4

Legislative Powers

58. Power of Central Legislature to make laws.
59. Power to make grants of money, etc. for any purpose.
60. Implementing international obligations, etc.
61. Special powers of Central Legislature in relation to emergencies.
62. Special powers of Central Legislature when section 97 (2) of this Constitution is being contravened.

CHAPTER IV

EXECUTIVE POWERS

63. Executive authority of Government of Kenya.
64. Delegation to a Region of executive authority of Government of Kenya.
65. Ministers of Government of Kenya.
66. Cabinet.
67. Allocation of portfolios to Ministers.
68. Governor's special responsibilities.
69. Exercise of Prime Minister's functions during absence or illness.
70. Absence of Ministers from Kenya.
71. Exercise of Governor's functions.
72. Governor to be informed of Cabinet affairs.
73. Parliamentary Secretaries.
74. Oaths to be taken by Ministers and Parliamentary Secretaries.
75. Permanent secretaries.
76. Secretary to the Cabinet.
77. Attorney-General.
78. Constitution of offices.
79. Prerogative of Mercy.
80. Advisory Committee on Prerogative of Mercy.
81. Functions of Advisory Committee on Prerogative of Mercy.

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Establishment of Regions

82. Boundaries of Regions.

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Composition of Regional Assemblies

83. Establishment of Regional Assemblies.
84. Elected Members of Regional Assemblies.

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85. Specially Elected Members of Regional Assemblies.
86. Qualifications for election to Regional Assemblies.
87. Disqualifications for election to Regional Assemblies.
88. Tenure of seats of members of Regional Assemblies.
89. Presidents of Regional Assemblies.
90. Vice-Presidents of Regional Assemblies.
91. Clerks to Regional Assemblies.
92. Determination of questions as to membership of Regional Assemblies.

PART 3

Legislative Powers of Regional Assemblies

93. Power of Regional Assemblies to make laws.
94. Mode of exercise of legislative powers of Regional Assemblies.
95. Laws relating to composition of Regional Assemblies.

PART 4

Executive Authority of Regions

96. Executive authority vested in Regional Assemblies.
97. Extent of executive authority of Regions.

PART 5

Procedure of Regional Assemblies

98. Oaths.
99. Presiding in Regional Assemblies.
100. Quorum in Regional Assemblies.
101. Voting in Regional Assemblies.
102. Unqualified persons sitting or voting in Regional Assemblies.
103. Regulation of procedure in Regional Assemblies, etc.
104. Committees of Regional Assemblies.

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114. Withdrawals from Consolidated Fund or other funds of Government of Kenya.
115. Authorisation of expenditure from Consolidated Fund by appropriation.
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119. Public debt of Government of Kenya.
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PART 2

Financial Procedure of Regional Assemblies

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122. Withdrawal from Regional Funds or other public funds of Regions.
123. Authorisation of expenditure from Regional Funds by appropriation.
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125. Regional Contingencies Funds.
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131. Payments to Regions related to mineral royalties.
132. Police grant.
133. Legislative powers of Regional Assemblies with respect to taxation.
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135. Local government authorities in Nairobi to levy certain taxes, etc.
136. Precepting.
137. Revenues from forests, antiquities and museums.
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139. Internal borrowing.
140. Central Housing Board and Local Government Loans Authority.
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149. Functions of National Security Council.
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151. Functions of Police Service Commission.
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153. Appointment, etc. of other members of Police Force.
154. Postings of members of Police Force.
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173. Appeals by special leave.

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195. Land vested in Government of Kenya.
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199. Acquisition of land for Kenya Government purposes, and setting apart of Trust land for Kenya Government or Regional purposes.
200. Land no longer required for Kenya Government or Regional purposes, etc.
201. Escheat.
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PART 3

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205. Interpretation.
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CHAPTER I

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Fundamental rights and freedoms of the individual.

1. Whereas every person in Kenya is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, tribe, place of origin or residence or other local connection, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely—

(*a*) life, liberty, security of the person and the protection of the law;

(*b*) freedom of conscience, of expression and of assembly and association; and

(*c*) protection for the privacy of his home and other property and from deprivation of property without compensation,

the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

Protection of right to life.

2.—(1) No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence under the law of Kenya of which he has been convicted.

(2) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use of force to such extent as is reasonably justifiable in the circumstances of the case—

(*a*) for the defence of any person from violence or for the defence of property;

(*b*) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;

(*c*) for the purpose of suppressing a riot, insurrection or mutiny; or

(*d*) in order to prevent the commission by that person of a criminal offence,

or if he dies as the result of a lawful act of war.

Protection of right to personal liberty.

3.—(1) No person shall be deprived of his personal liberty save as may be authorized by law in any of the following cases, that is to say—

(*a*) in execution of the sentence or order of a court, whether established for Kenya or some other country, in respect of a criminal offence of which he has been convicted;

(*b*) in execution of the order of the Supreme Court or the Court of Appeal for Kenya or any court on which jurisdiction is conferred under section 166 of this Constitution punishing him for contempt of any such court or of another court or tribunal;

(*c*) in execution of the order of a court made to secure the fulfilment of any obligation imposed on him by law;

(*d*) for the purpose of bringing him before a court in execution of the order of a court;

(*e*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law of Kenya;

(*f*) in the case of a person who has not attained the age of eighteen years, for the purpose of his education or welfare;

(*g*) for the purpose of preventing the spread of an infectious or contagious disease;

(*h*) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community;

(*i*) for the purpose of preventing the unlawful entry of that person into Kenya, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Kenya or for the purpose of restricting that person while he is being conveyed through Kenya in the course of his extradition or removal as a convicted prisoner from one country to another; or

(*j*) to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within Kenya or prohibiting him from being within such an area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person relating to the making of any such order, or to such extent as may be reasonably justifiable for restraining that person during any visit that he is permitted to make to any part of Kenya in which, in consequence of any such order, his presence would otherwise be unlawful.

(2) Any person who is arrested or detained shall be informed as soon as reasonably practicable, in a language that he understands, of the reasons for his arrest or detention.

(3) Any person who is arrested or detained—

(*a*) for the purpose of bringing him before a court in execution of the order of a court; or

(*b*) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence,

and who is not released, shall be brought before a court as soon as is reasonably practicable, and where he is not brought before a court within twenty-four hours of his arrest or from the commencement of his detention, the burden of proving that the person arrested or detained has been brought before a court as soon as is reasonably practicable shall rest upon any person alleging that the provisions of this subsection have been complied with.

(4) Where any person is brought before a court in execution of the order of a court in any proceedings or upon suspicion of his having committed or being about to commit an offence, he shall not be thereafter further held in custody in connection with those proceedings or that offence save upon the order of a court.

(5) If any person arrested or detained as mentioned in paragraph (*b*) of subsection (3) of this section is not tried within a reasonable time,

then, without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

(6) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that other person.

Protection from slavery and forced labour.

4.—(1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

(3) For the purposes of this section, the expression "forced labour" does not include—

(*a*) any labour required in consequence of the sentence or order of a court;

(*b*) labour required of any person while he is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place at which he is detained;

(*c*) any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a naval, military or air force, any labour that that person is required by law to perform in place of such service;

(*d*) any labour required during any period when Her Majesty is at war or a declaration of emergency under section 17 of this Constitution is in force or in the event of any other emergency or calamity that threatens the life or well-being of the community, to the extent that the requiring of such labour is reasonably justifiable, in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation; or

(*e*) any labour reasonably required as part of reasonable and normal communal or other civic obligations.

Protection from inhuman treatment.

5.—(1) No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the infliction of any description of punishment that was lawful in Kenya immediately before the coming into operation of this Constitution.

Protection from deprivation of property.

6.—(1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the following conditions are satisfied, that is to say—

(*a*) the taking of possession or acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development or utilisation of any property in such manner as to promote the public benefit; and

(*b*) the necessity therefor is such as to afford reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property; and

(*c*) provision is made by a law applicable to that taking of possession or acquisition for the prompt payment of full compensation.

(2) Every person having an interest or right in or over property which is compulsorily taken possession of or whose interest in or right over any property is compulsorily acquired shall have a right of direct access to the Supreme Court for—

(*a*) the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right, and the amount of any compensation to which he is entitled; and

(*b*) the purpose of obtaining prompt payment of that compensation:

Provided that if the Central Legislature so provides in relation to any matter referred to in paragraph (*a*) of this subsection the right of access shall be by way of appeal (exercisable as of right at the instance of the person having the right or interest in the property) from a tribunal or authority, other than the Supreme Court, having jurisdiction under any law to determine that matter.

(3) No person who is entitled to compensation under this section shall be prevented from remitting, within a reasonable time after he has received any amount of that compensation, the whole of that amount (free from any deduction, charge or tax made or levied in respect of its remission) to any country of his choice outside Kenya.

(4) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (3) of this section to the extent that the law in question authorises—

(*a*) the attachment, by order of a court, of any amount of compensation to which a person is entitled in satisfaction of the judgment of a court or pending the determination of civil proceedings to which he is a party; or

(*b*) the imposition of reasonable restrictions on the manner in which any amount of compensation is to be remitted.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) or subsection (2) of this section—

(*a*) to the extent that the law in question makes provision for the taking of possession or acquisition of any property—

(i) in satisfaction of any tax, duty, rate, cess or other impost;

(ii) by way of penalty for breach of the law, whether under civil process or after conviction of a criminal offence under the law of Kenya;

(iii) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge or contract;

(iv) in the execution of judgments or orders of a court in proceedings for the determination of civil rights or obligations;

(v) in circumstances where it is reasonably necessary so to do because the property is in a dangerous state or injurious to the health of human beings, animals or plants;

(vi) in consequence of any law with respect to the limitation of actions; or

(vii) for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, for the purposes of the carrying out thereon of work of soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement (being work relating to such development or improvement that the owner or occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out),

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society; or

(*b*) to the extent that the law in question makes provision for the taking of possession or acquisition of—

(i) enemy property;

(ii) property of a deceased person, a person of unsound mind or a person who has not attained the age of eighteen years, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;

(iii) property of a person adjudged bankrupt or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the bankrupt or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or

(iv) property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.

(6) Nothing contained in or done under the authority of any law made by the Central Legislature shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision for the compulsory taking possession of any property or the compulsory acquisition of any interest in or right over property where that property, interest or right is vested in a body corporate, established by law for public purposes, in which no moneys have been invested other than moneys provided by the Central Legislature; and nothing contained in or done under the authority of any law made by a Regional Assembly shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision for the compulsory taking possession of any property or the compulsory acquisition of any interest in or right over any property where the property, interest or right is vested in a body corporate, established by law for public purposes, in which no moneys have been invested other than moneys provided by that Regional Assembly.

Protection against arbitrary search or entry.

7.—(1) Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

(*a*) that is reasonably required in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development and utilisation of mineral resources, or the development or utilisation of any other property in such a manner as to promote the public benefit;

(*b*) that is reasonably required for the purpose of promoting the rights or freedoms of other persons;

(*c*) that authorises an officer or agent of the Government of Kenya, or of a Region, or of the East African Common Services Organization, or of a local government authority or of a body corporate established by law for public purposes to enter on the premises of any person in order to inspect those premises or anything thereon for the purpose of any tax, rate or due or in order to carry out work connected with any property that is lawfully on those premises and that belongs to that Government, Region, Organization, authority or body corporate, as the case may be; or

(*d*) that authorises, for the purpose of enforcing the judgment or order of a court in any civil proceedings, the entry upon any premises by order of a court,

and except so far as that provision or, as the case may be, anything done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Provisions to secure protection of law.

8.—(1) If any person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Every person who is charged with a criminal offence—

(*a*) shall be presumed to be innocent until he is proved or has pleaded guilty;

(*b*) shall be informed as soon as reasonably practicable, in a language that he understands and in detail, of the nature of the offence charged;

(*c*) shall be given adequate time and facilities for the preparation of his defence;

(*d*) shall be permitted to defend himself before the court in person or by a legal representative of his own choice;

(*e*) shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before the court and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and

(*f*) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge,

and except with his own consent the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence.

(3) When a person is tried for any criminal offence, the accused person or any person authorized by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgment a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(4) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.

(5) No person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

(6) No person shall be tried for a criminal offence if he shows that he has been pardoned for that offence.

(7) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

(8) No person shall be convicted of a criminal offence unless that offence is defined, and the penalty therefor is prescribed, in a written law:

Provided that nothing in this subsection shall prevent a court from punishing any person for contempt notwithstanding that the act or omission constituting the contempt is not defined in a written law and the penalty therefor is not so prescribed.

(9) Any court or other adjudicating authority prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other adjudicating authority, the case shall be given a fair hearing within a reasonable time.

(10) Except with the agreement of all the parties thereto, all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other adjudicating authority, including the announcement of the decision of the court or other authority, shall be held in public.

(11) Nothing in subsection (10) of this section shall prevent the court or other adjudicating authority from excluding from the proceedings persons other than the parties thereto and their legal representatives to such extent as the court or other authority—

(*a*) may by law be empowered to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory proceedings or in the interests of public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings; or

(*b*) may by law be empowered or required to do in the interests of defence. public safety or public order.

(12) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of—

(*a*) subsection (2) (*a*) of this section to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;

(*b*) subsection (2) (*d*) of this section to the extent that the law in question prohibits legal representation before an African Court or before any court or authority hearing appeals from such a court;

(*c*) subsection (2) (*e*) of this section to the extent that the law in question imposes conditions that must be satisfied if witnesses called to testify on behalf of an accused person are to be paid their expenses out of public funds; or

(*d*) subsection (5) of this section to the extent that the law in question authorizes a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law.

(13) In the case of any person who is held in lawful detention, the provisions of subsection (1), paragraphs (*d*) and (*e*) of subsection (2) and subsection (3) of this section shall not apply in relation to his trial for a criminal offence under the law regulating the discipline of persons held in such detention.

(14) Nothing contained in subsection (2) (*d*) of this section shall be construed as entitling a person to legal representation at public expense.

(15) In this section "criminal offence" means a criminal offence under the law of Kenya.

(16) Subsection (8) of this section shall come into effect at the expiration of a period of three years from the coming into operation of this Constitution.

Protection of freedom of conscience.

9.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) Every religious community shall be entitled, at its own expense, to establish and maintain places of education and to manage any place of education which it wholly maintains; and no such community shall be prevented from providing religious instruction for persons of that community in the course of any education provided at any place of education which it wholly maintains or in the course of any education which it otherwise provides.

(3) Except with his own consent (or, if he is a minor, the consent of his guardian), no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than his own.

(4) No person shall be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision which is reasonably required—

(*a*) in the interests of defence, public safety, public order, public morality or public health ; or

(*b*) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practise any religion without the unsolicited intervention of members of any other religion,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

(6) References in this section to a religion shall be construed as including references to a religious denomination, and cognate expressions shall be construed accordingly.

Protection of freedom of expression.

10.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

(*a*) that is reasonably required in the interests of defence, public safety, public order, public morality or public health ; or

(*b*) that is reasonably required for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the ccurts or regulating the technical administration or the technical operation of telephony, telegraphy, posts, wireless broadcasting or television ; or

(*c*) that imposes restrictions upon public officers,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection of freedom of assembly and association.

11.—(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to trade unions or other associations for the protection of his interests.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

(*a*) that is reasonably required in the interests of defence, public safety, public order, public morality or public health ; or

(*b*) that is reasonably required for the purpose of protecting the rights or freedoms of other persons ; or

(*c*) that imposes restrictions upon public officers,

and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection of freedom of movement.

12.—(1) No person shall be deprived of his freedom of movement, that is to say, the right to move freely throughout Kenya, the right to reside in any part of Kenya, the right to enter Kenya, the right to leave Kenya and immunity from expulsion from Kenya.

(2) Any restriction on a person's freedom of movement that is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this section.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision—

(*a*) for the imposition of restrictions on the movement or residence within Kenya of any person or on any person's right to leave Kenya that are reasonably required in the interests of defence, public safety or public order ;

(*b*) for the imposition of restrictions on the movement or residence within Kenya or on the right to leave Kenya of persons generally or any class of persons that are reasonably required in the interests of defence, public safety, public order, public morality, public health or the protection or control of nomadic peoples and except so far as that provision or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society ;

(*c*) for the imposition of restrictions, by order of a court, on the movement or residence within Kenya of any person or on any person's right to leave Kenya either in consequence of his having been found guilty of a criminal offence under the law of Kenya or for the purpose of ensuring that he appears before a court at a later date for trial of such a criminal offence or for proceedings preliminary to trial or for proceedings relating to his extradition or lawful removal from Kenya ;

(*d*) for the imposition of restrictions on the freedom of movement of any person who does not belong to Kenya ;

(*e*) for the imposition or restrictions on the acquisition or use by any person of land or other property in Kenya ;

(*f*) for the imposition by the Government of Kenya of restrictions upon the movement or residence within Kenya or on the right to leave Kenya of any person who holds or is acting in any office in the public service of that Government or for the imposition by a Region of restrictions upon the movement or residence within Kenya or on the right to leave Kenya of any person who holds or is acting in an office in the public service of that Region ;

(*g*) for the removal of a person from Kenya to be tried or punished in some other country for a criminal offence under the law of that other country or to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence under the law of Kenya of which he has been convicted ; or

(*h*) for the imposition of restrictions on the right of any person to leave Kenya that are reasonably required in order to secure the fulfilment of any obligations imposed on that person by law and except so far as that provision, or as the case may be, the thing done under the authority thereof, is shown not to be reasonably justifiable in a democratic society.

(4) If any person whose freedom of movement has been restricted by virtue of such a provision as is referred to in subsection (3) (*a*) of this section so requests at any time during the period of that restriction not earlier than three months after the order was made or three months after he last made such request, as the case may be, his case shall be reviewed by an independent and impartial tribunal presided over by a person appointed by the Chief Justice from among persons qualified to be appointed as a judge of the Supreme Court.

(5) On any review by a tribunal in pursuance of subsection (4) of this section of the case of any person whose freedom of movement has been restricted, the tribunal may make recommendations concerning the necessity or expediency of continuing that restriction to the authority by whom it was ordered and, unless it is otherwise provided by law, that authority shall be obliged to act in accordance with any such recommendations.

(6) Until it is otherwise provided by a law made by the Regional Assembly of a Region nothing in this section shall affect the operation in that Region of the Outlying Districts Ordinance(a) or the Special Districts (Administration) Ordinance(b) or any law amending or replacing either of those Ordinances :

Provided that no law amending or replacing either of those Ordinances shall impose, or authorise the imposition of, restrictions on the rights guaranteed by this section greater than the restrictions on those rights in force under that Ordinance immediately before the coming into operation of this Constitution and no such restriction shall be imposed under either of those Ordinances, or by or under any such law as aforesaid, in or in respect of any area other than an area in or in respect of which a restriction was in force under that Ordinance immediately before the coming into operation of this Constitution.

Protection from discrimination on the grounds of race, etc.

13.—(1) Subject to the provisions of subsections (4), (5) and (8) of this section, no law shall make any provision that is discriminatory either of itself or in its effect.

(2) Subject to the provisions of subsections (6), (8) and (9) of this section, no persons shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

(3) In this section, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, tribe, place of origin or residence or other local connection, political opinions, colour or creed whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.

(a) Revised Laws of Kenya 1962, c. 104.
(b) Revised Laws of Kenya 1962, c. 105.

(4) Subsection (1) of this section shall not apply to any law so far as that law makes provision—

(*a*) with respect to persons who do not belong to Kenya ;

(*b*) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law ; or

(*c*) for the application in the case of members of a particular race or tribe of customary law with respect to any matter to the exclusion of any law with respect to that matter which is applicable in the case of other persons ; or

(*d*) whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) of this section to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to race, tribe, place of origin or residence or other local connection, political opinion, colour or creed) to be required of any person who is appointed to any office in the public service of the Government of Kenya or of any Region, any office in a disciplined force, any office in the service of a local government authority or any office in a body corporate established by any law for public purposes.

(6) Subsection (2) of this section shall not apply to—

(*a*) anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (4) of this section ;

(*b*) any direction given by the Chairman of the Finance and Establishlishments committee of a Regional Assembly under section 178 (8) of this Constitution or any treatment afforded to any person by reason only of any such direction ;

(*c*) any prescription of standards or qualifications (not being standards or qualifications specifically relating to race, tribe, place of origin or residence or other local connection, political opinion, colour or creed) made by a Public Service Commission under section 178 (9) of this Constitution or any treatment afforded to any person by reason only of such a prescription or by reason only of any such provision of law as is referred to in subsection (5) of this section ; or

(*d*) the giving or withholding of consent to a transaction in agricultural land (other than land situated in the areas to which section 188 of this Constitution applies) by a Divisional Land Control Board or a county council (or some other local government authority for the time being specified in pursuance of section 192 (2) of this Constitution) or any committee thereof under Part 3 of Chapter XI of this Constitution.

(7) Subject to the provisions of subsection (8) of this section, no person shall be treated in a discriminatory manner in respect of access to shops, hotels, lodging-houses, public restaurants, eating-houses, beer halls or places of public entertainment or in respect of access to places of public resort maintained wholly or partly out of public funds or dedicated to the use of the general public.

(8) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) of this section may be subjected to any restriction on the rights and freedoms guaranteed by sections 7, 9, 10, 11 and 12 of this Constitution, being such a restriction as is authorised by section 7 (2), section 9 (5), section 10 (2), section 11 (2), or paragraph (*a*) or paragraph (*b*) of section 12 (3), as the case may be.

(9) Nothing in subsection (2) of this section shall affect any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person by or under this Constitution or any other law.

Derogation from fundamental rights and freedoms.

14.—(1) Nothing contained in or done under the authority of a law enacted by any legislature in Kenya shall be held to be inconsistent with or in contravention of section 3 or section 13 of this Constitution to the extent that the law authorises the taking during any period when Her Majesty is at war or when a declaration of emergency under section 17 of this Constitution is in force of measures that are reasonably justifiable for dealing with the situation that exists in Kenya during that period.

(2) Nothing contained in or done under the authority of regulations made under the Emergency Powers Order in Council 1939(a), as from time to time amended, or under section 3 (2) or section 4 (2) of the Preservation of Public Security Ordinance(b) shall be held to be inconsistent with or in contravention of section 3, section 4 (2), section 9, section 10, section 11, section 12 or section 13 of this Constitution to the extent that the regulation in question authorises the taking during any period when Part II of that Order in Council or, as the case may be, section 3 (2) or section 4 (2) of that Ordinance is in operation, of measures that are reasonably justifiable to deal with the situation that exists in Kenya during that period.

Protection of persons detained under emergency laws.

15.—(1) Where a person is detained by virtue of such a law as is referred to in section 14 of this Constitution the following provisions shall apply, that is to say:—

(*a*) he shall, as soon as reasonably practicable and in any case not more than five days after the commencement of his detention, be furnished with a statement in writing in a language that he understands specifying in detail the grounds upon which he is detained;

(*b*) not more than fourteen days after the commencement of his detention, a notification shall be published in the Kenya Gazette and in the Regional Gazette of any Region in which he is detained stating that he has been detained and giving particulars of the provision of law under which his detention is authorised;

(*c*) not more than one month after the commencement of his detention and thereafter during his detention at intervals of not more than six months, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among persons qualified to be appointed as a judge of the Supreme Court;

(a) *See* S.I. 1952 I, at p. 621. (b) Revised Laws of Kenya 1962, c. 57.

(*d*) he shall be afforded reasonable facilities to consult a legal representative of his own choice who shall be permitted to make representations to the tribunal appointed for the review of the case of the detained person; and

(*e*) at the hearing of his case by the tribunal appointed for the review of his case he shall be permitted to appear in person or by a legal representative of his own choice.

(2) On any review by a tribunal in pursuance of this section of the case of a detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his detention to the authority by which it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

(3) Nothing contained in subsection (1) (*d*) or subsection (1) (*e*) of this section shall be construed as entitling a person to legal representation at public expense.

Enforcement of protective provisions.

16.—(1) Subject to the provisions of subsection (6) of this section, if any person alleges that any of the provisions of sections 1 to 15 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person), then, without prejudice to any other action with respect to the same matter which is lawfully available, that person (or that other person) may apply to the Supreme Court for redress.

(2) The Supreme Court shall have original jurisdiction—

(*a*) to hear and determine any application made by any person in pursuance of subsection (1) of this section;

(*b*) to determine any question arising in the case of any person which is referred to it in pursuance of subsection (3) of this section,

and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of sections 1 to 15 (inclusive) of this Constitution.

(3) If in any proceedings in any subordinate court any question arises as to the contravention of any of the provisions of sections 1 to 15 (inclusive) of this Constitution, the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the Supreme Court unless, in his opinion, the raising of the question is merely frivolous or vexatious.

(4) Where any question is referred to the Supreme Court in pursuance of subsection (3) of this section, the Supreme Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if that decision is the subject of an appeal under section 170 of this Constitution to the Court of Appeal for Kenya or (whether mediately or direct) to Her Majesty in Council, in accordance with the decision of the Court of Appeal for Kenya or, as the case may be, of Her Majesty in Council.

(5) The Central Legislature may confer upon the Supreme Court such powers in addition to those conferred by this section as may appear to be necessary or desirable for the purpose of enabling that

court more effectively to exercise the jurisdiction conferred upon it by this section.

(6) The Chief Justice may make rules with respect to the practice and procedure of the Supreme Court in relation to the jurisdiction and powers conferred on it by or under this section.

Declaration of emergency.

17.—(1) The Governor may, by proclamation published in the Kenya Gazette, declare that a state of emergency exists for the purposes of this Chapter.

(2) Subject to the provisions of subsections (3) and (4) of this section, no declaration of emergency shall be made under this section except with the prior authority of a resolution of either House of the National Assembly supported by the votes of sixty-five per cent. of all the members of that House, and every declaration of emergency shall lapse at the expiration of seven days, commencing with the day on which it was made, unless it has in the meantime been approved by a resolution of the other House supported by the vote of sixty-five per cent. of all the members of that House.

(3) A declaration of emergency under this section may be made without the prior authority of a resolution of a House of the National Assembly at a time when the Central Legislature stands prorogued or when both Houses of the National Assembly stand adjourned, but every declaration of emergency so made shall lapse at the expiration of seven days, commencing with the day on which it was made, unless it has in the meantime been approved by a resolution of each House of the National Assembly supported by the votes of sixty-five per cent. of all the members of that House.

(4) A declaration of emergency under this section may be made without the prior authority of a resolution of a House of the National Assembly at any time when the Central Legislature stands dissolved but any declaration of emergency so made shall lapse at the expiration of seven days, commencing with the day on which it was made, unless it has in the meantime been approved by a resolution of the Senate supported by the votes of sixty-five per cent. of all the Senators.

(5) A declaration of emergency under this section made with the prior authority of a resolution of a House of the National Assembly in accordance with subsection (2) of this section and subsequently approved by a resolution of the other House in accordance with that subsection and a declaration of emergency approved by a resolution of each House in accordance with subsection (3) of this section may at any time be revoked by the Governor by notice published in the Kenya Gazette but shall otherwise remain in force so long as those resolutions remain in force and no longer.

(6) Subject to the provisions of subsection (8) of this section, a resolution of a House of the National Assembly passed for the purposes of this section shall remain in force for two months or such shorter period as may be specified therein:

Provided that any such resolution may be extended from time to time for a further period by a resolution supported by the votes of sixty-five per cent. of all the members of the House concerned, each extension not exceeding two months from the date of the resolution effecting the extension; and any such resolution may be revoked at any time by a resolution supported by the votes of a majority of all the members of the House.

(7) A declaration of emergency under this section approved by a resolution of the Senate in accordance with subsection (4) of this section may at any time be revoked by the Governor by notice published in the Kenya Gazette but shall otherwise remain in force as long as that resolution remains in force and for so long thereafter as there are in force resolutions of each House of the National Assembly passed with the support of the votes of sixty-five per cent. of all the members of that House while that resolution of the Senate is still in force and approving that resolution of the Senate.

(8) A resolution of the Senate passed in accordance with subsection (4) of this section shall remain in force for two months or such shorter period as may be specified therein:

Provided that—

(*a*) so long as the Central Legislature stands dissolved any such resolution may be extended from time to time for a further period by a resolution of the Senate supported by the votes of sixty-five per cent. of all the Senators, each extension not exceeding two months from the date of the resolution effecting the extension; and

(*b*) any such resolution may at any time be revoked by a resolution supported by the votes of a majority of all the Senators.

(9) The Governor may summon the Senate to meet for the purposes of this section notwithstanding that the Central Legislature then stands dissolved but, subject to the provisions of section 34 (5) of this Constitution (which relates to the election of a Speaker of the Senate), the Senate shall not, when so summoned, transact any business other than debating and voting upon resolutions for the purposes of this section.

Interpretation and savings.

18.—(1) In this Chapter, unless the context otherwise requires—

"contravention", in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;

"court" means any court of law having jurisdiction in Kenya other than a court established by a disciplinary law, and includes Her Majesty in Council and, in sections 2 and 4 of this Constitution, a court established by a disciplinary law;

"disciplinary law" means a law regulating the discipline of any disciplined force;

"disciplined force" means—

(*a*) a naval, military or air force;

(*b*) the Police Force; or

(*c*) a prison service;

"legal representative" means a person entitled to practise as an advocate in Kenya; and

"member", in relation to a disciplined force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline.

(2) For the purposes of this Chapter a person shall be deemed to belong to Kenya if, under the Immigration Ordinance(a) or under any law amending or replacing that Ordinance, he for the time being holds or

(a) Revised Laws of Kenya 1962, c. 172.

is entitled to be granted a resident's certificate or if he would for the time being be entitled to be granted such a certificate under that Ordinance if it were then in force in the form in which it was in force immediately before the coming into operation of this Constitution.

(3) In relation to any person who is a member of a disciplined force raised under a law made by any legislature in Kenya, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter other than sections 2, 4 and 5.

(4) In relation to any person who is a member of a disciplined force raised otherwise than as aforesaid and lawfully present in Kenya, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

CHAPTER II

THE GOVERNOR AND THE DEPUTY GOVERNOR

Establishment of office of Governor.

19. There shall be a Governor and Commander-in-Chief who shall be appointed by Her Majesty and shall hold office during Her Majesty's pleasure.

Oaths to be taken by Governor.

20. A person appointed to the office of Governor shall, before entering upon that office, take and subscribe the oath of allegiance and such oath for the due execution of his office as may be prescribed by the Central Legislature.

Powers and duties of Governor.

21. The Governor shall have such functions as may be conferred upon him by or under this Constitution or any other law and such other functions as Her Majesty may assign to him and, subject to the provisions of this Constitution and, in the case of functions conferred upon him by any other law, subject to the provisions of that law or any law amending that law, shall exercise all the functions of his office (including any functions that are expressed to be exercisable by him in his discretion) according to such instructions as Her Majesty may give him:

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

Establishment of office of Deputy Governor.

22.—(1) There shall be a Deputy Governor who shall be appointed by the Governor in pursuance of instructions given by Her Majesty through a Secretary of State and who shall hold office during Her Majesty's pleasure.

(2) If the office of Deputy Governor is vacant or the Deputy Governor in administering the government of Kenya or is for any reason unable to exercise the functions of his office, the Governor, acting in his discretion, may appoint a person to act as Deputy Governor and that person shall continue to act until his appointment is revoked by the Governor, acting in his discretion.

Succession to government.

23.—(1) Whenever the office of Governor is vacant or the Governor is absent from Kenya or is for any other reason unable to exercise the functions of his office—

(*a*) the Deputy Governor; or

(*b*) if the office of Deputy Governor is vacant or the Deputy Governor is absent from Kenya or is for any other reason unable to exercise the functions of the office of Governor, such person as Her Majesty may designate by Instructions given under Her Sign Manual and Signet or through a Secretary of State

shall, during Her Majesty's pleasure, exercise the functions of the office of Governor and administer the government of Kenya accordingly.

(2) Before assuming the administration of the government of Kenya, the Deputy Governor or any person designated under subsection (1) (*b*) of this section shall take and subscribe the oath of allegiance and such oath for the due execution of the office of Governor as may be prescribed by the Central Legislature.

(3) The Deputy Governor shall not continue to administer the government if the Governor has notified him that he is about to assume or resume the administration of the government, and the person designated under subsection (1) (*b*) of this section shall not continue to administer the government if the Governor or Deputy Governor has so notified him.

(4) If the Governor or, in the case where the Deputy Governor is exercising the functions of the office of Governor under subsection (1) of this section, the Deputy Governor has occasion to be absent from Kenya for a period which in his opinion will be of short duration, he may, acting in his discretion, direct by notice published in the Kenya Gazette that, notwithstanding his absence from Kenya, he will continue to administer the government of Kenya.

(5) For the purposes of subsection (1) of this section—

(*a*) the Governor or the Deputy Governor shall not be regarded as absent from Kenya or as unable to exercise the functions of the office of Governor by reason of the fact that he is in passage from one part of Kenya to another;

(*b*) the Governor shall not be regarded as absent from Kenya so long as any direction given by him under subsection (4) of this section is in force; and

(*c*) when the Deputy Governor is exercising the functions of the office of Governor under subsection (1) of this section, he shall not be regarded as absent from Kenya so long as any direction given by him under subsection (4) of this section is in force.

(6) In this section "the Governor" means the person holding the office of Governor and "the Deputy Governor" means the person holding the office of Deputy Governor.

Exercise of Governor's functions by Deputy Governor.

24.—(1) The Governor, acting in his discretion, may, by writing under his hand, authorise the Deputy Governor to exercise on his behalf and subject to such exceptions as, acting in his discretion, he may specify any or all of the functions of the office of Governor.

(2) The powers and authority of the Governor shall not be affected by any authority given to the Deputy Governor under subsection (1)

of this section otherwise than as Her Majesty may direct, and the Deputy Governor shall comply with such instruction relating to the exercise by him of any of the functions of the office of Governor as the Governor, acting in his discretion, may give him:

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

(3) Any authority given under subsection (1) of this section may at any time be varied or revoked by Her Majesty by instructions through a Secretary of State or by the Governor by writing under his hand.

(4) In this section "the Governor" means the person holding the office of Governor and includes any person exercising the functions of that office under section 23 of this Constitution and "the Deputy Governor" means the person holding the office of Deputy Governor and includes any person appointed to act as Deputy Governor.

(5) In subsection (1) of this section the reference to the functions of the office of Governor does not include a reference to any functions 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 the Order in Council to which this Constitution is scheduled, the Emergency Powers Order in Council 1939(a) and any Order amending or replacing either of those Orders.

CHAPTER III

CENTRAL LEGISLATURE

PART 1

Composition of Central Legislature

Establishment of Central Legislature.

25.—(1) There shall be a Central Legislature which shall consist of Her Majesty and a National Assembly.

(2) The National Assembly shall comprise two Houses, that is to say, a Senate and a House of Representatives.

Composition of Senate.

26. The Senate shall consist of 41 Senators, elected in accordance with the provisions of section 27 of this Constitution.

Election of Senators.

27.—(1) Kenya shall be divided into 40 Districts and the Nairobi Area; and each District and the Nairobi Area shall elect one Senator in such manner as, subject to the provisions of this Constitution, may be prescribed by or under any law.

(2) The boundaries of the Nairobi Area shall be those that are specified in Part II of Schedule 1 of this Constitution, and, subject to the provisions of section 227 of this Constitution, the Districts shall be those that are specified in Part III of that Schedule and that have the respective boundaries that are there specified.

(3) The qualifications and disqualifications for registration as a voter in elections to the Senate shall be as set out in Part I of Schedule 2 of this Constitution.

(a) See S.I. 1952 I, at p. 621.

(4) Every person who is registered in any District or in the Nairobi Area as a voter in elections to the Senate shall, unless he is disqualified by the Central Legislature from voting in such elections on the grounds of his having been convicted of an offence connected with elections or on the grounds of his having been reported guilty of such an offence by the court trying an election petition, be entitled so to vote in that District or, as the case may be, in the Nairobi Area in accordance with the provisions of any law in that behalf; and no other person may so vote.

(5) The registration of voters in elections to the Senate and the conduct of such elections shall be subject to the direction and supervision of the Electoral Commission.

Composition of House of Representatives.

28. The House of Representatives shall consist of Elected Members elected in accordance with the provisions of section 29 of this Constitution and Specially Elected Members elected in accordance with the provisions of section 30 of this Constitution.

Election of Elected Members of House of Representatives.

29.—(1) Kenya shall, in accordance with the provisions of section 40 of this Constitution, be divided into constituencies and each constituency shall elect one Elected Member to the House of Representatives in such manner as, subject to the provisions of this Constitution, may be prescribed by or under any law.

(2) The qualifications and disqualifications for registration as a voter in elections of Elected Members to the House of Representatives shall be as set out in Part II of Schedule 2 of this Constitution.

(3) Every person who is registered in any constituency as a voter in elections of Elected Members to the House of Representatives shall, unless he is disqualified by the Central Legislature from voting in such elections on the grounds of his having been convicted of an offence connected with elections or on the grounds of his having been reported guilty of such an offence by the court trying an election petition, be entitled so to vote in that constituency in accordance with the provisions of any law in that behalf; and no other person may so vote.

(4) The registration of voters in elections of Elected Members to the House of Representatives and the conduct of such elections shall be subject to the direction and supervision of the Electoral Commission.

Election of Specially Elected Members of House of Representatives.

30.—(1) The number of Specially Elected Members of the House of Representatives shall be the number which results from dividing the number of seats of Elected Members of that House by ten or, if that result is not a whole number, the whole number next greater than that result.

(2) The Specially Elected Members of the House of Representatives shall be elected by the Elected Members of that House in accordance with the provisions of Schedule 3 of this Constitution.

Qualifications for election to National Assembly.

31.—(1) Subject to the provisions of subsection (2) of this section and of section 32 of this Constitution, a person shall be qualified to be elected as a member of either House of the National Assembly if, and shall not be so qualified unless, at the date of his nomination for election, he—

(*a*) is a British subject or a British protected person who has attained the age of twenty-one years; and

(*b*) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language well enough to take an active part in the proceedings of the National Assembly.

(2) A person shall not be qualified to be elected in any District or in the Nairobi Area as a Senator unless, at the date of his nomination for election, he is registered in that District or, as the case may be, in the Nairobi Area as a voter in elections to the Senate; and a person shall not be qualified to be elected as a member of the House of Representatives unless, at the said date, he is registered in some constituency as a voter in elections of Elected Members to the House of Representatives.

Disqualifications for election to National Assembly.

32.—(1) No person shall be qualified to be elected as a member of either House of the National Assembly who, at the date of his nomination for election—

(*a*) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to any foreign power or state; or

(*b*) is under sentence of death imposed on him by any court in Kenya; or

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

(*d*) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Kenya; or

(*e*) subject to such exceptions and limitations as may be prescribed by the Central Legislature, has any such interest in any such government contract as may be so prescribed; or

(*f*) is a public officer; or

(*g*) holds or is acting in any office of emolument in the service of a local government authority.

(2) The Central Legislature may provide that a person who, at the date of his nomination for election, holds or is acting in any office that is specified by the Central Legislature and the functions of which involve responsibility for, or in connection with, the conduct of any election to the Senate or the compilation of any register of voters for the purposes of such an election shall not be qualified to be elected as a Senator and may provide that a person who holds or is acting in any office that is specified by the Central Legislature and the functions of which involve responsibility for, or in connection with, the conduct of any election to the House of Representatives or the compilation of any register of voters for the purposes of such an election shall not be qualified to be elected as a member of the House of Representatives.

(3) The Central Legislature may provide that a person who is convicted by any court of any offence that is prescribed by the Central Legislature and that is connected with the election of members of either House of the National Assembly or of a Regional Assembly or of a local government authority or who is reported guilty of such an offence by the court trying an election petition shall not be qualified to be nominated for election as a member of either House of the National Assembly for such period (not exceeding five years) following his conviction or, as the case may be, following the report of the court as may be so prescribed.

(4) The Central Legislature may provide that any office shall be deemed not to be a public office for the purposes of subsection (1) (*f*) of this section or that any office shall, for the purposes of subsection (1) (*g*) of this section, be deemed not to be such an office as is referred to in the said subsection (1) (*g*).

(5) No person shall be qualified to be elected as a Senator who, at the date of his nomination for election as a Senator, is, or is nominated for election as, a member of the House of Representatives ; and no person shall be qualified to be elected as a member of the House of Representatives who, at the date of his nomination for election as such a member, is, or is nominated for election as, a Senator.

(6) No person shall be qualified to be elected as an Elected Member of the House of Representatives who, at the date of his nomination for election as such a Member, is a Specially Elected Member of that House; and no person shall be qualified to be elected as a Specially Elected Member of the House of Representatives who, at the date of his nomination for election as such a Member, is an Elected Member of that House or who has, at any time since the Central Legislature was last dissolved, stood as a candidate for election as an Elected Member of that House but was not elected.

(7) In subsection (1) (*e*) of this section, "government contract" means any contract made with the Government of Kenya or with a department of that Government or with an officer of that Government contracting as such.

Tenure of seats of members of National Assembly.

33.—(1) A member of either House of the National Assembly shall vacate his seat therein—

(*a*) if he ceases to be a British subject or ceases to be a British protected person without becoming a British subject; or

(*b*) if any circumstances arise that, if he were not a member of that House, would cause him to be disqualified to be elected as such under section 32 (1) of this Constitution or under any law made in pursuance of section 32 (2) or section 32 (3) of this Constitution.

(2) The Central Legislature may, in order to permit any member of either House of the National Assembly who has been sentenced to death, adjudged or declared to be of unsound mind, adjudged or declared bankrupt or convicted or reported guilty of any offence prescribed under section 32 (3) of this Constitution to appeal against the decision in accordance with any law, provide that, subject to such conditions as may be prescribed by the Central Legislature, the decision shall not have effect for the purposes of this section until such time as may be so prescribed.

(3) A Senator shall vacate his seat at the expiration of six years beginning with the date of the return of the first writ to be returned at the general election of Senators at which he was elected, and his term of office shall not be affected by the dissolution of the Central Legislature:

Provided that—

(*a*) a Senator who was elected to replace a Senator who has died or ceased to be a Senator before the expiration of his term of office shall vacate his seat at the expiration of the remainder of that term; and

(*b*) a Senator who was elected to fill a vacancy that was left unfilled at a general election shall vacate his seat on the date on which he would have vacated it if he had been elected at that general election.

Speaker of Senate.

34.—(1) There shall be a Speaker of the Senate who shall be elected by the Senate from among the persons who are Senators or are qualified to be elected as such.

(2) A person shall not be elected as Speaker unless he is supported by the votes of two-thirds of all the Senators, and if no candidate is supported by the votes of two-thirds of all the Senators, a further ballot shall be held:

Provided that, if in the second ballot no candidate is supported by the votes of two-thirds of all the Senators, the candidate who in that ballot receives the highest number of votes and the candidate who in that ballot receives the next highest number of votes shall alone stand for election in the third ballot and the candidate who receives the higher number of votes in the third ballot shall be elected.

(3) A Minister or a Parliamentary Secretary shall not be qualified to be elected as Speaker.

(4) The Speaker shall vacate his office—

(*a*) if, having been elected from among the Senators, he ceases to be a Senator; or

(*b*) in the case of a Speaker who has been elected from among persons who were not Senators, at the expiration of six years from the date of his election as Speaker; or

(*c*) if any circumstances arise that, if he were not Speaker, would disqualify him to be elected as such; or

(*d*) if he is removed from office by resolution of the Senate supported by the votes of three-quarters of all the Senators.

(5) No business shall be transacted in the Senate (other than the election of a Speaker) at any time when the office of Speaker is vacant, but this subsection shall not affect the transaction of business by any committee of the Senate.

Deputy Speaker of Senate.

35.—(1) There shall be a Deputy Speaker of the Senate who shall be elected by the Senate from among persons who are Senators other than Ministers and Parliamentary Secretaries.

(2) A person shall not be elected as Deputy Speaker unless he is supported by the votes of two-thirds of all the Senators, and if no candidate is supported by the votes of two-thirds of all the Senators, a further ballot shall be held:

Provided that, if in the second ballot no candidate is supported by the votes of two-thirds of all the Senators, the candidate who in that ballot receives the highest number of votes and the candidate who in that ballot receives the next highest number of votes shall alone stand for election in the third ballot and the candidate who receives the higher number of votes in the third ballot shall be elected.

(3) The Senate shall elect a Deputy Speaker when it first meets after the office of Deputy Speaker becomes vacant, or as soon thereafter as may be convenient.

(4) The Deputy Speaker shall vacate his office—

(*a*) if he ceases to be a Senator; or

(*b*) if he becomes a Minister or a Parliamentary Secretary; or

(*c*) if he is removed from office by resolution of the Senate supported by the votes of three-quarters of all the Senators.

Speaker of House of Representatives.

36.—(1) There shall be a Speaker of the House of Representatives who shall be elected by that House from among persons who are Elected Members thereof or who are qualified to be elected as such.

(2) A person shall not be elected as Speaker unless he is supported by the votes of two-thirds of all the members of the House of Representatives, and if no candidate is supported by the votes of two-thirds of all the members of the House, a further ballot shall be held:

Provided that, if in the second ballot no candidate is supported by the votes of two-thirds of all the members of the House, the candidate who in that ballot receives the highest number of votes and the candidate who in that ballot receives the next highest number of votes shall alone stand for election in the third ballot and the candidate who receives the higher number of votes in the third ballot shall be elected.

(3) A Minister or a Parliamentary Secretary shall not be qualified to be elected as Speaker.

(4) The Speaker shall vacate his office—

(*a*) if, having been elected from among the members of the House of Representatives, he ceases to be a member of that House otherwise than by reason of a dissolution of the Central Legislature; or

(*b*) if any circumstances arise that, if he were not Speaker, would disqualify him to be elected as such; or

(*c*) when the House of Representatives first meets after a dissolution of the Central Legislature; or

(*d*) if he is removed from office by resolution of the House of Representatives supported by the votes of three-quarters of all the members thereof.

(5) No business shall be transacted in the House of Representatives (other than the election of a Speaker or the holding of a general election of the Specially Elected Members) at any time when the office of Speaker is vacant, but this subsection shall not affect the transaction of business by any committee of the House of Representatives.

Deputy Speaker of House of Representatives.

37.—(1) There shall be a Deputy Speaker of the House of Representatives who shall be elected by that House from among persons who are Elected Members thereof other than Ministers or Parliamentary Secretaries.

(2) A person shall not be elected as Deputy Speaker unless he is supported by the votes of two-thirds of all the members of the House of Representatives, and if no candidate is supported by the votes of two-thirds of all the members of the House, a further ballot shall be held:

Provided that, if in the second ballot no candidate is supported by the votes of two-thirds of all the members of the House, the

candidate who in that ballot receives the highest number of votes and the candidate who in that ballot receives the next highest number of votes shall alone stand for election in the third ballot and the candidate who receives the higher number of votes in the third ballot shall be elected.

(3) The House of Representatives shall elect a Deputy Speaker—

(*a*) subject to the provisions of section 36 (5) of this Constitution, when it first meets after a dissolution of the Central Legislature; and

(*b*) when it first meets after the office of Deputy Speaker has become vacant otherwise than by reason of the dissolution of the Central Legislature,

or as soon thereafter as may be convenient.

(4) The Deputy Speaker shall vacate his office—

(*a*) when the House of Representatives first meets after a dissolution of the Central Legislature; or

(*b*) if he ceases to be a member of the House of Representatives otherwise than by reason of the dissolution of the Central Legislature; or

(*c*) if he becomes a Minister or a Parliamentary Secretary; or

(*d*) if he is removed from office by resolution of the House of Representatives supported by the votes of three-quarters of all the members thereof.

Clerks to Houses of National Assembly and their staff.

38.—(1) There shall be a Clerk to the Senate and a Clerk to the House of Representatives.

(2) The offices of the Clerks to the two Houses and of the members of their staffs shall be offices in the public service of the Government of Kenya.

Electoral Commission.

39.—(1) There shall be an Electoral Commission which shall consist of—

(*a*) the Speaker of the Senate, as Chairman;

(*b*) the Speaker of the House of Representatives, as Vice-Chairman;

(*c*) a member appointed by the Governor, acting in accordance with the advice of the Prime Minister;

(*d*) a member representing each Region who shall be appointed by the Governor, acting in accordance with the advice of the President of the Regional Assembly of that Region.

(2) A person shall not be qualified to be appointed as a member of the Commission if he is a Minister, a Parliamentary Secretary, a member of either House of the National Assembly, a member of a Regional Assembly or a member of a committee of a Regional Assembly or if he is a public officer.

(3) Subject to the provisions of this section, the office of an appointed member of the Commission shall become vacant—

(*a*) at the expiration of five years from the date of his appointment; or

(*b*) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified to be appointed as such.

(4) An appointed member of the Commission may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and may not be so removed except in accordance with the provisions of this section.

(5) An appointed member of the Commission shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under subsection (6) of this section and the tribunal has recommended to the Governor that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) If the Chairman or Vice-Chairman of the Commission represents to the Governor that the question of removing an appointed member of the Commission under this section 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 Chief Justice 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 the Commonwealth or a court having jurisdiction in appeals from such a court; and

(*b*) the tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to him whether the appointed member ought to be removed under this section.

(7) If the question of removing an appointed member of the Commission has been referred to a tribunal under this section, the Governor, acting after consultation with the Chairman and the Vice-Chairman of the Commission, may suspend that member from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor, acting after such consultation as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor that that member should not be removed.

(8) In the exercise of its functions under this Constitution the Commission shall not be subject to the direction or control of any other person or authority.

(9) The Commission may by regulation or otherwise regulate its own procedure and, with the consent of the Prime Minister in the case of an officer in the public service of the Government of Kenya or in the case of any authority of that Government and with the consent of the President of the Regional Assembly in the case of an officer in the public service of a Region or in the case of any authority of a Region, may confer powers or impose duties on such an officer or authority for the purpose of the discharge of its functions.

(10) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that any decision of the Commission shall require the concurrence of a majority of all the members thereof.

Constituencies.

40.—(1) For the purpose of elections of Elected Members of the House of Representatives, Kenya shall, in accordance with the provisions of this section, be divided into such number of constituencies (not being

more than 130 or less than 110) having such boundaries as may be prescribed by order made by the Electoral Commission.

(2) Subject to the provisions of section 228 of this Constitution, no constituency shall form part of more than one Region or of both the Nairobi Area and a Region.

(3) All constituencies shall contain as nearly equal numbers of inhabitants as appears to the Commission to be reasonably practicable, but the Commission may depart from this principle to such extent as it considers expedient in order to take account of—

(*a*) the density of population, and in particular the need to ensure adequate representation of urban and sparsely populated rural areas;

(*b*) the means of communication;

(*c*) geographical features;

(*d*) community of interest; and

(*e*) the boundaries of existing administrative areas.

(4) The Commission shall, at intervals of not less than eight nor more than ten years, review the number and the boundaries of the constituencies into which Kenya is divided and may, by order, alter the number or the boundaries in accordance with the provisions of this section to such extent as it considers desirable in the light of the review:

Provided that whenever a census of the population has been held in pursuance of any law the Commission may carry out such a review and make such an alteration to the extent which it considers desirable in consequence of that census.

(5) Every order made by the Commission under this section shall be published in the Kenya Gazette and shall come into effect upon the next dissolution of the Central Legislature after it was made.

(6) For the purposes of this section the number of inhabitants of any part of Kenya shall be ascertained by reference to the latest census of the population held in pursuance of any law.

Determination of questions as to membership of National Assembly.

41.—(1) The Supreme Court shall have jurisdiction to hear and determine any question whether—

(*a*) any person has been validly elected as a member of either House of the National Assembly; or

(*b*) the seat in either House of the National Assembly of a member thereof has become vacant.

(2) An application to the Supreme Court for the determination of any question under subsection (1) (*a*) of this section may be made by any person who was entitled to vote in the election to which the application relates or by the Attorney-General.

(3) An application to the Supreme Court for the determination of any question under subsection (1) (*b*) of this section may be made—

(*a*) in the case of a question relating to the seat of a Senator, by any Senator or by any person who is registered as a voter in elections to the Senate; or

(*b*) in the case of a question relating to the seat of a member of the House of Representatives, by any Elected Member of that House or by any person who is registered as a voter in elections of Elected Members of that House; or

(*c*) in either case, by the Attorney-General.

(4) The Central Legislature may make provision with respect to—

(*a*) the circumstances and manner in which and the conditions upon which any application may be made to the Supreme Court for the determination of any question under this section ; and

(*b*) the powers, practice and procedure of the Supreme Court in relation to any such application.

(5) The determination by the Supreme Court of any question under this section shall not be subject to appeal.

PART 2

Procedure in National Assembly

Oaths to be taken by members of National Assembly.

42.—(1) Every member of either House of the National Assembly shall, before taking his seat in that House, take and subscribe the oath of allegiance before the House, but a member may before taking and subscribing that oath take part in the election of the Speaker of the House.

(2) Any person elected as Speaker of the Senate who is not a Senator and any person elected as Speaker of the House of Representatives who is not a member of that House shall, before entering upon the duties of his office, take and subscribe the oath of allegiance before the Senate or the House of Representatives, as the case may be.

Presiding in Senate.

43. There shall preside at any sitting of the Senate—

(*a*) the Speaker of the Senate ; or

(*b*) in the absence of the Speaker, the Deputy Speaker ; or

(*c*) in the absence of the Speaker and the Deputy Speaker, such Senator as the Senate may elect for that purpose.

Presiding in House of Representatives.

44. There shall preside at any sitting of the House of Representatives—

(*a*) the Speaker of the House of Representatives ; or

(*b*) in the absence of the Speaker, the Deputy Speaker ; or

(*c*) in the absence of the Speaker and the Deputy Speaker, such member of the House as the House may elect for that purpose.

Quorum in Houses of National Assembly.

45.—(1) If objection is taken by any Senator who is present that there are present in the Senate (besides the person presiding) fewer than ten Senators and, after such interval as may be prescribed in the rules of procedure of the Senate, the person presiding ascertains that there are still fewer than ten Senators present, he shall thereupon adjourn the Senate.

(2) If objection is taken by any member of the House of Representatives who is present that there are present in that House (besides the person presiding) fewer than twenty members of that House and, after such interval as may be prescribed in the rules of procedure of the House, the person presiding ascertains that there are still fewer than twenty members of the House present, he shall thereupon adjourn the House.

Official language.

46. The business of the National Assembly shall be conducted in English.

Voting in National Assembly.

47.—(1) Save as otherwise provided in this Constitution, any question proposed for decision in either House of the National Assembly shall be determined by a majority of the votes of the members present and voting.

(2) The person presiding in either House of the National Assembly shall, if he is a member thereof, have an original vote but he shall have no casting vote, and whenever there is an equality of votes on any question, the motion before the House shall be deemed to have been withdrawn.

(3) The rules of procedure of either House of the National Assembly may make provision under which a member who votes upon a question in which he has a direct pecuniary interest shall be deemed not to have voted.

Unqualified persons sitting or voting.

48. Any person who sits or votes in either House of the National Assembly knowing or having reasonable grounds for knowing that he is not entitled to do so shall be liable to a penalty not exceeding 500 shillings, or such other sum as may be prescribed by the Central Legislature, for each day on which he so sits and votes in that House, which penalty shall be recoverable by action in the Supreme Court at the suit of the Attorney-General.

Mode of exercise of legislative power.

49.—(1) The power of the Central Legislature to make laws shall be exercisable by bills passed by both Houses of the National Assembly (or, in the cases mentioned in section 51 of this Constitution, by the House of Representatives) and assented to by Her Majesty or by the Governor on behalf of Her Majesty.

(2) A bill other than a money bill may originate in either House of the National Assembly but a money bill may originate only in the House of Representatives.

(3) When a bill has been passed by that House of the National Assembly in which it originated it shall be sent to the other House; and shall be presented to the Governor for his assent—

(*a*) when it has been passed by that other House and agreement has been reached between the two Houses on any amendments made in it; or

(*b*) when it is required to be so presented under section 51 of this Constitution.

(4) When a bill is presented to the Governor for assent, he shall signify that he assents or that he withholds assent or that he reserves the bill for the signification of Her Majesty's pleasure:

Provided that, unless he has been authorised by a Secretary of State to assent thereto and subject to the provisions of subsection (5) of this section, the Governor shall reserve for the signification of Her Majesty's pleasure any bill—

(*a*) that appears to him, acting in his discretion—

(i) to be inconsistent with any obligation imposed on Her Majesty by any treaty, convention or agreement or arrangement relating to any country or international or similar organization outside Kenya; or

(ii) to be likely to prejudice the Royal prerogative; or

(*b*) that is in any way inconsistent with or repugnant to any of the provisions of this Constitution.

(5) The Governor, acting in his discretion, may refuse his assent to any bill which appears to him to affect his responsibility for defence, external affairs or internal security or may reserve any such bill for the signification of Her Majesty's pleasure.

(6) When a bill that has been duly passed is assented to in accordance with the provisions of this Constitution it shall become law and the Governor shall thereupon cause it to be published in the Kenya Gazette as a law.

(7) No law made by the Central Legislature shall come into operation until it has been published in the Kenya Gazette but the Central Legislature may postpone the coming into operation of any such law and may make laws with retrospective effect.

(8) All laws made by the Central Legislature shall be styled "Ordinances" and the words of enactment shall be "Enacted by the Central Legislature of Kenya".

Restrictions with regard to certain financial measures.

50.—(1) The Senate shall not—

(*a*) proceed upon any bill, other than a bill sent from the House of Representatives, that, in the opinion of the person presiding, makes provision for any of the following purposes:—

(i) for the imposition, repeal or alteration of taxation;

(ii) for the imposition of any charge upon the Consolidated Fund or any other fund of the Government of Kenya;

(iii) for the payment, issue or withdrawal from the Consolidated Fund or any other fund of the Government of Kenya of any monies not charged thereon or any alteration in the amount of such a payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Government of Kenya;

(*b*) proceed upon any amendment to any bill that, in the opinion of the person presiding, makes provision for any of those purposes; or

(*c*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes.

(2) Except on the recommendation of the Governor signified by a Minister, the House of Representatives shall not—

(*a*) proceed upon any bill (including any amendment to a bill) that, in the opinion of the person presiding, makes provision for any of the following purposes:—

(i) for the imposition of taxation or the alteration of taxation otherwise than by reduction;

(ii) for the imposition of any charge upon the Consolidated Fund or any other fund of the Government of Kenya or the alteration of any such charge otherwise than by reduction;

(iii) for the payment, issue or withdrawal from the Consolidated Fund or any other fund of the Government of Kenya of any monies not charged thereon or any increase in the amount of such a payment, issue or withdrawal; or

(iv) for the composition or remission of any debt due to the Government of Kenya; or

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes.

Limitation of powers of Senate.

51.—(1) When a bill that is passed by the House of Representatives is certified by the Speaker of that House under subsection (2) of this section as a money bill and, having been sent to the Senate at least one month before the end of the session, is not passed by the Senate without amendment within one month after it is so sent, the bill shall, unless the House of Representatives otherwise resolves and subject to the provisions of subsections (3) and (4) of this section, be presented to the Governor for assent.

(2) When a bill that in the opinion of the Speaker of the House of Representatives is a money bill is sent to the Senate from the House of Representatives it shall bear a certificate of the Speaker of the House of Representatives that it is a money bill.

(3) If, within twenty-one days after a bill that has been certified under subsection (2) of this section as a money bill has been sent to the Senate, the Senate resolves that the question whether or not it is a money bill should be referred to the Supreme Court, the Speaker of the Senate shall forthwith cause that question to be so referred and the Supreme Court shall, with all due speed, consider and determine that question.

(4) When the question whether or not a bill is a money bill has been referred to the Supreme Court under subsection (3) of this section, the bill shall not be presented to the Governor for assent in accordance with the provisions of subsection (1) of this section until the Supreme Court determines that it is a money bill:

Provided that, if the Supreme Court has not within one month after the passage of the resolution that the reference should be made, sent to the Speaker of the Senate and the Speaker of the House of Representatives its determination on that reference, it shall not proceed further with its consideration of the reference and the bill shall, unless the House of Representatives otherwise resolves, be presented to the Governor for assent.

(5) Notwithstanding anything contained in the rules of procedure of the Senate, if ten Senators so request by writing under their hands addressed to the Speaker of the Senate within ten days after a bill has been sent to the Senate, a meeting of the Senate shall, not later than seventeen days after the bill was so sent, take place for the purpose of debating and voting upon any resolution for the purposes of subsection (3) of this section.

(6) The Chief Justice may make rules with respect to the practice and procedure of the Supreme Court in relation to any reference to the Supreme Court under this section (including the parties to any such reference and the persons who may appear before the Supreme Court in its consideration of that reference) and, subject to any such rules, any such reference shall be conducted as the Chief Justice may direct.

(7) Any determination of the Supreme Court on a reference made to it under this section shall not be subject to appeal.

(8) When—

(*a*) a bill that is passed by the House of Representatives is not certified by the Speaker of that House under subsection (2) of this section as a money bill and, having been sent to the Senate at least one month before the end of the session, is not passed by the Senate before the end of the session or is passed by the Senate with amendments to which the House of Representatives does not before the end of the session agree; and

(*b*) in the following session (whether of the same Central Legislature or not) but not earlier than twelve months after it was first passed by the House of Representatives the same bill, with no other alterations than those mentioned in subsection (10) of this section, is passed again by the House of Representatives and sent to the Senate at least one month before the end of the session and is not passed by the Senate before the end of the session or is passed by the Senate with amendments to which the House of Representatives does not before the end of the session agree,

the bill shall, unless the House of Representatives otherwise resolves, be presented to the Governor for assent with such amendments, if any, as may have been agreed to by both Houses.

(9) The House of Representatives may, on the passage of a bill for the purposes of subsection (8) (*b*) of this section, suggest any amendments without inserting the amendments in the bill and any such suggested amendments shall be considered by the Senate and, if agreed to by the Senate, shall be treated as amendments agreed to by both Houses; but the exercise of this power by the House of Representatives shall not affect the operation of this section if the bill is not passed by the Senate or is passed by the Senate with amendments to which the House of Representatives does not agree.

(10) The alterations referred to in subsection (8) of this section are alterations certified by the Speaker of the House of Representatives to be necessary owing to the time that has elapsed since the bill was passed in the earlier session or to represent amendments made in that session by the Senate.

(11) When a bill is presented to the Governor in pursuance of this section it shall bear a certificate by the Speaker of the House of Representatives that this section has been complied with and, subject to the provisions of subsections (3) and (4) of this section, a certificate given by the Speaker of the House of Representatives under this section shall be conclusive for all purposes and shall not be questioned in any court.

(12) Any function that, under this section, falls to be exercised by the Speaker of the Senate may, if he is absent or is for any other reason unable to exercise the functions of his office, be exercised by the Deputy Speaker of the Senate; and any function that, under this section, falls to be exercised by the Speaker of the House of Representatives may, if he is absent or is for any other reason unable to exercise the functions of his office, be exercised by the Deputy Speaker of the House of Representatives.

Governor's reserved powers.

52.—(1) If the Governor considers that any bill or motion that is before either House of the National Assembly or any committee thereof affects his responsibility for defence, external affairs or internal security, he may give notice thereof to the House or committee concerned and no further proceedings shall then be taken upon the bill or motion without his consent.

(2) The Governor may send by message to either House of the National Assembly a draft of any bill or motion which, in pursuance of his responsibility for defence, external affairs or internal security, he considers should be introduced or proposed in that House and may (whether in the same or a later message) request that the bill or motion be so introduced or proposed not later than a date specified in such message.

(3) If a request made by the Governor under subsection (2) of this section is not complied with by the date specified, the bill or motion to which it relates shall be deemed to have been introduced or proposed in the House concerned on that date.

(4) If the House concerned fails to pass the bill or carry the motion within such time as the Governor considers reasonable and in such form as he considers expedient, he may, by writing under his hand, declare that it shall have effect as if, on the date of such declaration, it had been passed or carried by the House concerned either in the form in which it was introduced or proposed (or is deemed to have been introduced or proposed) or (as the declaration shall specify) with such amendments as the Governor thinks fit that have been moved or proposed in that House or any committee thereof; and the bill or motion shall be deemed thereupon to have been passed or carried in the form specified in the declaration and on the date thereof, and the provisions of this Constitution shall have effect accordingly.

(5) Any notice or consent given or message sent by the Governor under this section may be given or sent in such manner as the Governor thinks fit and, in the case of a notice or consent given or a message sent to a House of the National Assembly, may be given or sent either to the Speaker of the House (whether or not he is presiding over the House) or to any other person who is presiding over the House and, in the case of a notice or consent given to a committee of either House, may be given either to the Speaker of the House (whether or not he is presiding over that committee) or to any other person who is presiding over that committee.

(6) The powers vested in the Governor by this section shall be exercised by him in his discretion.

Disallowance of laws.

53.—(1) Any law made by the Central Legislature that was assented to by the Governor on behalf of Her Majesty and that appears to Her Majesty to alter, to the injury of the stockholders, any provision relating to stock to which this section applies or to involve a departure from the original contract in respect of any such stock may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever a law has been disallowed by Her Majesty the Governor shall cause notice of such disallowance to be published in the Kenya 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 provisions of section 38 (2) of the Interpretation Act 1889(a) shall apply to that annulment as they apply to the repeal of an Act of Parliament.

(4) The stock to which this section applies is stock forming part of the public debt of the Government of Kenya—

(*a*) in which a trustee might have at any time invested by virtue of section 2 of the Colonial Stock Act 1900(b); or

(*b*) by the conditions of issue of which it is provided that this section shall apply to it.

(a) 52 & 53 Vict. c. 63. (b) 63 & 64 Vict. c. 62.

Regulation of procedure in National Assembly, etc.

54.—(1) Subject to the provisions of this Constitution, each House of the National Assembly may regulate its own procedure.

(2) Without prejudice to the generality of subsection (1) of this section, each House of the National Assembly may establish committees in such manner and for such general or special purposes as it thinks fit and may regulate the procedure of any such committee.

(3) Without prejudice to the generality of subsection (1) of this section, the two Houses of the National Assembly may, in such manner and for such general or special purposes as they think fit, establish joint committees consisting of members of both Houses and may jointly regulate the procedure of any such committee; and any reference in this Constitution to a member of a committee of a House of the National Assembly shall, unless the context otherwise requires, be construed as including a reference to a member of such a joint committee.

(4) Each House of the National Assembly may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets after any general election) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.

(5) The Central Legislature may, for the purpose of the orderly and effective discharge of the business of the two Houses of the National Assembly, make provision for the powers, privileges and immunities of those Houses and the committees and the members thereof (including any person who is Speaker of either House, having been elected from among persons who were not members thereof):

Provided that no such powers, privileges or immunities shall exceed those of the Commons' House of Parliament or, as the case may be, of the committees or of the members thereof.

Interpretation.

55. In this Part of this Chapter "money bill" means a bill that contains only provisions dealing with—

(*a*) the imposition, repeal, remission, alteration or regulation of taxation;

(*b*) the imposition of charges on the Consolidated Fund or any other fund of the Government of Kenya or the variation or repeal of any such charges;

(*c*) the grant of money to the Crown or to any other person or authority or the variation or revocation of any such grant;

(*d*) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;

(*e*) the raising or guarantee of any loan or the repayment thereof; or

(*f*) subordinate matters incidental to any of those matters:

Provided that the expressions "taxation", "public money" and "loan" do not include any taxation, money or loan raised by local government authorities or other local bodies or by any Region.

PART 3

Summoning, prorogation and dissolution

Sessions of Central Legislature, etc.

56.—(1) Each session of the Central Legislature shall be held at such place within Kenya and shall begin at such time (not being later than twelve months from the end of the preceding session if the

Central Legislature has been prorogued or three months from the end of that session if the Central Legislature has been dissolved) as the Governor shall appoint.

(2) Subject to the provisions of subsection (1) of this section, the sittings of each House of the National Assembly shall be held at such time and place as that House may, by its rules of procedure or otherwise, determine:

Provided that the first sitting of each House of the National Assembly after the Central Legislature has at any time been prorogued or dissolved shall begin at the same time.

Prorogation and dissolution of Central Legislature.

57.—(1) The Governor may at any time prorogue the Central Legislature.

(2) The Governor, acting in accordance with the advice of the Prime Minister, may at any time dissolve the Central Legislature:

Provided that—

(*a*) if the House of Representatives passes a resolution that it has no confidence in the Government of Kenya and the Prime Minister does not within three days either resign from his office or advise a dissolution, the Governor, acting in his discretion, may dissolve the Central Legislature;

(*b*) if the Prime Minister at any time advises a dissolution and the Governor, acting in his discretion, considers that the government of Kenya can be carried on without a dissolution and that a dissolution would not be in the interests of Kenya, he may, acting in his discretion, refuse to dissolve the Central Legislature; and

(*c*) if the office of Prime Minister is vacant and the Governor, acting in his discretion, considers that there is no prospect of his being able within a reasonable time to appoint to that office a person who can command the support of a majority of the members of the House of Representatives, he shall dissolve the Central Legislature.

(3) The Central Legislature, unless sooner dissolved, shall continue for five years from the date when the two Houses of the National Assembly first meet after any dissolution and shall then stand dissolved.

PART 4

Legislative Powers

Power of Central Legislature to make laws.

58.—(1) Subject to the provisions of this Constitution, the Central Legislature shall have power to make laws for the peace, order and good government of Kenya or of any part thereof.

(2) The Central Legislature shall not have power to make laws for any part of Kenya other than the Nairobi Area with respect to any matter specified in Part I of Schedule 4 of this Constitution.

(3) The provisions of subsection (2) of this section shall be without prejudice to the provisions of—

(*a*) section 59 of this Constitution (which relates to grants of public money);

(*b*) section 60 of this Constitution (which relates to the implementing of international obligations);

(*c*) section 61 of this Constitution (which relates to emergencies); and

(*d*) section 62 of this Constitution (which relates to legislation for the purpose of securing compliance with this Constitution).

(4) If any law made by a Regional Assembly is inconsistent with any law validly made by the Central Legislature, the law made by the Central Legislature shall prevail and the law made by the Regional Assembly shall, to the extent of the inconsistency, be void.

Power to make grants of money, etc. for any purpose.

59. The Central Legislature may make provision for grants and loans from and the imposition of charges upon the Consolidated Fund or any other fund of the Government of Kenya or for the imposition of charges upon the revenues and assets of the Government of Kenya for any purpose, notwithstanding that it relates to a matter specified in Part I of Schedule 4 of this Constitution.

Implementing international obligations, etc.

60.—(1) Subject to the provisions of subsection (2) of this section, the Central Legislature may, for the purpose of implementing any treaty, convention or agreement between the Government of Kenya or Her Majesty's Government in the United Kingdom on the one hand and some country other than Kenya on the other hand or any arrangement with or decision of any international organization of which the Government of Kenya or Her Majesty's Government in the United Kingdom is a member, make laws for Kenya or any part thereof with respect to any matter specified in Part I of Schedule 4 of this Constitution.

(2) A bill for a law under this section shall not be introduced into the National Assembly unless a draft of that bill has, not less than 21 days before such introduction, been transmitted by the Prime Minister to the President of the Regional Assembly of every Region concerned and unless the bill, when introduced, is in the terms of that draft or in such amended form as may have been agreed to by notice in writing under the hand of the President of the Regional Assembly of every Region concerned.

Special powers of Central Legislature in relation to emergencies.

61.—(1) The Central Legislature may at any time make such laws for Kenya or any part thereof with respect to any matter specified in Part I of Schedule 4 of this Constitution as may appear to the Central Legislature to be necessary or expedient for the purpose of maintaining or securing peace, order and good government during any period of emergency.

(2) Any law made in pursuance of this section shall have effect only during a period of emergency:

Provided that the termination of a period of emergency shall not affect the operation of such a law during that period, the validity of any action taken thereunder during that period, any penalty or punishment incurred in respect of any contravention thereof or failure to comply therewith during that period or any proceeding or remedy in respect of any such penalty or punishment.

(3) In this section "period of emergency" means any period—

(*a*) when Her Majesty is at war; or

(*b*) when there is in force a proclamation (in this section referred to as a "proclamation of emergency") made by the Governor and published in the Kenya Gazette declaring that a state of emergency exists for the purposes of this section.

(4) Subject to the provisions of subsections (5) and (6) of this section, no proclamation of emergency shall be made except with the prior authority of a resolution of either House of the National Assembly

supported by the votes of sixty-five per cent. of all the members of that House, and every proclamation of emergency shall lapse at the expiration of seven days, commencing with the day on which it was made, unless it has in the meantime been approved by a resolution of the other House supported by the votes of sixty-five per cent. of all the members of that House.

(5) A proclamation of emergency may be made without the prior authority of a resolution of a House of the National Assembly at a time when the Central Legislature stands prorogued or when both Houses of the National Assembly stand adjourned, but every proclamation of emergency so made shall lapse at the expiration of seven days, commencing with the day on which it was made, unless it has in the meantime been approved by a resolution of each House of the National Assembly supported by the votes of sixty-five per cent. of all the members of that House.

(6) A proclamation of emergency may be made without the prior authority of a resolution of a House of the National Assembly at any time when the Central Legislature stands dissolved but any proclamation of emergency so made shall lapse at the expiration of seven days, commencing with the day on which it was made, unless it has in the meantime been approved by a resolution of the Senate supported by the votes of sixty-five per cent. of all the Senators.

(7) A proclamation of emergency made with the prior authority of a resolution of a House of the National Assembly in accordance with subsection (4) of this section and subsequently approved by a resolution of the other House in accordance with that subsection and a proclamation of emergency approved by a resolution of each House in accordance with subsection (5) of this section may at any time be revoked by the Governor by notice published in the Kenya Gazette but shall otherwise remain in force so long as those resolutions remain in force and no longer.

(8) Subject to the provisions of subsection (10) of this section, a resolution of a House of the National Assembly passed for the purposes of this section shall remain in force for two months or such shorter period as may be specified therein:

Provided that any such resolution may be extended from time to time for a further period by a resolution supported by the votes of sixty-five per cent. of all the members of the House concerned, each extension not exceeding two months from the date of the resolution effecting the extension; and any such resolution may be revoked at any time by a resolution supported by the votes of a majority of all the members of the House.

(9) A proclamation of emergency approved by a resolution of the Senate in accordance with subsection (6) of this section may at any time be revoked by the Governor by notice published in the Kenya Gazette but shall otherwise remain in force as long as that resolution remains in force and for so long thereafter as there are in force resolutions of each House of the National Assembly passed with the support of the votes of sixty-five per cent. of all the members of that House while that resolution of the Senate is still in force and approving that resolution of the Senate.

(10) A resolution of the Senate passed in accordance with subsection (6) of this section shall remain in force for two months or such shorter period as may be specified therein:

Provided that—

(*a*) so long as the Central Legislature stands dissolved any such resolution may be extended from time to time for a further period by a resolution of the Senate supported by the votes of sixty-five per cent. of all the Senators, each extension not exceeding two months from the date of the resolution effecting the extension; and

(*b*) any such resolution may at any time be revoked by a resolution supported by the votes of a majority of all the Senators.

(11) The Governor may summon the Senate to meet for the purposes of this section notwithstanding that the Central Legislature then stands dissolved but, subject to the provisions of section 34 (5) of this Constitution (which relates to the election of a Speaker of the Senate), the Senate shall not, when so summoned, transact any business other than debating and voting upon resolutions for the purposes of this section.

Special powers of Central Legislature when section 97 (2) of this Constitution is being contravened.

62.—(1) During any period during which there is in force a resolution of each House of the National Assembly supported by the votes of sixty-five per cent. of all the members of that House declaring that the executive authority of a Region is being exercised in contravention of section 97 (2) of this Constitution, the Central Legislature may make laws for that Region or any part thereof with respect to any matter specified in Part I of Schedule 4 of this Constitution to such extent as may appear to the Central Legislature to be necessary for securing compliance with the provisions of the said section 97 (2).

(2) A resolution of a House of the National Assembly passed for the purposes of this section shall remain in force for two months or such shorter period as may be specified therein:

Provided that any such resolution may be extended from time to time for a further period by a resolution supported by the votes of sixty-five per cent. of all the members of the House concerned, each extension not exceeding two months from the date of the resolution effecting the extension; and any such resolution may be revoked at any time by a resolution supported by the votes of a majority of all the members of that House.

(3) When any resolution passed for the purposes of this section ceases to be in force, any law made in pursuance of this section shall cease to have effect:

Provided that the termination of any such period shall not affect the operation of such a law during that period, the validity of any action taken thereunder during that period, any penalty or punishment incurred in respect of any contravention thereof or failure to comply therewith during that period or any proceeding or remedy in respect of any such penalty or punishment.

CHAPTER IV

Executive Powers

Executive authority of Government of Kenya.

63.—(1) The executive authority of the Government of Kenya shall be vested in Her Majesty and, subject to the provisions of this Constitution, may be exercised on behalf of Her Majesty by the Governor, either directly or by officers subordinate to him.

(2) Nothing in this section shall prevent the Central Legislature from conferring functions on persons or authorities other than the Governor.

(3) The executive authority of the Government of Kenya shall, to the exclusion of the executive authority of any Region but subject to the provisions of section 64 of this Constitution, extend to the maintenance and execution of this Constitution and to all matters not specified in Schedule 4 of this Constitution.

(4) The executive authority of the Government of Kenya shall extend to the organisation and provision of co-ordinating and advisory services with respect to any matter that is specified in Schedule 4 of this Constitution.

(5) The executive authority of the Government of Kenya shall extend to the giving of such directions to a Regional Assembly as may appear to the Government of Kenya to be necessary or expedient in order to ensure that the executive authority of the Region is exercised in accordance with the provisions of section 97 (2) of this Constitution.

(6) During any period of emergency (which expression shall in this subsection have the meaning assigned to it in section 61 of this Constitution) the executive authority of the Government of Kenya shall also extend in all respects to all matters specified in Schedule 4 of this Constitution and provision may be made by or under a law made by the Central Legislature that all or any part of the executive authority vested in the Government of Kenya by this subsection shall be so vested to the exclusion of the executive authority of all or any of the Regions.

(7) At any time when the Central Legislature has power to make laws for a Region in pursuance of section 62 of this Constitution, the executive authority of the Government of Kenya shall also extend in all respects as regards that Region to all matters specified in Schedule 4 of this Constitution and provision may be made by or under any such law that all or any part of the executive authority vested in the Government of Kenya by this subsection shall be so vested to the exclusion of the executive authority of the Region.

Delegation to a Region of executive authority of Government of Kenya.

64.—(1) The Governor, with the consent of the Regional Assembly of any Region, may entrust to that Regional Assembly or to any officer or authority of the Region (including, without prejudice to the generality of that expression, a local government authority) functions in relation to any matter to which the executive authority of the Government of Kenya extends, being functions which fall to be performed within the Region :

Provided that the consent of the Regional Assembly shall not be required during any period of emergency (which expression shall in this section have the meaning assigned to it in section 61 of this Constitution) or during any period during which there is in force with respect to the Region such a resolution of each House of the National Assembly as is referred to in section 62 of this Constitution.

(2) An entrustment made by the Government under subsection (1) of this section or a consent given by a Regional Assembly under that subsection to such an entrustment may—

(*a*) be general or specific ;

(*b*) be made or given for an indefinite period or for a specified period ;

(*c*) be subject to such conditions or restrictions as may be specified in the instrument by which it is made or given (including any condition or restriction as to the officer or authority, or class of officer or authority, to whom the functions are to be entrusted) ; and

(*d*) notwithstanding that it was expressed to be made or given for an indefinite period or a specified period, be revoked at any time.

(3) The Central Legislature may confer powers or impose duties or may authorise the conferment of powers or the imposition of duties on the Regional Assembly of any Region or on any officer or authority of the Region (including, without prejudice to the generality of that expression, a local government authority):

Provided that, save during any period of emergency or during any period during which there is in force with respect to that Region such a resolution of each House of the National Assembly as is referred to in section 62 of this Constitution, no conferment of powers or imposition of duties made by or under a law made by the Central Legislature in pursuance of this subsection shall have effect in relation to the Region except with the consent of the Regional Assembly.

(4) A law, or an instrument made under a law, conferring powers or imposing duties and made in pursuance of subsection (3) of this section or a consent given by a Regional Assembly under that subsection to such a conferment or imposition may—

(*a*) be general or specific;

(*b*) be made or given for an indefinite period or for a specified period;

(*c*) be subject to such conditions or restrictions as may be specified in the law or instrument by which the powers are conferred or the duties imposed or by which the consent is given (including any condition or restriction as to the officer or authority, or class of officer or authority, on whom the powers are to be conferred or the duties imposed); and

(*d*) notwithstanding that the conferment or imposition was expressed to be made or the consent was expressed to be given for an indefinite period or a specified period, be revoked at any time.

(5) Any entrustment made under subsection (1) of this section or any consent given under any of the provisions of this section shall be signified in writing under the hand of the Governor (or any officer or authority authorised by him in that behalf) or, as the case may be, of the President of the Regional Assembly (or any officer or authority authorised by him in that behalf) and shall be published in the Kenya Gazette and in the Regional Gazette of the Region.

Ministers of Government of Kenya.

65.—(1) There shall be a Prime Minister who shall be appointed by the Governor.

(2) There shall be, in addition to the office of Prime Minister, such other offices of Minister of the Government of Kenya as may be established by the Central Legislature or, subject to any provision made by the Central Legislature, by the Governor, acting in accordance with the advice of the Prime Minister.

(3) The Governor, acting in his discretion, shall appoint as Prime Minister a member of the House of Representatives who appears to him likely to command the support of a majority of the members of that House and shall, acting in accordance with the advice of the Prime Minister, appoint the other Ministers from among the members of the two Houses of the National Assembly:

Provided that if occasion arises for making an appointment to the office of Prime Minister or any other Minister while the Central Legislature stands dissolved, a person who was a member of the

House of Representatives immediately before the dissolution may be appointed to the office of Prime Minister or any other Minister.

(4) The Governor, acting in his discretion, may remove the Prime Minister from office—

(*a*) if a resolution of no confidence in the Government of Kenya is passed by the House of Representatives and the Prime Minister does not within three days either resign from his office or advise a dissolution of the Central Legislature; or

(*b*) if at any time between the holding of a general election of the Elected Members of the House of Representatives and the date on which that House first meets thereafter, the Governor considers that, in consequence of changes in the membership of the House of Representatives resulting from that election, the Prime Minister will not be able to command the support of a majority of the members of that House.

(5) The office of any Minister shall become vacant—

(*a*) if the holder of the office ceases to be a member of either House of the National Assembly otherwise than by reason of the dissolution of the Central Legislature; or

(*b*) in the case of a Minister who, immediately before the dissolution of the Central Legislature, was a member of the House of Representatives, if, when that House first meets after that dissolution, he is not then a member thereof.

(6) The office of a Minister other than the Prime Minister shall become vacant—

(*a*) if the Governor, acting in accordance with the advice of the Prime Minister, so directs; or

(*b*) if the Prime Minister resigns from office within three days after the passage by the House of Representatives of a resolution of no confidence in the Government of Kenya or is removed from office under subsection (4) of this section; or

(*c*) on the appointment of any person to the office of Prime Minister.

Cabinet.

66.—(1) There shall be a Cabinet of Ministers, consisting of the Prime Minister and the other Ministers.

(2) The function of the Cabinet shall be to advise the Governor in the government of Kenya, and the Cabinet shall be collectively responsible to the two Houses of the National Assembly for any advice given to the Governor by or under the general authority of the Cabinet and for all things done by or under the authority of any Minister in the execution of his office.

(3) The provisions of subsection (2) of this section shall not apply in relation to—

(*a*) the appointment and removal from office of Ministers and Parliamentary Secretaries, the assignment of responsibility to any Minister under section 67 of this Constitution, the authorisation of another Minister under section 69 of this Constitution to exercise the functions of the Prime Minister during the latter's absence or illness or the giving of consent under section 70 of this Constitution to a Minister's absenting himself from Kenya; or

(*b*) the dissolution of the Central Legislature.

Allocation of portfolios to Ministers.

67. The Governor, acting in accordance with the advice of the Prime Minister, may, by directions in writing, assign to the Prime Minister or any other Minister responsibility for any business of the government of Kenya, including the administration of any department of government:

Provided that—

(*a*) except for the purpose of conducting business in either House of the National Assembly and subject to the provisions of section 68 of this Constitution (which relates to matters for which the Governor has special responsibility), a Minister shall not be given responsibility for any matter specified in that section; and

(*b*) except for the purpose of conducting business in either House of the National Assembly, a Minister shall not be given responsibility for the department of the Attorney-General.

Governor's special responsibilities.

68.—(1) The Governor, acting in his discretion, shall be responsible for the following matters, that is to say:—

(*a*) defence, including naval, military and air forces;

(*b*) external affairs; and

(*c*) internal security, including all matters relating to the Police Force and the exercise of the powers vested in him by the Emergency Powers Order in Council 1939(a), as from time to time amended, or by the Preservation of Public Security Ordinance(b).

(2) The Governor shall assign to such Minister as, after consultation with the Prime Minister, he may designate by directions in writing responsibility for matters relating to the Police Force but the responsibility so assigned shall be subject to the provisions of Chapter VIII of this Constitution.

(3) The Governor, acting in his discretion, may assign to such Minister as, after consultation with the Prime Minister, he may designate by directions in writing such responsibilities as he thinks fit upon such conditions as he thinks fit for any of the other matters specified in subsection (1) of this section except matters relating to the exercise of the powers vested in him by the Emergency Powers Order in Council 1939, as from time to time amended, or by the Preservation of Public Security Ordinance.

(4) The assignment of any responsibility for any matter to a Minister under subsection (2) or subsection (3) of this section shall be without prejudice to the responsibility for that matter of the Governor, acting in his discretion.

Exercise of Prime Minister's functions during absence or illness.

69.—(1) Whenever the Prime Minister is absent from Kenya or is by reason of illness unable to exercise the functions conferred on him by this Constitution, the Governor may authorise some other Minister to exercise those functions (other than the functions conferred by this section) and that Minister may exercise those functions until his authority is revoked by the Governor.

(2) The powers of the Governor under this section shall be exercised by him in accordance with the advice of the Prime Minister:

(a) *See* S.I. 1952 I, at p. 621. (b) Revised Laws of Kenya 1962, c. 57.

Provided that if the Governor considers that it is impracticable to obtain the advice of the Prime Minister owing to his absence or illness he may exercise those powers in his discretion.

Absence of Ministers from Kenya.

70. A Minister other than the Prime Minister shall not absent himself from Kenya except with the prior consent of the Governor, acting in accordance with the advice of the Prime Minister, and the Prime Minister shall not absent himself from Kenya without having given the Governor prior notice of his intention so to do.

Exercise of Governor's functions.

71.—(1) In the exercise of his functions under this Constitution or any other law the Governor shall obtain, and shall act in accordance with, the advice of the Cabinet or a Minister acting under the general authority of the Cabinet.

(2) The provisions of subsection (1) of this section shall not apply in relation to the exercise by the Governor of—

(*a*) any function conferred upon him by this Constitution that is expressed to be exercisable by him in his discretion or in accordance with the advice of or after consultation with any person or authority other than the Cabinet;

(*b*) any function conferred on him by this Constitution or any other law with respect to any matter specified in section 68 (1) of this Constitution (which relates to matters for which the Governor has special responsibility); or

(*c*) any function conferred upon him by a law other than this Constitution in respect of which it is provided (in whatever terms) by that law or some other law that he shall exercise it in his discretion or in accordance with the advice of some person or authority other than the Cabinet.

(3) Where the Governor is directed by this Constitution to exercise any function after consultation with any person or authority other than the Cabinet, he shall not be obliged to exercise that function in accordance with the advice of that person or authority.

(4) Where the Governor has obtained the advice of the Cabinet or a Minister in pursuance of this section, he may act otherwise than in accordance with that advice if in his judgment it is necessary or expedient so to do for the purposes of a matter specified in section 68 (1) of this Constitution.

(5) Where the Governor is required by this Constitution to act in accordance with the advice of or after consultation with any person or authority, the question whether he has received or acted in accordance with such advice or made such consultation shall not be enquired into in any court.

Governor to be informed of Cabinet affairs.

72.—(1) The Prime Minister shall—

(*a*) cause to be transmitted to the Governor copies of all papers submitted for consideration by the Cabinet at the same time as those papers are transmitted to Ministers;

(*b*) cause the Governor to be informed of the summoning of any meeting of the Cabinet and of the matters to be discussed at that meeting at the same time as Ministers are so informed; and

(*c*) cause the Governor to be furnished, immediately after each meeting of the Cabinet, with a copy of the minutes of the meeting showing the matters discussed and the conclusions reached by the Cabinet at that meeting.

(2) The Prime Minister shall keep the Governor fully informed concerning the general conduct of those matters for which he and the other Ministers are responsible and shall furnish the Governor with such information as he may request in respect of any particular matter relating to the government of Kenya.

Parliamentary Secretaries.

73.—(1) The Governor, acting in accordance with the advice of the Prime Minister, may appoint Parliamentary Secretaries from among the members of the two Houses of the National Assembly to assist Ministers in the performance of their duties:

Provided that, if occasion arises for making an appointment while the Central Legislature stands dissolved, a person who was a member of the House of Representatives immediately before the dissolution may be appointed as a Parliamentary Secretary.

(2) The office of a Parliamentary Secretary shall become vacant—

(*a*) if the Governor, acting in accordance with the advice of the Prime Minister, so directs;

(*b*) if the Prime Minister resigns from office within three days after the passage by the House of Representatives of a resolution of no confidence in the Government of Kenya or is removed from office under section 65 (4) of this Constitution;

(*c*) upon the appointment of a person to the office of Prime Minister;

(*d*) if the holder of the office ceases to be a member of either House of the National Assembly otherwise than by reason of a dissolution of the Central Legislature; or

(*e*) in the case of a Parliamentary Secretary who, immediately before the dissolution of the Central Legislature, was a member of the House of Representatives, if, when that House first meets after that dissolution, he is not then a member thereof.

Oaths to be taken by Ministers and Parliamentary Secretaries.

74. A Minister or a Parliamentary Secretary shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by the Central Legislature.

Permanent secretaries.

75. Where any Minister has been charged with responsibility for any department of government, he shall exercise general direction and control over that department and, subject to such direction and control, every department of government shall be under the supervision of a permanent secretary whose office shall be an office in the public service of the Government of Kenya:

Provided that—

(*a*) two or more government departments may be placed under the supervision of one permanent secretary and one government department may be placed under the supervision of two or more permanent secretaries; and

(*b*) the Attorney-General shall exercise general direction and control over his own department.

Secretary to the Cabinet.

76.—(1) There shall be a Secretary to the Cabinet whose office shall be an office in the public service of the Government of Kenya.

(2) The Secretary to the Cabinet, who shall have charge of the Cabinet Office, shall be responsible, in accordance with such instructions as may be given to him by the Prime Minister, for arranging the business for, and keeping the minutes of, the Cabinet, for conveying the decisions of the Cabinet to the appropriate person or authority and for transmitting to the Governor all the papers and information to which, under the provisions of section 72 of this Constitution, the Governor is entitled and shall have such other functions as the Prime Minister may from time to time direct.

Attorney-General.

77.—(1) There shall be an Attorney-General whose office shall be an office in the public service of the Government of Kenya.

(2) The Attorney-General shall be the principal legal adviser to the Government of Kenya.

(3) The Attorney-General shall have power in any case in which he considers it desirable so to do—

(*a*) to institute and undertake criminal proceedings against any person before any court (other than a court-martial) in respect of any offence alleged to have been committed by that person;

(*b*) to take over and continue any such criminal proceedings that have been instituted or undertaken by any other person or authority; and

(*c*) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(4) The powers of the Attorney-General under subsection (3) of this section may be exercised by him in person or by officers subordinate to him acting in accordance with his general or special instructions.

(5) The powers conferred on the Attorney-General by paragraphs (*b*) and (*c*) of subsection (3) of this section shall be vested in him to the exclusion of any other person or authority:

Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.

(6) For the purposes of this section, any appeal from any judgment in any criminal proceedings before any court, or any case stated or question of law reserved for the purpose of any such proceedings, to any other court (including the Judicial Committee of Her Majesty's Privy Council) shall be deemed to be part of those proceedings:

Provided that the power conferred on the Attorney-General by subsection (3) (*c*) of this section shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved at the instance of such a person.

(7) In the exercise of the functions vested in him by subsection (3) of this section and by sections 41, 48 and 157 of this Constitution, the Attorney-General shall not be subject to the direction or control of any other person or authority.

Constitution of offices.

78. Subject to the provisions of this Constitution and of any other law, the Governor may constitute offices for Kenya, make appointments to any such office and terminate any such appointment:

Provided that the foregoing provisions of this section shall not apply in relation to offices for the government of a Region.

Prerogative of Mercy.

79. The Governor, acting in his discretion but subject to the provisions of section 81 of this Constitution, may, in Her Majesty's name and on Her Majesty's behalf—

(*a*) grant to any person convicted of any offence 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 punishment imposed on that person for any offence;

(*c*) substitute a less severe form of punishment for any punishment imposed on any person for any offence; and

(*d*) remit the whole or part of any punishment imposed on any person for any offence or of any penalty or forfeiture otherwise due to the Crown on account of any offence.

Advisory Committee on Prerogative of Mercy.

80.—(1) There shall be an Advisory Committee on the Prerogative of Mercy which shall consist of—

(*a*) the Deputy Governor;

(*b*) the Attorney-General; and

(*c*) not less than three nor more than five other members appointed by the Governor, by instrument in writing under his hand, of whom at least two shall be Ministers and at least one shall be a person qualified to practise in Kenya as a medical practitioner.

(2) A member of the Committee appointed under subsection (1) (*c*) of this section shall hold his seat thereon for such period as may be specified in the instrument by which he was appointed:

Provided that his seat shall become vacant—

(*a*) in the case of a person who, at the date of his appointment, was a Minister, if he ceases to be a Minister; and

(*b*) if the Governor, by instrument in writing under his hand, so directs.

(3) The Committee shall not be summoned except by the authority of the Governor who shall, so far as is practicable, attend and preside at all meetings of the Committee, and, in the absence of the Governor, the Deputy Governor shall preside.

(4) The Committee may act notwithstanding any vacancy in its membership and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings.

(5) Subject to the provisions of this section, the Committee may regulate its own procedure.

(6) In the exercise of his functions under this section, the Governor shall act in his discretion, but, before appointing Ministers to be members under subsection (1) (*c*) of this section and before directing that the seat on the Committee of a member who is a Minister shall become vacant, he shall consult with the Prime Minister.

Functions of Advisory Committee on Prerogative of Mercy.

81.—(1) Where any person has been sentenced to death (otherwise than by a court-martial) for any offence, the Governor shall cause a written report of the case from the trial judge, together with such

other information derived from the record of the case or elsewhere as he may require, to be considered at a meeting of the Advisory Committee on the Prerogative of Mercy; and after obtaining the advice of the Committee he shall decide in his own judgment whether to exercise any of his functions under section 79 of this Constitution.

(2) The Governor may consult with the Committee before deciding whether to exercise any of his functions under the said section 79 in any case not falling within subsection (1) of this section, but he shall not be obliged to act in accordance with the advice of the Committee.

CHAPTER V

REGIONS

PART 1

Establishment of Regions

Boundaries of Regions.

82. Kenya shall be divided into the Nairobi Area and the following Regions whose respective boundaries shall, subject to the provisions of section 226 of this Constitution, be those specified in Part I of Schedule 1 of this Constitution:—

(*a*) the Coast Region;

(*b*) the Eastern Region;

(*c*) the Central Region;

(*d*) the Rift Valley Region;

(*e*) the Nyanza Region;

(*f*) the Western Region; and

(*g*) the North-Eastern Region.

PART 2

Composition of Regional Assemblies

Establishment of Regional Assemblies.

83. There shall be for each Region a Regional Assembly consisting of Elected Members and Specially Elected Members.

Elected Members of Regional Assemblies.

84.—(1) Subject to the provisions of section 229 of this Constitution, each Regional Assembly shall contain such number of Elected Members as may for the time being be prescribed by a law made by it in pursuance of section 95 of this Constitution.

(2) For the purpose of electing Elected Members to the Regional Assembly and subject as aforesaid, each District within a Region shall be divided into constituencies whose respective boundaries shall be those for the time being specified by a law made by the Regional Assembly in pursuance of section 95 of this Constitution.

(3) Each constituency shall elect one Elected Member to the Regional Assembly in such manner as, subject to the provisions of this Constitution, may be prescribed by or under any law made by the Regional Assembly.

(4) The qualifications and disqualifications for registration as a voter in elections of Elected Members to a Regional Assembly shall be as set out in Part III of Schedule 2 of this Constitution.

(5) Every person who is registered in any constituency as a voter in elections of Elected Members to the Regional Assembly shall, unless he is disqualified by any law made by the Regional Assembly from voting in such elections on the grounds of his having been convicted of an offence connected with elections or on the grounds of his having been reported guilty of such an offence by the court trying an election petition, be entitled so to vote in that constituency in accordance with the provisions of any law in that behalf made by the Regional Assembly ; and no other person may so vote.

(6) The registration of voters in elections of Elected Members to Regional Assemblies and the conduct of such elections shall be subject to the direction and supervision of the Electoral Commission.

Specially Elected Members of Regional Assemblies.

85.—(1) The number of Specially Elected Members of a Regional Assembly shall be the number which results from dividing the number of seats of Elected Members of that Regional Assembly by eight or, if that result is not a whole number, the whole number next greater than that result.

(2) The Specially Elected Members of a Regional Assembly shall be elected by the Elected Members of that Regional Assembly in accordance with the provisions of Schedule 6 of this Constitution.

Qualifications for election to Regional Assemblies.

86. Subject to the provisions of section 87 of this Constitution, a person shall be qualified to be elected as a member of a Regional Assembly if, and shall not be so qualified unless, at the date of his nomination for election, he—

(*a*) is a British subject or a British protected person who has attained the age of twenty-one years ; and

(*b*) is registered in that Region as a voter in elections to the Regional Assembly.

Disqualifications for election to Regional Assemblies.

87.—(1) No person shall be qualified to be elected as a member of a Regional Assembly who, at the date of his nomination for election—

(*a*) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to any foreign power or state ; or

(*b*) is under sentence of death imposed on him by any court in Kenya ; or

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

(*d*) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Kenya ; or

(*e*) subject to such exceptions and limitations as may be prescribed by a law made by that Regional Assembly, has any interest in any such government contract as may be so prescribed ;

(*f*) is a public officer ; or

(*g*) holds or is acting in any office of emolument in the service of a local government authority.

(2) A law made by a Regional Assembly may provide that a person who, at the date of his nomination for election, holds or is acting in

any office that is specified in that law and the functions of which involve responsibility for, or in connection with, the conduct of any election to that Regional Assembly or the compilation of any register of voters for the purposes of such an election shall not be qualified to be elected as a member of that Regional Assembly.

(3) A law made by a Regional Assembly may provide that a person who is convicted by any court of any offence that is prescribed by that law and that is connected with the election of members of either House of the National Assembly or of a Regional Assembly or of a local government authority or who is reported guilty of such an offence by the court trying an election petition shall not be qualified to be nominated for election as a member of the Regional Assembly for such period (not exceeding five years) following his conviction or, as the case may be, following the report of the court as may be so prescribed.

(4) A law made by a Regional Assembly may provide that any office shall be deemed not to be a public office for the purposes of subsection (1) (*f*) of this section or that any office shall, for the purposes of subsection (1) (*g*) of this section, be deemed not to be such an office as is referred to in the said subsection (1) (*g*).

(5) No person shall be qualified to be elected as an Elected Member of a Regional Assembly who, at the date of his nomination for election as such a Member, is a Specially Elected Member of that Regional Assembly; and no person shall be qualified to be elected as a Specially Elected Member of a Regional Assembly who, at the date of his nomination for election as such a Member, is an Elected Member of that Regional Assembly or who has, at any time since that Regional Assembly was last dissolved, stood as a candidate for election as an Elected Member of that Regional Assembly but was not elected.

(6) In subsection (1) (*e*) of this section, "government contract" means any contract made with the Regional Assembly or with a department of government of the Region or with an officer of the Region contracting as such.

Tenure of seats of members of Regional Assemblies.

88.—(1) A member of a Regional Assembly shall vacate his seat therein—

(*a*) if he ceases to be a British subject or ceases to be a British protected person without becoming a British subject; or

(*b*) if any circumstances arise that, if he were not a member of the Regional Assembly, would cause him to be disqualified to be elected as such under section 87 (1) of this Constitution or under any law made in pursuance of section 87 (2) or section 87 (3) of this Constitution.

(2) A law made by a Regional Assembly may, in order to permit any member of the Regional Assembly who has been sentenced to death, adjudged or declared to be of unsound mind, adjudged or declared bankrupt or convicted or reported guilty of any offence prescribed under section 87 (3) of this Constitution to appeal against the decision in accordance with any law, provide that, subject to such conditions as may be prescribed by a law made by the Regional Assembly, the decision shall not have effect for the purposes of this section until such time as may be so prescribed.

Presidents of Regional Assemblies.

89.—(1) There shall be a President of each Regional Assembly who shall be elected, in accordance with the provisions of this section, by the Regional Assembly from among the persons who are Elected Members thereof or are qualified to be elected as such.

(2) A person shall not be elected as President unless he is supported by the votes of two-thirds of all the members of the Regional Assembly, and if no candidate is supported by the votes of two-thirds of all the members of the Regional Assembly, a further ballot shall be held:

Provided that, if in the second ballot no candidate is supported by the votes of two-thirds of all the members of the Regional Assembly, the candidate who in that ballot receives the highest number of votes and the candidate who in that ballot receives the next highest number of votes shall alone stand for election in the third ballot and the candidate who receives the higher number of votes in the third ballot shall be elected.

(3) The President shall vacate his office—

(*a*) when the Regional Assembly first meets after it has been dissolved;

(*b*) if, having been elected from among the members of the Regional Assembly, he ceases to be a member thereof otherwise than by reason of its dissolution;

(*c*) if any circumstances arise that, if he were not President, would cause him to be disqualified to be elected as such; or

(*d*) if he is removed from office by resolution of the Regional Assembly supported by the votes of three-quarters of all the members thereof.

(4) No business shall be transacted in a Regional Assembly (other than the election of a President or the holding of a general election of the Specially Elected Members) at any time when the office of President is vacant, but this subsection shall not affect the transaction of business by any committee of the Regional Assembly.

(5) At any time when the office of President is vacant or when the holder of that office is unable by reason of absence or illness to exercise the functions of his office any function that, under this Constitution, falls to be exercised by the President may be exercised by the Vice-President.

Vice-Presidents of Regional Assemblies.

90.—(1) There shall be a Vice-President of each Regional Assembly who shall be elected by the Regional Assembly from among the Elected Members thereof.

(2) A person shall not be elected as Vice-President unless he is supported by the votes of two-thirds of all the members of the Regional Assembly, and if no candidate is supported by the votes of two-thirds of all the members of the Regional Assembly, a further ballot shall be held:

Provided that, if in the second ballot no candidate is supported by the votes of two-thirds of all the members of the Regional Assembly, the candidate who in that ballot receives the highest number of votes and the candidate who in that ballot receives the next highest number of votes shall alone stand for election in the third ballot and the candidate who receives the higher number of votes in the third ballot shall be elected.

(3) The Vice-President shall vacate his office—

(*a*) when the Regional Assembly first meets after it has been dissolved;

(*b*) if he ceases to be a member of the Regional Assembly otherwise than by reason of its dissolution; or

(*c*) if he is removed from office by resolution of the Regional Assembly supported by the votes of three-quarters of all the members thereof.

(4) Subject to the provisions of section 89 (4) of this Constitution, the first business of a Regional Assembly when it meets after the office of Vice-President has become vacant shall be the election of a Vice-President, but this subsection shall not affect the transaction of business by any committee of the Regional Assembly.

(5) At any time when the office of Vice-President is vacant or when the holder of that office is unable by reason of absence or illness to exercise the functions of his office any function that, under this Constitution, falls to be exercised by the Vice-President (including any function that he is authorised to exercise by section 89 (5) of this Constitution) may be exercised by such member of the Finance and Establishments committee of the Regional Assembly as that committee may determine.

Clerks to Regional Assemblies.

91.—(1) There shall be a Clerk to each Regional Assembly.

(2) The office of the Clerk to a Regional Assembly and the offices of the members of his staff shall be offices in the public service of the Region.

Determination of questions as to membership of Regional Assemblies.

92.—(1) The Supreme Court shall have jurisdiction to hear and determine any question whether—

(*a*) any person has been validly elected as a member of a Regional Assembly; or

(*b*) the seat in a Regional Assembly of a member thereof has become vacant.

(2) An application to the Supreme Court for the determination of any question under subsection (1) (*a*) of this section may be made by any person who was entitled to vote in the election to which the application relates or by the Clerk to the Regional Assembly.

(3) An application to the Supreme Court for the determination of any question under subsection (1) (*b*) of this section may be made by any Elected Member of the Regional Assembly or by any person who is registered as a voter in elections of Elected Members of the Regional Assembly or by the Clerk to the Regional Assembly.

(4) A law made by a Regional Assembly may make provision with respect to—

(*a*) the circumstances and manner in which and the conditions upon which any application may be made to the Supreme Court for the determination of any question under this section relating to that Regional Assembly; and

(*b*) the powers, practice and procedure of the Supreme Court in relation to any such application.

(5) The determination by the Supreme Court of any question under this section shall not be subject to appeal.

(6) In the exercise of the functions vested in him by this section, the Clerk to the Regional Assembly shall not be subject to the direction or control of any other person or authority.

PART 3

Legislative Powers of Regional Assemblies

Power of Regional Assemblies to make laws.

93. Subject to the provisions of this Constitution, a Regional Assembly shall have power to make laws for the peace, order and good government of the Region or of any part thereof with respect to any matter specified in Part I or Part II of Schedule 4 of this Constitution.

Mode of exercise of legislative powers of Regional Assemblies.

94.—(1) The power of a Regional Assembly to make laws under this Part of this Chapter shall be exercisable by bills passed by that Regional Assembly and certified by the President as having been so passed.

(2) When a bill is passed by a Regional Assembly it shall, as soon as practicable, be presented to the President who shall thereupon certify, by writing under his hand, that it has been so passed.

(3) When a bill is certified by the President in accordance with the provisions of this section, it shall become law and the President shall thereupon cause it to be published in the Regional Gazette.

(4) No law made by the Regional Assembly shall come into operation until it has been published in the Regional Gazette but a Regional Assembly may postpone the coming into operation of any such law and may make laws with retrospective effect.

(5) All laws made by the Regional Assembly under this Part of this Chapter shall be styled "Enactments" and the words of enactment thereof shall be "Enacted by the Regional Assembly of the . . . . . Region."

Laws relating to composition of Regional Assemblies.

95. A law made by a Regional Assembly may prescribe the number of Elected Members of that Regional Assembly and may specify the boundaries of the constituencies into which the Districts within the Region are divided in accordance with section 84 (2) of this Constitution:

Provided that, subject to the provisions of section 229 of this Constitution—

(*a*) a bill for a law in pursuance of this section shall not be passed by a Regional Assembly unless at the final reading of that bill in the Regional Assembly it was supported by the votes of three-quarters of all the members thereof;

(*b*) the number of members of a Regional Assembly and the number of constituencies into which each District is divided shall always be such that all Districts within the Region return the same number of members to the Regional Assembly; and

(*c*) every law made in pursuance of this section shall come into effect upon the next dissolution of the Regional Assembly after it was made.

PART 4

Executive Authority of Regions

Executive authority vested in Regional Assemblies.

96.—(1) The executive authority of a Region shall be vested in the Regional Assembly.

(2) Without prejudice to the provisions of section 104 of this Constitution, the executive authority of a Region may, subject to such conditions as the Regional Assembly may prescribe, be exercised on behalf of the Regional Assembly by any committee thereof that is designated for that purpose by the Regional Assembly, and any committee that is so designated may, subject as aforesaid, exercise that authority either directly or through officers in the public service of the Region.

(3) Nothing in this section shall prevent a law made by a Regional Assembly from conferring functions on persons or authorities other than a committee of the Regional Assembly.

Extent of executive authority of Regions.

97.—(1) Subject to the provisions of Chapter IV of this Constitution, the executive authority of a Region shall, to the exclusion of the executive authority of the Government of Kenya, extend to the matters specified in Schedule 4 of this Constitution.

(2) The executive authority of a Region shall be so exercised as—

(*a*) not to impede or prejudice the exercise of the executive authority of the Government of Kenya ; and

(*b*) to ensure compliance with any law made by the Central Legislature applying to that Region.

PART 5

Procedure of Regional Assemblies

Oaths.

98.—(1) Every member of a Regional Assembly shall, before taking his seat therein, take and subscribe the oath of allegiance before the Regional Assembly, but a member may take part in the election of the President and the Vice-President before taking and subscribing that oath.

(2) Any person elected as President who is not a member of the Regional Assembly shall, before entering upon the duties of his office, take and subscribe the oath of allegiance before the Regional Assembly.

Presiding in Regional Assemblies.

99. There shall preside at any sitting of a Regional Assembly—

(*a*) the President ; or

(*b*) in the absence of the President, the Vice-President ; or

(*c*) in the absence of the President and the Vice-President, such member of the Regional Assembly as the Regional Assembly may elect for that purpose.

Quorum in Regional Assemblies.

100. If objection is taken by any member of a Regional Assembly who is present that there are present in that Regional Assembly (besides the person presiding) fewer than one-quarter of all the members of the Regional Assembly and, after such interval as may be prescribed in the rules of procedure of the Regional Assembly, the person presiding ascertains that the number of members present is still less than one-quarter of all the members of the Regional Assembly, he shall thereupon adjourn the Regional Assembly.

Voting in Regional Assemblies.

101.—(1) Save as otherwise provided in this Constitution, any question proposed for decision in a Regional Assembly shall be determined by a majority of the votes of the members present and voting.

(2) The President, the Vice-President and any other person presiding in the Regional Assembly shall, if he is a member thereof, have an original vote but he shall have no casting vote, and whenever there is an equality of votes upon any question, the motion before the Regional Assembly shall be deemed to have been withdrawn.

(3) The rules of procedure of a Regional Assembly may make provision under which a member who votes upon a question in which he has a direct pecuniary interest shall be deemed not to have voted,

Unqualified persons sitting or voting in Regional Assemblies.

102.—(1) Any person who sits or votes in a Regional Assembly knowing or having reasonable grounds for knowing that he is not entitled to do so shall be liable to a penalty not exceeding 500 shillings, or such other sum as may be prescribed by the Regional Assembly, for each day on which he so sits and votes, which penalty shall be recoverable by action in the Supreme Court at the suit of the Clerk to the Regional Assembly.

(2) In the exercise of the functions vested in him by subsection (1) of this section, the Clerk to a Regional Assembly shall not be subject to the direction or control of any other person or authority.

Regulation of procedure in Regional Assemblies, etc.

103.—(1) Subject to the provisions of this Chapter, a Regional Assembly may regulate its own procedure.

(2) A Regional Assembly may act notwithstanding any vacancy in its membership (including any vacancy not filled when the Regional Assembly first meets after any general election) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the Regional Assembly shall not invalidate those proceedings.

(3) A law made by a Regional Assembly may, for the purpose of the orderly and effective discharge of the business of the Regional Assembly, make provision for the powers, privileges and immunities of the Regional Assembly and the committees and the members thereof (including any person who is President of the Regional Assembly, having been elected from among persons who were not members thereof):

Provided that no such powers, privileges or immunities shall exceed those of the Commons' House of Parliament or, as the case may be, of the committees or of the members thereof.

Committees of Regional Assemblies.

104.—(1) Without prejudice to the generality of section 103 (1) of this Constitution, a Regional Assembly may establish committees for such general or special purposes as it thinks fit.

(2) Every Regional Assembly shall establish a committee to deal with Finance and Establishments (including staff matters) and shall establish one or more other committees (as it from time to time thinks fit) to deal with the following matters, that is to say:—

(*a*) commerce and industry;

(*b*) education;

(*c*) health;

(*d*) land, agriculture and forests;

(*e*) local government and administration;

(*f*) public safety and public order; and

(*g*) works and communications.

(3) Every committee of a Regional Assembly shall consist of the person holding the office of President together with other persons chosen from among the members of the Regional Assembly.

(4) Every committee of a Regional Assembly other than the Finance and Establishments committee shall comprise (in addition to the President) a Chairman and such number of ordinary members, not exceeding five, as the Regional Assembly may determine.

(5) The Finance and Establishments committee shall comprise (in addition to the President) the Vice-President as Chairman and the person holding the office of Chairman of each of the other committees that are for the time being established by the Regional Assembly.

(6) The members (other than the President of the Regional Assembly) of each committee of a Regional Assembly except the Finance and Establishments committee shall be elected by the Regional Assembly in accordance with the provisions of Schedule 7 of this Constitution and the Chairman of each such committee shall then be selected by the Regional Assembly from among the persons so elected as members of that committee.

(7) No member of a Regional Assembly (other than the President) shall be elected to be a member of more than two committees at any one time.

(8) The tenure of office of a member of a committee of a Regional Assembly shall not be affected by the dissolution of the Regional Assembly but his office shall become vacant—

(*a*) if he ceases to be a member of the Regional Assembly otherwise than by reason of its dissolution; or

(*b*) if, when the Regional Assembly first meets after it has been dissolved, he is not then a member thereof; or

(*c*) when the Regional Assembly first meets after any general election of its Specially Elected Members; or

(*d*) in the case of the President or the Vice-President of the Regional Assembly, when he ceases to be President or Vice-President, as the case may be; or

(*e*) when the Regional Assembly resolves to abolish the committee or to reconstitute it.

(9) Subject to the provisions of this Chapter and to any provision made in that behalf by a Regional Assembly, each committee of a Regional Assembly may regulate its own procedure.

(10) A committee of the Regional Assembly may act notwithstanding any vacancy in its membership (including any vacancy not filled when it is first constituted or reconstituted at any time) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the committee shall not invalidate those proceedings.

PART 6

Miscellaneous

Meetings of Regional Assemblies.

105.—(1) Every Regional Assembly shall meet at least once in every quarter of a calendar year.

(2) The President of a Regional Assembly may summon a meeting of the Regional Assembly at any time.

(3) Subject to the provisions of subsections (1) and (2) of this section, the meetings of a Regional Assembly shall be held at such time and at such place within the Region as the Regional Assembly may, by its rules of procedure or otherwise, determine.

Dissolution of Regional Assemblies.

106. Each Regional Assembly shall stand dissolved at the expiration of five years beginning with the date upon which the immediately preceding Regional Assembly stood dissolved.

Governor's reserved powers in relation to Regional Assemblies.

107. The provisions of section 52 of this Constitution (which relates to the Governor's reserved powers) shall apply in relation to a Regional Assembly and to any committee thereof as they apply in relation to a House of the National Assembly and to any committee of that House, but the references in subsection (5) of that section to the Speaker of a House of the National Assembly shall, in the application of those provisions in relation to a Regional Assembly or to any committee thereof, be construed as if they were references to the President of the Regional Assembly.

Disallowance of Regional laws.

108. The provisions of section 53 of this Constitution (which relates to the disallowance of laws) shall apply in relation to a law made by a Regional Assembly as they apply in relation to a law enacted by the Central Legislature that was assented to by the Governor:

Provided that, in the application of those provisions to a law made by a Regional Assembly—

(*a*) the reference in subsection (2) of the said section 53 to the Kenya Gazette shall be construed as if it were a reference to the Regional Gazette; and

(*b*) the stock to which this section applies shall be stock which forms part of the public debt of the Region or of the Government of Kenya—

(i) (in the case of stock forming part of the public debt of the Government of Kenya) in which a trustee might at any time have invested by virtue of section 2 of the Colonial Stock Act 1900(a); or

(ii) (in the case of stock forming part of the public debt of the Region or of the Government of Kenya in respect of a loan contracted on behalf of the Region) by the conditions of issue of which it is provided that the said section 53 (as applied by this section) shall apply to it.

Civil Secretaries and other officers of committees.

109.—(1) There shall be a Civil Secretary for each Region whose office shall be an office in the public service of the Region.

(2) The Civil Secretary, who shall carry out the duties of secretary and executive officer to the Finance and Establishments committee, shall be responsible, in accordance with such instructions as may be given to him by that committee, for arranging the business for, and keeping the minutes of, that committee and shall be responsible for conveying the decisions of the Regional Assembly and of that committee to the appropriate person or authority; and he shall also have such other functions as the Finance and Establishments committee may from time to time direct.

(a) 63 & 64 Vict. c. 62.

(3) The Civil Secretary shall be in charge of the organisation and administration of the public service of the Region and shall be responsible therefor to the Finance and Establishments committee.

(4) The Civil Secretary shall allocate an officer in the public service of the Region to carry out the duties of secretary and executive officer to each committee (other than the Finance and Establishments committee) that is empowered by section 96 (2) of this Constitution to exercise the executive authority of the Region on behalf of the Regional Assembly, and every officer so allocated to a committee shall be responsible, in accordance with such instructions as may be given to him by the committee and, subject thereto, by the Civil Secretary, for arranging the business for, and keeping the minutes of, the committee and shall be responsible for conveying the decisions of the committee to the appropriate person or authority.

Civil Secretaries and officers to attend proceedings.

110.—(1) The Civil Secretary of a Region shall be entitled to attend all meetings of the Regional Assembly of that Region and of any committee of that Regional Assembly and to take part in all proceedings thereof but he shall not be regarded as a member of, or be entitled to vote on any question before, the Regional Assembly or any such committee.

(2) Each officer who is allocated under section 109 (4) of this Constitution to carry out the duties of secretary and executive officer to a committee of the Regional Assembly shall be entitled to attend all meetings of that committee and to take part in all proceedings thereof but he shall not be regarded as a member of the committee or be entitled to vote on any question before it.

(3) Without prejudice to any law made in pursuance of section 103 (3) of this Constitution, the Regional Assembly of a Region or any committee thereof may summon any officer in the public service of the Region to attend before it for the purpose of assisting it in its deliberations on any matter but any officer so attending shall not be regarded as a member of, or be entitled to vote on any question before, the Regional Assembly or that committee.

CHAPTER VI

Special Provisions relating to Legislative and Executive Powers of the Centre and the Regions

Matters dealt with in Schedule 5 of this Constitution.

111.—(1) The provisions of Schedule 5 of this Constitution shall, subject to the provisions of this Chapter, have effect in relation to the respective legislative powers of the Central Legislature and a Regional Assembly and in relation to the respective executive authorities of the Government of Kenya and a Region.

(2) The provisions of this Chapter and of Schedule 5 of this Consitution shall have effect notwithstanding the provisions of sections 58 (1), 58 (2), 63 (3), 93 and 97 (1) of this Constitution.

(3) Where any provision of this Chapter or of the said Schedule 5 vests in a Regional Assembly the power to make laws with respect to any matter to the exclusion of the power of the Central Legislature so to do, sections 59, 60, 61 and 62 of this Constitution shall have effect as if that matter were a matter specified in Part I of Schedule 4 of this Constitution; and where any provision of this

Chapter or of the said Schedule 5 provides that the executive authority of a Region shall extend to any matter to the exclusion of the executive authority of the Government of Kenya, subsections (4), (5), (6) and (7) of section 63 of this Constitution shall have effect as if that matter were specified in Schedule 4 of this Constitution.

(4) Where any provision of this Chapter or of the said Schedule 5 provides that the executive authority of the Government of Kenya shall extend to any matter to the exclusion of the executive authority of any Region, that provision shall be subject to the provisions of section 64 of this Constitution.

General and interpretative provisions.

112.—(1) Any power conferred by any of the provisions of this Constitution upon the Central Legislature or, as the case may be, upon a Regional Assembly to make laws with respect to any matter shall include power to make laws with respect to any other matters that are incidental or supplementary to that matter.

(2) Where under any of the provisions of this Constitution the executive authority of the Government of Kenya or, as the case may be, of a Region extends to any matter, that authority shall also extend to any other matters that are incidental or supplementary to that matter.

(3) Where any provision of this Constitution confers any function on the Government of Kenya or on any officer or authority of that Government or on any court, the Central Legislature may make laws with respect to any matters that are incidental or supplementary to the discharge of that function and the executive authority of the Government of Kenya shall extend to those matters.

(4) Where any provision of this Constitution confers any function on the Regional Assembly of any Region or on any officer or authority of that Region, that Regional Assembly may make laws with respect to any matters that are incidental or supplementary to the discharge of that function and the executive authority of the Region shall extend to those matters.

(5) In this section references to incidental and supplementary matters shall, without prejudice to their generality, be construed as including references to—

(*a*) offences;

(*b*) the jurisdiction, powers, practice and procedure of courts of law;

(*c*) the compulsory acquisition of property; and

(*d*) the establishment and regulation of tribunals of enquiry.

(6) Any provision of this Constitution that vests in a Region exclusive executive authority with respect to any matter with respect to which the Central Legislature has power to make laws shall be without prejudice to the authority of the Government of Kenya to decide whether or not to introduce legislation with respect to that matter into the National Assembly and to determine the content of any legislation with respect to that matter that it decides so to introduce.

(7) Where the Central Legislature is empowered by any provision of Schedule 5 of this Constitution to make any declaration by law, that declaration may be made by resolutions passed by both Houses of the National Assembly instead of by Ordinance.

(8) The inclusion of any matter in Schedule 4 or the inclusion of a provision with respect to any matter in Schedule 5 of this

Constitution shall not be construed as conferring on the Regional Assembly of any Region the power to make laws with respect to conditions of employment (except as regards the public service of the Region) or as extending the executive authority of the Region to conditions of employment.

CHAPTER VII

FINANCE

PART 1

Financial Procedure of Government of Kenya

Consolidated Fund.

113. All revenues or other monies raised or received for the purposes of the Government of Kenya (not being revenues or other monies raised or received by a Region or revenues or other monies that are payable, by or under a law made by the Central Legislature, into some other fund established for any specific purpose or that may, by or under such a law, be retained by the authority that received them for the purpose of defraying the expenses of that authority) shall be paid into and form a Consolidated Fund.

Withdrawals from Consolidated Fund or other funds of Government of Kenya.

114.—(1) No monies shall be withdrawn from the Consolidated Fund except—

(*a*) to meet expenditure that is charged upon the Fund by this Constitution or by any law made by the Central Legislature ; or

(*b*) where the issue of those monies has been authorised by an Appropriation Ordinance or by a vote on account passed by the House of Representatives under section 116 of this Constitution,

and no monies shall be withdrawn from the Consolidated Fund unless such withdrawal has been approved by the Controller and Auditor-General.

(2) Where any monies are charged by this Constitution or any law made by the Central Legislature upon the Consolidated Fund or any other public fund of the Government of Kenya, they shall be paid out of that fund by the Government of Kenya to the person or authority to whom payment is due.

(3) No monies shall be withdrawn from any public fund of the Government of Kenya other than the Consolidated Fund unless the issue of those monies has been authorised by or under any law.

(4) The Central Legislature may prescribe the manner in which withdrawals may be made from the Consolidated Fund or any other fund of the Government of Kenya.

Authorisation of expenditure from Consolidated Fund by appropriation.

115.—(1) The Minister for the time being responsible for finance shall cause to be prepared and laid before the House of Representatives in each financial year estimates of the revenues and expenditure of the Government of Kenya for the next following financial year.

(2) When the estimates of expenditure (other than expenditure charged upon the Consolidated Fund by this Constitution or by any law made by the Central Legislature) have been approved by the House of Representatives, a bill, to be known as an Appropriation bill, shall be introduced into that House, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and

the appropriation of those sums, under separate votes for the several services required, to the purposes specified therein.

(3) If in respect of any financial year it is found—

(*a*) that the amount appropriated by the Appropriation Ordinance to any purpose is insufficient or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by that Ordinance; or

(*b*) that any monies have been expended for any purpose in excess of the amount appropriated to that purpose by the Appropriation Ordinance or for a purpose to which no amount has been appropriated by that Ordinance,

a supplementary estimate or, as the case may be, a statement of excess showing the sums required or spent shall be laid before the House of Representatives and, when the supplementary estimate or statement of excess has been approved by that House, a supplementary Appropriation bill shall be introduced into that House, providing for the issue of such sums from the Consolidated Fund and appropriating them to the purposes specified therein.

Authorisation of expenditure in advance of appropriation.

116. If the Appropriation Ordinance for any financial year has not come into operation, or is not likely to come into operation, by the beginning of that financial year, the House of Representatives may, by a vote on account, authorise the withdrawal from the Consolidated Fund of monies (not exceeding in total one-half of the sums included in the estimates of expenditure for that year that have been laid before the House) for the purpose of meeting expenditure necessary to carry on the services of the Government of Kenya during that year until such time as the Appropriation Ordinance comes into operation, but any monies so withdrawn shall be included, under separate votes for the several services in respect of which they were withdrawn, in the Appropriation Ordinance.

Contingencies Fund.

117.—(1) The Central Legislature may make provision for the establishment of a Contingencies Fund and for authorising the Minister for the time being responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.

(2) Where any advance is made from the Contingencies Fund, a supplementary estimate shall be presented and a supplementary Appropriation bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

Remuneration of certain officers.

118.—(1) There shall be paid to the holders of the offices to which this section applies such salary and such allowances as may be prescribed by or under a law made by the Central Legislature.

(2) The salaries and any allowances payable to the holders of the offices to which this section applies shall be a charge on the Consolidated Fund.

(3) The salary payable to the holder of any office to which this section applies and his other terms of service (other than allowances that are not taken into account in computing, under any law in that behalf, any pension payable in respect of his service in that office) shall not be altered to his disadvantage after his appointment.

(4) When a person's salary or other terms of service depend upon his option, the salary or terms for which he opts shall, for the purposes of subsection (3) of this section, be deemed to be more advantageous to him than any others for which he might have opted.

(5) This section applies to the offices of Governor, Deputy Governor, Justice of Appeal, judge of the Supreme Court, independent member of a Public Service Commission, appointed member of the Police Service Commission, appointed member of the Electoral Commission, Attorney-General, Controller and Auditor-General and Inspector-General of Police.

(6) Nothing in this section shall be construed as prejudicing the provisions of section 185 of this Constitution (which protects pension rights in respect of service as a public officer).

Public debt of Government of Kenya.

119.—(1) The public debt of the Government of Kenya shall be secured on the Consolidated Fund.

(2) For the purposes of this section, the public debt of the Government of Kenya includes the interest on that debt, sinking fund payments in respect of that debt and the costs, charges and expenses incidental to the management of that debt.

Controller and Auditor-General.

120.—(1) There shall be a Controller and Auditor-General whose office shall be an office in the public service of the Government of Kenya.

(2) It shall be the duty of the Controller and Auditor-General—

(*a*) to satisfy himself that any proposed withdrawal from the Consolidated Fund is authorised by, or as provided by, section 114 of this Constitution and, if so satisfied, to approve such withdrawal;

(*b*) to satisfy himself that all monies that have been appropriated by the Central Legislature and disbursed have been applied to the purposes to which they were so appropriated and that the expenditure conforms to the authority that governs it; and

(*c*) at least once in every year to audit and report on the public accounts of the Government of Kenya, the accounts of all officers and authorities of that Government, the accounts of all courts in Kenya (other than courts no part of the expenses of which are defrayed directly out of monies provided by the Central Legislature), the accounts of the Central Land Board, the accounts of every Commission established by this Constitution (other than the Public Service Commission of a Region) and the accounts of the Clerk to each House of the National Assembly.

(3) The Controller and Auditor-General and any officer authorised by him shall have access to all books, records, returns, reports and other documents which in his opinion relate to any of the accounts referred to in subsection (2) of this section.

(4) The Controller and Auditor-General shall submit every report made by him in pursuance of subsection (2) of this section to the Minister for the time being responsible for finance who shall, not later than seven days after each House of the National Assembly first meets after he has received the report, lay it before that House.

(5) A copy of any report made by the Controller and Auditor-General in pursuance of subsection (2) of this section and relating to the accounts of any court, the Central Land Board and any Com-

mission established by this Constitution (other than the Public Service Commission of the Government of Kenya) shall also be submitted by the Controller and Auditor-General to the Finance and Establishments committee of each Regional Assembly which shall, not later than seven days after the Regional Assembly first meets after the committee has received the report, lay it before the Regional Assembly.

(6) The Controller and Auditor-General shall exercise such other functions in relation to the accounts of the Government of Kenya or the accounts of other authorities or bodies established by law for public purposes (not being authorities or bodies established by a law made by a Regional Assembly) as may be prescribed by or under a law made by the Central Legislature.

(7) In the exercise of his functions under subsections (2), (3), (4) and (5) of this section, the Controller and Auditor-General shall not be subject to the direction or control of any other person or authority.

PART 2

Financial Procedure of Regional Assemblies.

Regional Funds.

121. There shall be a Regional Fund of each Region and all revenues or other monies raised or received by the Region for the purposes of government (not being revenues or other monies that, by or under any law made by the Regional Assembly, are payable into some other fund established for a specific purpose or that may, by or under such a law, be retained by the authority that received them for the purpose of defraying the expenses of that authority) shall be paid into the Regional Fund.

Withdrawal from Regional Funds or other public funds of Regions.

122.—(1) No monies shall be withdrawn from the Regional Fund of a Region except—

(*a*) to meet expenditure that is charged upon the Regional Fund or by any law made by the Regional Assembly; or

(*b*) where the issue of those monies has been authorised by an Appropriation Enactment made by the Regional Assembly or by a law made in pursuance of section 124 of this Constitution,

and no monies shall be withdrawn from the Regional Fund of a Region unless such withdrawal has been approved by the Controller and Auditor-General or such other auditor as may be approved in that behalf by the Controller and Auditor-General.

(2) Where any monies are charged by any law made by the Regional Assembly of any Region upon the Regional Fund of the Region or on any other public fund of the Region, they shall be paid out of that fund by the Region to the person or authority to whom payment is due.

(3) No monies shall be withdrawn from any public fund of a Region other than the Regional Fund unless the issue of those monies has been authorised by or under any law.

(4) A law made by a Regional Assembly may prescribe the manner in which withdrawals shall be made from the Regional Fund or any other public fund of the Region.

Authorisation of expenditure from Regional Funds by appropriation.

123.—(1) The Finance and Establishments committee shall cause to be prepared and laid before the Regional Assembly in each financial year estimates of the revenues and expenditure of the Region for the next following financial year.

(2) When the estimates of expenditure (other than expenditure charged upon the Regional Fund by any law made by the Regional Assembly) have been approved by the Regional Assembly, a bill, to be known as an Appropriation bill, shall be introduced into the Regional Assembly, providing for the issue from the Regional Fund of the sums necessary to meet that expenditure and the appropriation of those sums, under separate votes for the several services required, to the purposes specified therein.

(3) If in respect of any financial year it is found—

(*a*) that the amount appropriated by the Appropriation Enactment to any purpose is insufficient or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by that Enactment; or

(*b*) that any monies have been expended for any purpose in excess of the amount appropriated to that purpose by the Appropriation Enactment or for a purpose to which no amount has been appropriated by that Enactment,

a supplementary estimate or, as the case may be, a statement of excess showing the sums required or spent shall be laid before the Regional Assembly and, when the supplementary estimate or the statement of excess has been approved, a supplementary Appropriation bill shall be introduced into the Regional Assembly, providing for the issue of such sums from the Regional Fund and appropriating them to the purposes specified therein.

Authorisation of expenditure in advance of appropriation.

124. A law made by a Regional Assembly may make provision under which, if it appears to the Finance and Establishments committee of that Regional Assembly that the Appropriation Enactment in respect of any financial year will not come into operation by the beginning of that financial year, the committee may authorise the withdrawal of monies from the Regional Fund for the purpose of meeting expenditure necessary to carry on the services of the Region in respect of the period expiring at the end of four months from the beginning of that financial year or on the coming into operation of the Appropriation Enactment, whichever is the earlier.

Regional Contingencies Funds.

125.—(1) A law made by a Regional Assembly may make provision for the establishment of a Regional Contingencies Fund and for authorising the Finance and Establishments committee of that Regional Assembly, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

(2) Where any advance is made from the Contingencies Fund, a supplementary estimate shall be presented and a supplementary Appropriation bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

Public debt of Regions.

126.—(1) The public debt of each Region shall be secured on the Regional Fund.

(2) For the purposes of this section, the public debt of a Region includes the interest on that debt, sinking fund payments in respect

of that debt and the costs, charges and expenses incidental to the management of that debt.

Functions of Controller and Auditor-General in relation to Regions.

127.—(1) It shall be the duty of the Controller and Auditor-General or such other auditor as may be approved in that behalf by the Controller and Auditor-General to satisfy himself that any proposed withdrawal from the Regional Fund of a Region is authorised by, or as provided by, section 122 of this Constitution and, if so satisfied, to approve such withdrawal.

(2) The public accounts of each Region and of all officers and authorities of the Region, the accounts of all courts within the Region the expenses of which are directly defrayed (either wholly or in part) out of monies provided by the Regional Assembly but no part of the expenses of which are directly defrayed out of monies provided by the Central Legislature, the accounts of the Public Service Commission of the Region and the accounts of the Clerk to the Regional Assembly shall, at least once in every financial year, be audited and reported on by the Controller and Auditor-General or by such other auditor as may be approved in that behalf by the Controller and Auditor-General, and for that purpose the auditor and any person authorised by him in that behalf shall have access to all books, records, returns, reports and other documents which in his opinion relate to those accounts.

(3) The auditor shall submit his report to the Finance and Establishments committee of the Regional Assembly which shall, not later than seven days after the Regional Assembly first meets after the Committee receives the report, lay it before the Regional Assembly.

(4) A law made by a Regional Assembly may include provision conferring other functions on the Controller and Auditor-General in relation to the accounts of the Region or of any authority or body established for public purposes by a law made by the Regional Assembly:

Provided that no such provision shall have effect except with the consent of the Governor.

(5) In the exercise of his functions under subsections (1), (2) and (3) of this section, the Controller and Auditor-General shall not be subject to the direction or control of any other person or authority, and any other auditor approved by the Controller and Auditor-General for the purposes of subsection (1) or subsection (2) of this section shall, in the exercise of his functions under either of those subsections or under subsection (3) of this section, be subject to the direction and control only of the Controller and Auditor-General.

PART 3

Financial Relations between Centre and Regions

Payments to Regions related to taxation of petrol.

128.—(1) Where under any law made by the Central Legislature a tax or duty is levied in respect of the importation into Kenya of motor spirit or diesel oil, or of any particular class, variety or description of motor spirit or diesel oil, or an excise tax or duty is levied in Kenya on motor spirit or diesel oil, or on any particular class, variety or description of motor spirit or diesel oil, or a tax or duty is levied on the sale, purchase or consumption in Kenya of motor spirit or diesel oil, or of any particular class, variety or description of motor spirit or

diesel oil, there shall be paid by the Government of Kenya to the Regions in respect of each financial year a sum equal to the proceeds of that tax or duty for that financial year.

(2) Where under subsection (1) of this section any sum is payable by the Government of Kenya to the Regions in respect of any financial year, payment of that sum shall be made in such manner that—

(*a*) an amount equal to the proceeds of the tax or duty (other than the proceeds attributable to the quantities of motor spirit or diesel oil or any particular class, variety or description of motor spirit or diesel oil distributed for consumption in the Nairobi Area) is divided among the Regions in shares proportionate to the respective amounts of motor spirit or diesel oil, or of motor spirit or diesel oil of the particular class, variety or description, as the case may be, that have been distributed for consumption in the several Regions in that financial year; and

(*b*) an amount equal to the proceeds of the tax or duty attributable to the quantities of motor spirit or diesel oil or of the particular class, variety or description of motor spirit or diesel oil distributed for consumption in the Nairobi Area in that financial year is paid to such Region or Regions and, if more than one, in such shares as the Governor, acting in his discretion, may by order prescribe.

(3) For the purposes of this section the proceeds for a financial year of a tax or duty on motor spirit or diesel oil, or any particular class, variety or description of motor spirit or diesel oil, shall be the amount remaining from the receipts of that tax or duty that are collected in that financial year after any drawbacks, refunds or other repayments relating to those receipts have been made or allowed for and the administrative expenses relating to the collection of those receipts have been deducted or allowed for.

Payments to Regions related to taxation of other commodities.

129.—(1) Where under any law made by the Central Legislature a tax or duty is levied in respect of the importation into Kenya of any commodity other than motor spirit or diesel oil, or an excise tax or duty is levied in Kenya on any commodity other than motor spirit or diesel oil, or a tax or duty is levied on the sale, purchase or consumption in Kenya of any commodity other than motor spirit or diesel oil or agricultural produce produced in Kenya, there shall be paid by the Government of Kenya to the Regions in respect of each financial year a sum equal to thirty-five per cent. of the proceeds of that duty for that financial year.

(2) Where under subsection (1) of this section any sum is payable by the Government of Kenya to the Regions in respect of any financial year, payment of that sum shall be made in such manner that the sum is divided among the Regions in shares proportionate to the respective numbers of the inhabitants of each Region.

(3) For the purposes of this section the proceeds for a financial year of a tax or duty shall be the amount remaining from the receipts of that tax or duty that are collected in that financial year after any drawbacks, refunds or other repayments relating to those receipts have been made or allowed for and the administrative expenses relating to those receipts have been deducted or allowed for.

(4) For the purposes of this section the number of the inhabitants of a Region shall be ascertained by reference to the latest census of the population of Kenya held in pursuance of any law.

Taxation of motor vehicles and drivers.

130. Where under any law made by the Central Legislature a tax or duty or fee is levied in respect of the licensing of motor vehicles or the drivers of motor vehicles—

(*a*) the rates of the tax, duty or fee shall be uniform throughout Kenya;

(*b*) a licence in respect of a vehicle shall be issued only in the Region in which the vehicle is usually kept or, if the vehicle is usually kept in the Nairobi Area, only in that Area, and a licence in respect of a driver shall be issued only in the Region in which the driver usually resides or, if he usually resides in the Nairobi Area, only in that Area, and a licence so issued in respect of a vehicle or of a driver shall be valid throughout Kenya;

(*c*) licences shall be issued in a Region by such persons or authorities as may be prescribed by or under a law made by the Regional Assembly of that Region; and

(*d*) the proceeds of any tax, duty or fee relating to a licence issued in a Region shall be revenues of the Region.

Payments to Regions related to mineral royalties.

131.—(1) Where under any law made by the Central Legislature any royalty is levied in respect of the extraction in Kenya of minerals (other than soda) or mineral oil or any particular class, variety or description of minerals (other than soda) or mineral oil and the proceeds of that royalty for any financial year exceed £100,000, there shall be paid by the Government of Kenya to the several Regions in respect of that financial year a sum equal to two-thirds of the excess.

(2) Where under subsection (1) of this section any sum is payable by the Government of Kenya to the Regions in respect of any financial year, payment of that sum shall be made in such manner that—

(*a*) an amount equal to one-sixth of the amount of the excess of the proceeds of the royalty over £100,000 is divided equally among the Regions in which the minerals or mineral oils to which the royalty relates were extracted; and

(*b*) an amount equal to one-half of the amount of the excess of the proceeds of the royalty over £100,000 is divided equally among all the Regions.

(3) Where under any law made by the Central Legislature any royalty is levied in respect of the extraction of soda from the Lake Magadi soda deposit, there shall be paid by the Government of Kenya to the Rift Valley Region in respect of each financial year a sum equal to the proceeds of that royalty for that financial year.

(4) For the purposes of this section the proceeds for a financial year of a royalty shall be the amount remaining from the receipts of that royalty after any refunds or repayments relating to those receipts have been allowed for and the administrative expenses relating to the collection of those receipts have been deducted or allowed for.

Police grant.

132. The Government of Kenya shall pay to each Region in respect of each financial year a sum equal to half the expenditure incurred by that Region for that financial year in respect of the Regional Contingent of the Police Force for that Region:

Provided that if the National Security Council considers that the amount of the expenditure so incurred by any Region in respect of any financial year is unreasonable the Government of Kenya shall pay to that Region in respect of that financial year a sum equal to half

of so much of that expenditure as the National Security Council determines to be reasonable.

Legislative powers of Regional Assemblies with respect to taxation.

133.—(1) The Regional Assembly of a Region may make laws with respect to—

(*a*) taxes on or relating to the incomes of persons resident within the area of jurisdiction of each municipal council and each county council in the Region;

(*b*) rates on land or buildings within the area of jurisdiction of each county council and each municipal council in the Region;

(*c*) poll taxes on persons resident within the area of jurisdiction of any township authority, urban council, area council or local council in the Region;

(*d*) taxes in respect of entertainments (including exhibitions, performances, amusements, games and sports) in the Region to which persons are admitted for payment; and

(*e*) royalties in respect of common minerals extracted in the Region.

(2) The powers conferred upon the Regional Assembly of a Region by subsection (1) (*a*) of this section shall not extend to the taxation of bodies corporate, partnerships or persons under the age of eighteen years.

(3) The tax imposed in respect of any calendar year on or relating to the income of any person by a law made by the Regional Assembly of a Region under subsection (1) (*a*) of this section shall not exceed 600 shillings or such greater amount as may from time to time be prescribed by or under any law made by the Central Legislature.

(4) A law made by the Regional Assembly of a Region under subsection (1) (*b*) of this section may impose in respect of any calendar year a contribution in lieu of rates on any land or building in the Region that is vested in the Governor on behalf of Her Majesty in right of the Government of Kenya, in the East African Common Services Organization or any officer or authority of that Organization or in any body corporate established for public purposes by any law made by the Central Legislature:

Provided that the contribution payable in respect of any land or building shall not exceed such amount as would be payable by way of rates on that land or building if it were not vested as aforesaid.

(5) A law made by the Central Legislature may make provision for the valuation of land and buildings in any Region for the purposes of any rate imposed by any law made under subsection (1) (*b*) of this section:

Provided that the valuation of land and buildings in the Region for those purposes in accordance with the provisions of any law made by the Central Legislature under this subsection shall be carried out by such persons or authorities as may be prescribed by or under a law made by the Regional Assembly of that Region.

(6) The poll tax imposed in respect of any calendar year upon any person by a law made by the Regional Assembly of a Region under subsection (1) (*c*) of this section shall not exceed 100 shillings or such greater amount as may from time to time be prescribed by or under any law made by the Central Legislature.

(7) A law made by the Central Legislature may make provision for the exemption of entertainments of a national character from any tax imposed by any law made under subsection (1) (*d*) of this section.

(8) The power to make laws with respect to any matter conferred upon the Regional Assembly of a Region by this section (other than the power conferred by subsection (1) (*a*) of this section) shall be to the exclusion of the power of the Central Legislature to make laws with respect to that matter.

(9) The power conferred upon the Regional Assembly of a Region by subsection (1) (*a*) of this section shall be without prejudice to the power of the Central Legislature to make provision for the taxation of incomes (including incomes subject to taxation imposed by a law made under subsection (1) (*a*) of this section) but that power of the Central Legislature shall not be exercised in such a manner as to prevent the exercise by the Regional Assembly of its power under subsection (1) (*a*) of this section.

Local government authorities of a Region to levy and collect taxes, etc.

134.—(1) Where a tax, rate or contribution in lieu of rates is imposed by or under any law made by the Regional Assembly of a Region under subsection (1) (*a*), subsection (1) (*b*) or subsection (4) of section 133 of this Constitution it shall be levied by and collected by or on behalf of the respective municipal councils and county councils in the Region; where a poll tax is imposed by or under any law made by the Regional Assembly of a Region under subsection (1) (*c*) of that section on persons within the area of jurisdiction of any township authority, urban council, area council or local council in the Region that is specified in that law, it shall be levied by and collected by or on behalf of that authority or council; and where a tax or royalty is imposed by or under any law made by the Regional Assembly of a Region under subsection (1) (*d*) or subsection (1) (*e*) of that section it shall be levied and collected by such local government authority (being a local government authority within whose area of jurisdiction the entertainment concerned is held or, as the case may be, the mineral concerned is extracted) as may be specified by or under any law of the Regional Assembly:

Provided that nothing in this subsection shall be construed as precluding the Regional Assembly from making provision for—

(*a*) regulating the scale upon which the tax, rate, contribution in lieu of rates or royalty is levied by any council;

(*b*) determining the principles upon which the tax, rate, contribution in lieu of rates or royalty is assessed; or

(*c*) prescribing the manner in which the tax, rate, contribution in lieu of rates or royalty is collected by the local government authority that levies it or by some other person or authority in the Region acting on behalf of that local government authority.

(2) Subject to the provisions of section 136 of this Constitution, the proceeds of any tax, rate, contribution in lieu of rates or royalty imposed by any law made under subsection (1) or subsection (4) of section 133 of this Constitution that are collected by or on behalf of a local government authority in a Region shall be the revenues of that authority.

Local government authorities in Nairobi to levy certain taxes, etc.

135.—(1) Where, by or under any law made by the Central Legislature, a tax is imposed on or relating to the income of persons resident in the Nairobi Area (not being a tax imposed under the East African Income Tax Management Act 1958(a), or any law amending or

(a) East Africa High Commission Act No. 4 of 1958.

replacing that Act) or a rate or contribution in lieu of rates is imposed on land or buildings within the Nairobi Area, that tax, rate or contribution shall be levied and collected by or on behalf of the City Council of Nairobi; where, by or under any law made by the Central Legislature, a poll tax is levied on persons resident within any part of the Nairobi Area, that tax shall be levied and collected by such local government authority (other than the City Council of Nairobi) as may be specified by or under a law made by the Central Legislature; and where, by or under any law made by the Central Legislature, a tax is imposed in respect of entertainments (including exhibitions, performances, amusements, games and sports) in the Nairobi Area, to which persons are admitted for payment or a royalty is imposed in respect of common minerals extracted in the Nairobi Area, that tax or royalty shall be levied and collected by such local government authority (being a local government authority within whose area of jurisdiction the entertainment concerned is held or, as the case may be, the mineral concerned is extracted) as may be specified by or under a law made by the Central Legislature:

Provided that nothing in this subsection shall be construed as precluding the Central Legislature from making provision for—

(*a*) regulating the scale upon which the tax, rate, contribution in lieu of rates or royalty is levied;

(*b*) determining the principles upon which the tax, rate, contribution in lieu of rates or royalty is assessed; and

(*c*) prescribing the manner in which the tax, rate, contribution in lieu of rates or royalty is collected.

(2) Subject to the provisions of section 136 of this Constitution, the proceeds of any tax, rate, contribution in lieu of rates or royalty that are collected, by virtue of the provisions of subsection (1) of this section, by or on behalf of a local government authority established for the Nairobi Area, shall be revenues of that authority.

Precepting.

136.—(1) Subject to the provisions of this section, a law made by the Regional Assembly of a Region may make provision under which a local government authority of the Region may be required to pay, out of the proceeds of any tax, rate, contribution in lieu of rates or royalty collected by or on behalf of that authority, to the revenues of the Region or to the revenues of some other local government authority such amounts or proportions of those proceeds as may be specified by or under the law.

(2) Subject to the provisions of this section, a law made by the Central Legislature may make provision under which a local government authority established for the Nairobi Area may be required to pay, out of the proceeds of any tax, rate, contribution in lieu of rates or royalty collected by or on behalf of that authority, to the revenues of the Government of Kenya or to the revenues of some other local government authority such amounts or proportions of those proceeds as may be specified by or under the law.

(3) A local government authority shall not be required under subsection (1) or subsection (2) of this section to pay, in respect of the proceeds of a tax, rate, contribution or royalty, any amount or proportion other than a fixed amount or proportion notified to that authority before the commencement of the calendar year in which payment is to be made.

(4) Where any local government authority is required to make a payment under subsection (1) or subsection (2) of this section, it may, within one month of the receipt of the notification given to it in pursuance of subsection (3) of this section, appeal to the standing advisory committee of the Senate established under section 225 of this Constitution on the ground that the payment required is excessive.

(5) The standing advisory committee of the Senate shall consider any appeal made to it in pursuance of subsection (4) of this section and shall, in such consideration, have regard to all the circumstances of the case including the functions that the local government authority concerned is for the time being required to exercise and its general financial position; and in the light of such consideration the committee shall determine whether the local government authority shall make the payment required or shall pay such smaller amount or proportion as the committee may declare to be reasonable.

(6) The standing advisory committee of the Senate may regulate its own procedure for the discharge of its powers and duties under this section, including the manner in which appeals to it may be made.

Revenues from forests antiquities and museums.

137.—(1) Where by or under any law made by the Central Legislature a royalty is imposed in respect of forest produce, then—

(*a*) if it is imposed in respect of produce extracted from a Central Forest, it shall be levied and collected by the Government of Kenya and the proceeds shall be revenues of that Government;

(*b*) subject to the provisions of paragraph (*c*) of this subsection, if it is imposed in respect of produce extracted from a Regional Forest, it shall be levied and collected by the Region in which the Regional Forest is situated and the proceeds shall be revenues of that Region; and

(*c*) if it is imposed in respect of produce extracted from an area that is for the time being dedicated under paragraph 21 (4) of Schedule 5 of this Constitution, it shall be levied and collected by the Government of Kenya but the proceeds after the deduction of the cost of the management and operation of the forest within that area and after the deduction of the administrative expenses relating to the collection of the royalty shall be revenues of the Region within which the area is situated.

(2) Where any antiquity or museum in a Region is administered by the Government of Kenya or by an authority of the Government of Kenya there shall be paid by the Government of Kenya to that Region in respect of each financial year an amount equal to the profits (if any) derived by the Government of Kenya from the administration of that antiquity or museum for that financial year.

Fees.

138.—(1) Where power is conferred upon a Regional Assembly by any of the provisions of this Constitution to make laws with respect to any matter or to exercise executive authority with respect to any matter, the Regional Assembly may make laws for the imposition of fees for the purpose of defraying the expenses involved in the administration of that matter.

(2) Except as provided in section 133 of this Constitution, any power conferred by any provision of this Constitution upon a Regional Assembly to make laws with respect to any matter shall not include power to impose any tax, duty, rate, cess or other impost.

Internal borrowing.

139. A law made by the Central Legislature may make provision for regulating the borrowing within Kenya of money by a Region or any officer or authority of a Region:

Provided that nothing in this section shall be construed as precluding a Region or a local government authority from borrowing money by way of overdraft upon a bank up to an amount not exceeding one-third of its annual revenues for the time being.

Central Housing Board and Local Government Loans Authority.

140.—(1) The Central Legislature may establish—

(*a*) a Central Housing Board which shall have the function of making loans to local government authorities of the Regions or of the Nairobi Area for the purposes of housing;

(*b*) a Local Government Loans Authority which shall have the function of making loans to local government authorities of the Regions or of the Nairobi Area for purposes other than housing.

(2) A Central Housing Board or a Local Government Loans Authority established under this section shall be composed in such manner as may for the time being be prescribed by or under a law made by the Central Legislature so, however, that it shall contain at least one member representing the Nairobi Area who shall be appointed by the City Council of Nairobi and at least one member representing each Region who shall be appointed by the Chairman of the committee of the Regional Assembly of that Region that is for the time being designated under section 104 of this Constitution to deal with local government and administration, the number of members who are to be so appointed to represent the Regions being the same in the case of all Regions and the number of members who are to be so appointed to represent the Nairobi Area being the same as in the case of each Region.

(3) No loan shall be made by the Central Housing Board or the Local Government Loans Authority to a local government authority of a Region unless the Regional Assembly of the Region has approved that application should be made by the local government authority for the grant of that loan.

Government of Kenya to consult Regions.

141.—(1) The Prime Minister shall consult with the President of each Regional Assembly before the recommendation of the Governor is signified under section 50 (2) of this Constitution with respect to any bill, or before any instrument is made under a law made by the Central Legislature, the likely effect of which bill or instrument would be that the sum payable to the Regions under section 128 or section 129 of this Constitution in respect of any financial year would be lower than the sum payable to the Regions under that section in respect of the previous financial year.

(2) The Prime Minister shall consult with the President of the Regional Assembly of a Region before the recommendation of the Governor is signified under section 50 (2) of this Constitution with respect to any bill, or before any instrument is made by the Governor, a Minister or any officer or authority of the Government of Kenya under a law made by the Central Legislature, the effect of which bill or instrument would be to reduce the classes of produce in respect of which a cess is payable to any local authority in that Region or to reduce the rate of the cess in relation to any such class.

Exemption of certain public property from taxation.

142.—(1) Subject to the provisions of section 133 (4) of this Constitution, property in a Region vested in the Governor on behalf of Her Majesty in right of the Government of Kenya, in the East African

Common Services Organization or any officer or authority of that Organization or in a body corporate established for public purposes by any law made by the Central Legislature shall be exempt from any rate or royalty imposed by any law made by the Regional Assembly of that Region under that section.

(2) A Region shall not be liable to taxation imposed by any law made by the Central Legislature in respect of income, land or buildings not being income derived from, or land or buildings occupied for the purposes of, any trade or business.

Regulations.

143. The Governor, acting in his discretion, may, by regulations published in the Kenya Gazette, make provision—

(*a*) for defining the spirits and oils which shall be regarded as motor spirit or diesel oil for the purposes of this Part of this Chapter;

(*b*) for determining the quantities of motor spirit or diesel oil or of any particular class, variety or description of motor spirit or diesel oil that are to be regarded for the purposes of section 128 of this Constitution as having been distributed for consumption in the several Regions or in the Nairobi Area in any financial year;

(*c*) the times at which, and the manner in which, the Government of Kenya shall pay to a Region any sums that are required by section 128, section 129, section 131, section 132 or section 137 of this Constitution to be so paid; and

(*d*) the making of provisional payments by the Government of Kenya to a Region in respect of any sums that are required by section 128, section 129, section 131, section 132 or section 137 of this Constitution to be paid by the Government of Kenya to that Region, and the subsequent payment or repayment, as the case may be, of any amounts by which such provisional payments are less than, or exceed, the sums in respect of which they were made.

Sums charged on Consolidated Fund.

144. Any payments that are required by section 128, section 129, section 131, section 132 or section 137 of this Constitution to be made by the Government of Kenya to a Region shall be a charge on the Consolidated Fund.

Set off.

145. Any sum that is required by section 128, section 129, section 131, section 132 or section 137 of this Constitution to be paid by the Government of Kenya to a Region may be set off by the Government of Kenya towards the payment of any sum due from the Region to the Government of Kenya in respect of a loan to that Region.

Review.

146.—(1) Not earlier than the 1st July 1964 and not later than the 1st July 1966 and thereafter at intervals of not less than two nor more than three years the Governor shall appoint—

(*a*) a person (from among persons who are experienced in government finance and who are not Ministers, Parliamentary Secretaries, members of either House of the National Assembly or of a Regional Assembly or members of a committee of a Regional Assembly) to review—

(i) the operation of the provisions made under section 143 (*b*) of this Constitution;

(ii) the operation of the provisions made by order under section 128 (2) (*b*) of this Constitution;

(iii) the sum payable by the Government of Kenya to the Regions under section 129 (1) of this Constitution; and

(iv) the sum (being the amount of the proceeds of any royalty in excess of which payments shall be made by the Government of Kenya to the Regions) specified in section 131 (1) of this Constitution; and

(*b*) a Commission to advise the Governor and the National Assembly with respect to that review (hereinafter in this section referred to as an Advisory Commission).

(2) An Advisory Commission shall be composed in such manner as may be determined by the Governor so, however, that it shall contain at least one member representing each Region who shall be appointed by the President of the Regional Assembly of that Region, the number of members who are to be so appointed to represent the Regions being the same in the case of all Regions.

(3) A person appointed under subsection (1) (*a*) of this section shall, as soon as practicable, submit to the Advisory Commission a report upon the matters he is required to review and the Advisory Commission shall consider that report and shall make recommendations to the Governor with respect to the matters mentioned in subsections (1) (*a*) (i) and 1 (*a*) (ii) of this section and to both Houses of the National Assembly with respect to the matters mentioned in subsections (1) (*a*) (iii) and (1) (*a*) (iv) of this section.

(4) If the Central Legislature makes provision altering—

(*a*) the sum payable by the Government of Kenya to the Regions under section 129 (1) of this Constitution; or

(*b*) the sum (being the amount of the proceeds of any royalty in excess of which payments shall be made by the Government of Kenya to the Regions) specified in section 131 (1) of this Constitution,

section 129 (1) or section 131 (1) of this Constitution shall be altered accordingly with effect from such date as may be prescribed by the Central Legislature:

Provided that—

(*a*) a bill for a law to be enacted by the Central Legislature for the purposes of this subsection shall be introduced into the National Assembly only in the session in which recommendations of an Advisory Commission are submitted to the National Assembly or in the next succeeding session;

(*b*) a bill for a law to be enacted by the Central Legislature for the purposes of this subsection shall not be passed in either House of the National Assembly unless it has been supported on the second and third readings by the votes of not less than two-thirds of all the members of that House;

(*c*) no law enacted by the Central Legislature for the purposes of this subsection shall come into operation unless the Regional Assemblies of at least four Regions have, by resolution, signified their consent that the law should have effect.

CHAPTER VIII

POLICE

Police Force.

147.—(1) There shall be a Police Force which shall consist of a Regional Contingent for each Region, a Nairobi Contingent and the specialised branches.

(2) The expenses of a Regional Contingent (including the salaries and allowances of the members of that Contingent) shall be defrayed out of monies provided by the Regional Assembly, and the expenses of the Nairobi Contingent and the specialised branches (including the salaries and allowances of members of that Contingent and those branches) shall be defrayed out of monies provided by the Central Legislature.

(3) The service in a Regional Contingent of any member of the Police Force shall be regarded as service in an office in the public service of the Region and the service otherwise than in a Regional Contingent of any member of the Police Force (including the Inspector-General) shall be regarded as service in an office in the public service of the Government of Kenya.

(4) Subject to the provisions of section 155 of this Constitution—

(*a*) the Police Force shall be under the general command of an Inspector-General of Police; and

(*b*) subject to the general command of the Inspector-General, each Regional Contingent shall be under the direct command of a member of that Contingent who shall be styled Regional Commissioner of Police.

(5) Subject to the provisions of this Chapter, the Police Force shall be organised and administered in accordance with such provision as may be made in that behalf by the Central Legislature and, without prejudice to the generality of the foregoing—

(*a*) the salaries, allowances and other conditions of service of members of the Police Force shall be such as may be prescribed by or under any law made by the Central Legislature; and

(*b*) provision may be made by or under a law made by the Central Legislature prescribing the standards or qualifications to be required of members of the Police Force generally or of members of the Police Force who hold a particular rank or who are engaged on particular duties.

(6) Subject to the provisions of this Constitution, the members of the Police Force shall have such powers and duties as may be conferred on them by any law.

(7) Subject to the provisions of subsection (8) of this section, no other police force shall be established for Kenya or any part thereof.

(8) The Central Legislature may make provision for police forces forming part of naval, military or air forces.

Establishment of National Security Council.

148.—(1) There shall be a National Security Council which shall consist of—

(*a*) the Governor;

(*b*) the Deputy Governor;

(*c*) the Minister; and

(*d*) the Chairman of the Law and Order committee of each Regional Assembly.

(2) The Inspector-General and a representative of the Nairobi Area (being a member of the City Council of Nairobi for the time being designated in that behalf by the City Council of Nairobi) shall be entitled to attend all meetings of the Council and to take part in all the proceedings of the Council, but neither the Inspector-General nor the representative of the Nairobi Area shall be regarded as a member of the Council or be entitled to vote on any question before the Council.

(3) The Chairman of the Law and Order committee of a Regional Assembly shall be entitled to bring with him as his adviser at any meeting of the Council the Regional Commissioner of Police for his Region, but a Regional Commissioner of Police shall not be regarded as a member of the Council, shall not be entitled to take part in the proceedings of the Council otherwise than as the Council may direct and shall not be entitled to vote on any question before the Council.

(4) The Council shall not be summoned except by the authority of the Governor who shall, so far as is practicable, attend and preside at all meetings of the Council, and, in the absence of the Governor, the Deputy Governor shall preside.

(5) The Governor may summon a meeting of the Council whenever he considers it desirable to do so, and he shall summon a meeting of the Council—

(*a*) upon the request of any three members of the Council; or

(*b*) in the circumstances specified in sections 155 (4) (*b*), 155 (5) (*b*) and 156 (5) of this Constitution.

(6) The Council may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that any decision of the Council shall require the concurrence of a majority of all the members thereof.

(7) Subject to the provisions of this Chapter, the Council may regulate its own procedure.

Functions of National Security Council.

149.—(1) In addition to the other functions vested in the National Security Council by this Constitution, it shall be the duty of the Council to keep under constant review all matters relating to the maintenance of public safety and public order in Kenya and, in particular, the organisation, maintenance, administration and disposition of the Police Force, and the Council may make recommendations with respect to any such matter to the Governor, the Minister, the Law and Order committee of any Regional Assembly, the Inspector-General or any Regional Commissioner of Police.

(2) The Council shall determine from time to time the maximum strength of the Police Force as a whole, that is to say, the maximum number of offices in the Police Force and their respective ranks (being ranks provided for by a law made under section 147 (5) of this Constitution).

(3) The Council shall prescribe the maximum number of officers in the Police Force in each rank of or above the rank of Assistant Superintendent who may for the time being be posted under section 154 (2) of this Constitution to serve in each Regional Contingent, in the Nairobi Contingent and in each specialised branch.

(4) In respect of offices in the Police Force below the rank of Assistant Superintendent, the Council shall determine what part of the maximum strength of the Police Force, in terms of the number of offices of each rank, shall be assigned to each Regional Contingent, the Nairobi Contingent and each specialised branch; and the total number of officers of any particular rank on the establishment of any such Contingent or branch shall not at any time exceed the maximum strength in terms of offices of that rank that is for the time being assigned to that Contingent or branch under this subsection.

Establishment of Police Service Commission.

150.—(1) There shall be a Police Service Commission which shall consist of two *ex officio* members, that is to say:—

(*a*) the Chairman of the Public Service Commission of the Government of Kenya; and

(*b*) such Justice of Appeal or judge of the Supreme Court as may for the time being be designated in that behalf by the Chief Justice,

and three appointed members who shall be appointed by the two *ex officio* members, acting jointly but after consultation with the Inspector-General.

(2) The Police Service Commission shall be presided over by such one of the appointed members (hereinafter referred to as "the Chairman of the Police Service Commission") as may for the time being be designated in that behalf by the members of the Commission.

(3) A person shall not be qualified to be appointed as a member of the Police Service Commission if—

(*a*) he is, or has at any time been, a member of either House of the National Assembly, a member of a Regional Assembly or a member (other than an *ex officio*, an appointed or a nominated member) of any Legislative Council established for Kenya by any Order of Her Majesty in Council; or

(*b*) he is, or has at any time been, nominated as a candidate for election as a member of either House of the National Assembly or of a Regional Assembly or of any such Legislative Council; or

(*c*) he is, or has at any time been, the holder of an office in any political organisation that sponsors or otherwise supports, or has at any time sponsored or otherwise supported, a candidate for election as a member of either House of the National Assembly or of a Regional Assembly or of such a Legislative Council or of any local government authority (whether established under Chapter XII of this Constitution or by or under any law in force at any time before the coming into operation of this Constitution); or

(*d*) he is a public officer.

(4) An appointed member of the Police Service Commission shall not, within a period of three years commencing with the day on which he last held or acted in the office of a member of the Commission, be eligible for appointment to or to act in any public office.

(5) Subject to the provisions of subsection (7) of this section, the office of an appointed member of the Police Service Commission shall become vacant—

(*a*) at the expiration of three years from the date of his appointment; or

(*b*) if any circumstances arise that, if he were not such a member, would cause him to be disqualified to be appointed as such.

(6) A person holding the office of appointed member of the Police Service Commission may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and may not be so removed except in accordance with the provisions of this section.

(7) An appointed member of the Police Service Commission shall be removed from office by the Governor if the question of his removal has been referred to a tribunal appointed under subsection (8) of this section and the tribunal has recommended to the Governor that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(8) If the Prime Minister or the President of any Regional Assembly or either of the *ex officio* members of the Police Service Commission represents to the Governor that the question of removing an appointed member of that Commission under this section 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 Chief Justice 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 the Commonwealth or a court having jurisdiction in appeals from such a court; and

(*b*) the tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to him whether the member ought to be removed under this section.

(9) If the question of removing an appointed member of the Police Service Commission has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the Chairman of the Public Service Commission of the Government of Kenya, may suspend that member from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor that that member should not be removed.

(10) If the office of an appointed member of the Police Service Commission is vacant or if such a member is for any reason unable to exercise the functions of his office, the *ex officio* members, acting jointly but after consultation with the Inspector-General, may appoint a person who is qualified to be appointed to the office of that member to act in place of that member; and any person so appointed shall, subject to the provisions of subsections (5), (7) and (9) of this section, continue to act until a person has been appointed to the office in which he is acting and has assumed the functions of that office or, as the case may be, until the person in whose place he is acting has resumed those functions.

(11) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that any decision of the Commission shall require the concurrence of a majority of all the members thereof.

(12) Subject to the provisions of this Chapter, the Commission may regulate its own procedure and, with the consent of the Prime Minister in the case of an officer in the public service of the Government of Kenya or in the case of any authority of that Government and with the consent of the President of the Regional Assembly in the case of an officer in the public service of a Region or in the case of any authority of a Region, may confer powers or impose duties on such an officer or authority for the purpose of the discharge of its functions.

(13) Subject to the provisions of this Chapter, the Commission shall, in the exercise of its functions under this Constitution, not be subject to the direction or control of any other person or authority.

Functions of Police Service Commission.

151.—(1) In addition to the other functions vested in the Police Service Commission by this Chapter, it shall be the duty of the Commission to keep under review all matters relating to the salaries, allowances and other conditions of service of members of the Police Force and to give advice thereon to the Governor and to the Minister.

(2) It shall be the duty of the Commission to keep under review all matters relating to the standards or qualifications (whether in respect of health, education, efficiency or of any other kind) that may be required of members of the Police Force generally or members of the Police Force who hold a particular rank or who are engaged on particular duties and to give advice thereon as occasion may require to the Governor, to the Minister, to the Inspector-General, and to the Law and Order committee of any Regional Assembly.

Appointment, etc. of Inspector-General.

152.—(1) The Inspector-General shall be appointed by the Governor, acting in accordance with the advice of the Police Service Commission.

(2) If the office of Inspector-General is vacant or if the Inspector-General is for any reason unable to exercise the functions of his office, the Governor, acting in accordance with the advice of the Police Service Commission, may appoint a person to act as Inspector-General, and any person so appointed shall, subject to the provisions of subsections (3), (5) and (7) of this section, continue to act until a person has been appointed to the office of Inspector-General and has assumed the functions of that office or, as the case may be, until the person in whose place he is acting has resumed those functions.

(3) Subject to the provisions of subsection (5) of this section, the Inspector-General shall vacate his office when he attains such age as may be prescribed by the Central Legislature.

(4) A person holding the office of Inspector-General may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(5) The Inspector-General shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under subsection (6) of this section and the tribunal has recommended to the Governor that he ought to be removed for inability as aforesaid or for misbehaviour.

(6) If the Chairman of the Police Service Commission represents to the Governor that the question of removing the Inspector-General under this section 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

Chief Justice 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 the Commonwealth or a court having jurisdiction in appeals from such a court; and

(*b*) the tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to him whether the Inspector-General ought to be removed under this section.

(7) If the question of removing the Inspector-General has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the Police Service Commission, may suspend the Inspector-General from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor that the Inspector-General should not be removed.

Appointment, etc. of other members of Police Force.

153.—(1) The power to appoint persons to hold or act in any offices in the Police Force of or above the rank of Assistant Superintendent (including the power to confirm appointments), the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Police Service Commission.

(2) The Police Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under subsection (1) of this section to any one or more members of the Commission, to the Inspector-General or to a Regional Commissioner of Police.

(3) The power to appoint persons to hold or act in any offices in the Police Force below the rank of Assistant Superintendent (including the power to confirm appointments), the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest, in the case of an office on the establishment of a Regional Contingent, in the Regional Commissioner of Police and, in the case of any other office, in the Inspector-General.

(4) No person who holds or is acting in any office below the rank of Assistant Superintendent on the establishment of the Regional Contingent of any Region shall be appointed to hold or act in such an office on the establishment of some other Contingent or of a specialised branch except with the concurrence of the Regional Commissioner of Police of that Region; and no person who holds or is acting in any office below the rank of Assistant Superintendent on the establishment of the Nairobi Contingent or a specialised branch shall be appointed to hold or act in such an office on the establishment of a Regional Contingent except with the concurrence of the Inspector-General.

(5) The Regional Commissioner of Police or the Inspector-General may, by directions given in such manner as he thinks fit and subject to such conditions as he thinks fit, delegate any of his powers under subsection (3) or subsection (4) of this section to any other member of the Police Force.

(6) When the power to exercise disciplinary control over any member of the Police Force (including the power to remove him from office) has been exercised under this section by any person (hereinafter referred to as "the disciplinary authority") other than the

Police Service Commission, the member of the Police Force in respect of whom it was exercised may appeal from the decision of the disciplinary authority to the Police Service Commission:

Provided that, in the case of a decision of the disciplinary authority that is made in exercise of a power delegated to that authority under subsection (2) or subsection (5) of this section, the authority by whom the delegation is made may require appeals to be made to a member of the Police Force of higher rank than the disciplinary authority before they are made under this subsection to the Police Service Commission.

(7) The Police Service Commission may by regulation or otherwise provide for the time and manner of the making of appeals to it under subsection (6) of this section and all matters incidental to such appeals.

(8) In the exercise of any power conferred by or under this section to appoint persons to hold or act in any office in the Police Force of or above the rank of Assistant Superintendent, the Police Service Commission or any other person or authority shall give effect to such general directions of policy relating to the standards or qualifications to be required of any person who is appointed as may be given to the Commission or that person or authority by the Inspector-General, and, in the exercise of any power conferred by or under this section to appoint persons to hold or act in any office in the Police Force below the rank of Assistant Superintendent, the Inspector-General or a Regional Commissioner of Police or any other person or authority shall give effect to such general directions of policy relating to the standards or qualifications to be required of any person who is appointed as, in the case of an appointment to hold or act in an office in the Nairobi Contingent or a specialised branch, may be given to the Inspector-General or the other person or authority by the Minister and, in the case of an appointment to hold or act in an office in the Regional Contingent of any Region, may be given to the Regional Commissioner of Police or the other person or authority by the Law and Order committee of the Regional Assembly of that Region; but, without prejudice to the generality of section 150 (13) of this Constitution, the Commission, the Inspector-General or a Regional Commissioner of Police shall not otherwise be subject to the direction or control of any other person or authority in the exercise of the powers conferred by this section, and any person or authority to whom powers are delegated under subsection (2) or subsection (5) of this section shall, in the exercise of those powers, be subject otherwise to the direction and control only of the person or authority by whom the delegation was made.

Postings of members of Police Force.

154.—(1) The power to post any person to serve in any Region as Regional Commissioner of Police or to post elsewhere any person who is so serving shall vest in the Inspector-General, but—

(*a*) before making such a posting the Inspector-General shall give written notice of his proposal to do so to the Law and Order committee of the Regional Assembly of the Region to or from which the posting is to be made and shall consult with that committee;

(*b*) if the committee fails to agree with the Inspector-General about the posting which he proposes to make, it may, within fourteen days of its receipt of the notice from the Inspector-General, refer the matter to the Police Service Commission; and

(*c*) the Inspector-General shall then not make the posting except with the concurrence of the Police Service Commission.

(2) The power to post a person who holds or is acting in an office in the Police Force of or above the rank of Assistant Superintendent from one Regional Contingent to another or from a Regional Contingent to the Nairobi Contingent or to a specialised branch or from the Nairobi Contingent or a specialised branch to a Regional Contingent shall vest in the Inspector-General:

Provided that—

(*a*) before making any such posting to the Regional Contingent of any Region the Inspector-General shall consult with the Regional Commissioner of Police of that Region; and

(*b*) before making any such posting from the Regional Contingent of any Region the Inspector-General shall consult with the Regional Commissioner of Police of that Region.

(3) The power to post a person who holds or is acting in an office in the Police Force of or above the rank of Assistant Superintendent from the Nairobi Contingent to a specialised branch or from a specialised branch to the Nairobi Contingent or to another specialised branch shall vest in the Inspector-General.

(4) The power to post a member of a Regional Contingent to serve in any appointment within that Contingent shall vest in the Regional Commissioner of Police, the power to post a member of the Nairobi Contingent to serve in any appointment within that Contingent shall vest in the Inspector-General and the power to post a member of one of the specialised branches to serve in any appointment within that branch shall likewise vest in the Inspector-General.

(5) The Inspector-General or a Regional Commissioner of Police may, by directions given in such manner as he thinks fit and subject to such conditions as he thinks fit, delegate any of his powers under subsections (2), (3) and (4) of this section to any other member of the Police Force.

Functions of Regional Commissioners of Police.

155.—(1) A Regional Commissioner of Police shall, as well as having command of his Regional Contingent, have operational command of all other units of the Police Force that, in accordance with the provisions of this Chapter, are posted to serve in his Region.

(2) Subject to the provisions of subsections (4), (5) and (6) of this section, a Regional Commissioner of Police shall, in the exercise of his power to determine the use and to control the operations of the Regional Contingent and any other units under his command, comply with such general directions of policy with respect to maintaining public safety and public order in the Region as the Law and Order committee of his Regional Assembly may give to him.

(3) Subject to the provisions of subsections (4), (5) and (6) of this section, a Regional Commissioner of Police shall be responsible to the Law and Order committee of the Regional Assembly of his Region for the organisation, maintenance and administration of the Regional Contingent and shall comply with all lawful instructions as to the discharge of that responsibility that the committee may give to him.

(4) When a Regional Commissioner of Police considers that the interests of public safety and public order in his Region so require, he may refer to the Inspector-General the directions or instructions given to him in any matter by the Law and Order committee under subsection (2) or subsection (3) of this section and, subject to the provisions of subsection (6) of this section, the Regional Commissioner of Police shall then comply with all lawful instructions given to him in that matter by the Inspector-General:

Provided that, subject to the provisions of section 156 (11) of this Constitution—

(*a*) the Inspector-General shall consult with the committee before giving instructions to the Regional Commissioner of Police under this subsection; and

(*b*) when the instructions which he gives to the Regional Commissioner of Police under this subsection differ from those given by the committee, the Inspector-General shall forthwith submit to the Governor a report on his action in that case and the Governor shall summon a meeting of the National Security Council as soon as is practicable and shall lay the report before the Council.

(5) When the Inspector-General considers that the interests of public safety and public order in Kenya so require, he may give instructions to a Regional Commissioner of Police as to the exercise by the Regional Commissioner of Police of his functions under this Chapter, and, subject to the provisions of subsection (6) of this section, the Regional Commissioner of Police shall comply with all lawful instructions given to him by the Inspector-General under this subsection:

Provided that, subject to the provisions of section 156 (11) of this Constitution—

(*a*) the Inspector-General shall consult with the Law and Order committee of the Regional Assembly before giving instructions to the Regional Commissioner of Police under this subsection; and

(*b*) unless the committee otherwise directs, the Inspector-General shall forthwith submit to the Governor a report on his action in any such case and the Governor shall summon a meeting of the National Security Council as soon as is practicable and shall lay the report before the Council.

(6) Notwithstanding any other provision of this Chapter, a Regional Commissioner of Police shall comply with all instructions as to the exercise of his functions under this Chapter and, in particular, as to the exercise of his power to determine the use and to control the operations of the Regional Contingent and any other units under his command that the Governor may give to him, either directly or through the Inspector-General, and the Governor may direct that, for the purpose of so complying, a Regional Commissioner of Police shall be relieved from any obligation under this Chapter to comply with the instructions of any other person or authority.

Functions of Inspector-General.

156.—(1) Subject to the provisions of section 155 (1) of this Constitution, the Inspector-General shall, as well as having general command of the Police Force, have direct command of the Nairobi Contingent and the specialised branches.

(2) Subject to the provisions of subsection (11) of this section, the Inspector-General shall be responsible to the Minister for the organisation, maintenance and administration of the Nairobi Contingent and the specialised branches, and shall comply with all lawful instructions as to the discharge of that responsibility that the Minister may give to him.

(3) The Inspector-General shall have a general responsibility for keeping the Minister fully informed as to the manner in which he has exercised his various functions under this Chapter.

(4) The Inspector-General shall from time to time inspect the several Regional Contingents and shall submit reports on his inspection to the Law and Order committees of the respective Regional Assemblies and to the Governor; and the Governor shall lay all such reports before the National Security Council.

(5) The Inspector-General may, if he is requested so to do by the Law and Order committee of the Regional Assembly of any Region, post to serve in that Region—

(*a*) units belonging to the Nairobi Contingent or a specialised branch; or

(*b*) with the consent of the Law and Order committee of the Regional Assembly of any other Region, units belonging to the Regional Contingent of that other Region:

Provided that where, under this subsection, the Inspector-General posts any unit to serve in a Region, then, unless the Law and Order committee of the Regional Assembly of that Region otherwise directs and subject to the provisions of subsection (11) of this section, he shall forthwith submit to the Governor a report on his action in that case and the Governor shall summon a meeting of the National Security Council as soon as is practicable and shall lay the report before the Council.

(6) When the Inspector-General has posted any unit to serve in a Region under subsection (5) of this section, he shall, subject to the provisions of subsections (7) and (11) of this section, withdraw the unit from the Region when he is requested so to do by the Law and Order committee of the Regional Assembly of that Region or, in the case of such a unit as is described in subsection (5) (*b*) of this section, when he is requested so to do by that committee or by the Law and Order committee of the Regional Assembly of the Region to whose Regional Contingent the unit belongs.

(7) When, under subsection (6) of this section, the Law and Order committee of the Regional Assembly of a Region requests the withdrawal from that Region of a unit that has been posted to serve there under subsection (5) of this section and the Inspector-General considers that such withdrawal would be contrary to the interests of public safety and public order in Kenya, he may, with the prior consent of the National Security Council, retain that unit in the Region; and when the Inspector-General considers that the interests of public safety and public order in Kenya require the retention of the unit in the Region notwithstanding that he has been unable to refer the matter to the National Security Council before the time for withdrawal under subsection (6) of this section has arrived, he may retain the unit in

the Region without the prior consent of the National Security Council, but, subject to the provisions of subsection (11) of this section, the Inspector-General shall nevertheless withdraw the unit if the National Security Council meets and refuses to consent to the retention of the unit in the Region and in any event if the National Security Council has not, at the expiration of forty-eight hours from the time for withdrawal under subsection (6) of this section, consented to the retention of the unit in the Region.

(8) When the Inspector-General considers that the interests of public safety and public order in Kenya require the posting to serve in a Region of such a unit as is described in subsection (5) (*a*) or subsection (5) (*b*) of this section, he may make such a posting without the request of the Law and Order committee of the Regional Assembly of that Region if—

(*a*) in his opinion, the circumstances are such as not to permit prior consultation with the committee; or

(*b*) after consultation with the committee he has still received no such request,

but, subject to the provisions of subsections (9) and (11) of this section, he shall in every such case obtain the prior consent of the National Security Council.

(9) When the Inspector-General considers that the interests of public safety and public order in Kenya require him to post a unit to serve in a Region in the circumstances referred to in subsection (8) of this section before the matter can be referred to the National Security Council, he may make such a posting without the prior consent of the National Security Council, but, subject to the provisions of subsection (11) of this section, the Inspector-General shall withdraw from that Region any unit so posted if the National Security Council meets and refuses its consent to the retention of the unit in the Region and in any event if the National Security Council has not, at the expiration of forty-eight hours from the date on which the unit first entered the Region, consented to the retention of the unit in the Region.

(10) When the National Security Council consents to the posting of a unit to serve in a Region under subsection (8) of this section or to the retention of a unit in a Region under subsection (7) or subsection (9) of this section, the Inspector-General shall, subject to the provisions of subsection (11) of this section, withdraw the unit from the Region not later than the expiration of such limited period, if any, as the Council may specify in giving its consent or when such consent is earlier revoked by the Council.

(11) Notwithstanding any other provision of this Chapter, the Inspector-General shall comply with all instructions as to the exercise of his functions under this Chapter and, in particular, as to the exercise of his power to determine the use and to control the operations of any part of the Police Force that the Governor may give to him, and the Governor may direct that, for the purpose of so complying, the Inspector-General shall be relieved from any obligation under this Chapter to give notice to, to submit reports to, to comply with the instructions of, to consult with or to obtain the consent or concurrence of any other person or authority.

Attorney-General's power to require criminal investigation.

157. The Attorney-General may require the Inspector-General or any Regional Commissioner of Police to investigate any matter which, in the Attorney-General's opinion, relates to any offence or alleged offence or suspected offence and the Inspector-General or the Regional Commissioner of Police shall comply with that requirement and shall report to the Attorney-General upon the investigation.

Training.

158. The power to second any member of the Police Force to a police training establishment for the purpose of undergoing a course of training shall vest, in the case of a member of a Regional Contingent, in the Regional Commissioner of Police acting with the concurrence of the Inspector-General and, in the case of any other member of the Police Force, in the Inspector-General; and the Inspector-General or a Regional Commissioner of Police may, by directions given in such manner as he thinks fit and subject to such conditions as he thinks fit, delegate any of his powers under this section to any other member of the Police Force.

Emergencies, etc.

159.—(1) Provision may be made by or under a law made by the Central Legislature that during any period of emergency (which expression shall in this section have the meaning assigned to it in section 61 of this Constitution)—

(*a*) the Inspector-General, in the exercise of his power to determine the use and to control the operations of any part of the Police Force, shall comply with such general directions of policy with respect to maintaining public safety and public order in Kenya or any part thereof as the Minister may give to him;

(*b*) the power to give general directions vested in the Law and Order committee of any Regional Assembly by section 155 (2) of this Constitution shall cease to be exercisable by that committee;

(*c*) the Regional Commissioner of Police of any Region shall be responsible to the Minister for the organisation, maintenance and administration of the Regional Contingent and shall comply with all lawful instructions as to the discharge of that responsibility that the Minister may give to him;

(*d*) the power to give instructions vested in the Law and Order committee of any Regional Assembly by section 155 (3) of this Constitution shall cease to be exercisable by that committee;

(*e*) the Inspector-General shall be relieved from any obligation under this Chapter (other than under section 157 of this Constitution) to give notice to, to submit reports to, to consult with or to obtain the consent or concurrence of any person or authority; or

(*f*) any of the functions vested in the National Security Council by subsections (2), (3) and (4) of section 149 of this Constitution shall cease to be exercisable by the Council and shall be exercisable instead by the Minister.

(2) Provision may be made by or under a law made for a Region by the Central Legislature in pursuance of section 62 of this Constitution that—

(*a*) the Inspector-General shall, in the exercise of his power to determine the use and to control the operations of the Regional Contingent of that Region or any other units under the command of the Regional Commissioner of Police of that Region, comply with such general directions of policy with respect to maintaining

public safety and public order in the Region as the Minister may give to him;

(*b*) the power to give general directions vested in the Law and Order committee of the Regional Assembly of that Region by section 155 (2) of this Constitution shall cease to be exercisable by that committee;

(*c*) the Regional Commissioner of Police of that Region shall be responsible to the Minister for the organisation, maintenance and administration of the Regional Contingent and shall comply with all lawful instructions as to the discharge of that responsibility that the Minister may give to him;

(*d*) the power to give instructions vested in the Law and Order committee of the Regional Assembly of that Region by section 155 (3) of this Constitution shall cease to be exercisable by that committee; or

(*e*) the Inspector-General shall, in the exercise of any of his functions under this Chapter that relate to the Regional Contingent of that Region, the posting to serve in that Region of any other unit of the Police Force and, generally, the maintenance of public safety and public order in that Region, be relieved from any obligation under this Chapter to give notice to, to submit reports to, to consult with or to obtain the consent or concurrence of the National Security Council, the Police Service Commission, the Law and Order committee of the Regional Assembly of that Region or the Regional Commissioner of Police of that Region.

(3) The provisions of this section shall be without prejudice to the provisions of sections 155 (6) and 156 (11) of this Constitution.

Interpretation.

160.—(1) For the purposes of this Chapter—

(*a*) "the specialised branches" are the staff of the Inspector-General, any General Service Unit, the Criminal Investigation Department, the Special Branch, the Police Air Wing, the Police Signals Branch, the Police Transport Branch, any police unit established to carry out the policing of Kenya's international frontiers, any police unit established for the protection of harbours, waterways, railways or airfields, any police training establishment and all police supply services:

Provided that the National Security Council may declare any other branch of the Police Force to be a specialised branch for the purposes of this Chapter or may declare that any branch shall cease to be a specialised branch for those purposes;

(*b*) "the Minister" means the Minister for the time being responsible for matters relating to the Police Force; and

(*c*) "the Law and Order committee of a Regional Assembly" means the committee of that Regional Assembly that is for the time being designated under section 104 (2) of this Constitution to deal with public safety and public order.

(2) If provision is made under section 147 (5) of this Constitution altering the ranks into which the Police Force is divided, the Police Service Commission may, by notice published in the Kenya Gazette, specify some rank other than the rank of Assistant Superintendent as being equivalent to the rank of Assistant Superintendent as it exists under the law in force immediately before the coming into operation of

this Constitution and references in this Chapter to the rank of Assistant Superintendent shall then be construed as if they were references to the rank for the time being so specified.

CHAPTER IX

THE JUDICATURE

PART 1

The Supreme Court

Establishment of Supreme Court.

161.—(1) There shall be a Supreme Court which shall have unlimited original jurisdiction to hear and determine any civil or criminal proceedings under any law and such jurisdiction and powers as may be conferred on it by this Constitution or any other law.

(2) The judges of the Supreme Court shall be the Chief Justice and such number, not being less than eleven, of other judges (hereinafter referred to as "the puisne judges") as may be prescribed by the Central Legislature:

Provided that the office of a puisne judge shall not be abolished while there is a substantive holder thereof.

(3) The Supreme Court shall be a superior court of record and, save as otherwise provided by the Central Legislature, shall have all the powers of such a court.

(4) The Supreme Court shall sit in such places as the Chief Justice may appoint.

Appointment of judges of Supreme Court.

162.—(1) The Chief Justice shall be appointed by the Governor, acting in accordance with the advice of the Prime Minister:

Provided that before tendering advice for the purposes of this subsection the Prime Minister shall consult the Presidents of the Regional Assemblies and shall not advise the Governor to appoint any person as Chief Justice unless the Presidents of not less than four Regional Assemblies concur in his tendering such advice.

(2) The puisne judges shall be appointed by the Governor, acting in accordance with the advice of the Judicial Service Commission.

(3) (*a*) A person shall not be qualified to be appointed as a judge of the Supreme Court unless—

(i) he is, or has been, a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or in the Republic of Ireland or a court having jurisdiction in appeals from such a court; or

(ii) he holds one of the specified qualifications and has held one or other of those qualifications for a total period of not less than seven years.

(*b*) In this subsection "the specified qualifications" means the professional qualifications specified by the Advocates Ordinance(a) (or by or under any law amending or replacing that Ordinance) one of which must be held by any person before he may apply under that Ordinance (or under any such law) to be admitted as an advocate in Kenya.

(4) If the office of Chief Justice is vacant or the Chief Justice is for any reason unable to exercise the functions of his office, then, until

(a) Revised Laws of Kenya 1962, c. 16.

a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, they shall be exercised by such one of the Justices of Appeal or the puisne judges as may for the time being be designated in that behalf by the Governor, acting in accordance with the advice of the Prime Minister.

(5) If the office of any puisne judge is vacant or if any such judge is appointed to act as Chief Justice or is for any reason unable to perform the functions of his office or if the Chief Justice advises the Governor that the state of business in the Supreme Court so requires, the Governor, acting in accordance with the advice of the Judicial Service Commission, may appoint a person who is qualified to be appointed as a judge of the Supreme Court to act as a puisne judge of that court:

Provided that a person may act as a judge notwithstanding that he has attained the age prescribed for the purposes of section 163 (1) of this Constitution.

(6) Any person appointed under subsection (5) of this section to act as a puisne judge shall, subject to the provisions of sections 163 (4) and 163 (7) of this Constitution, continue to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the Governor, acting in accordance with the advice of the Judicial Service Commission:

Provided that, notwithstanding the expiration of the period of his appointment or the revocation of his appointment, he may thereafter continue to act as a puisne judge for so long as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him previously thereto.

Tenure of office of judges of Supreme Court.

163.—(1) Subject to the provisions of this section, a person holding the office of a judge of the Supreme Court shall vacate that office when he attains such age as may be prescribed by the Central Legislature.

(2) Notwithstanding that he has attained the age prescribed for the purposes of subsection (1) of this section, a person holding the office of a judge of the Supreme Court may continue in office for so long after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

(3) A person holding the office of a judge of the Supreme Court may be removed from office only for inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with the provisions of this section.

(4) A judge of the Supreme Court shall be removed from office by the Governor if the question of his removal has, at the request of the Governor made in pursuance of subsection (5) of this section, been referred by Her Majesty to the Judicial Committee of Her Majesty's Privy Council under any 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 for misbehaviour.

(5) If the Prime Minister or the President of any Regional Assembly or, in the case of a puisne judge, the Chief Justice represents to the

Governor that the question of removing a judge under this section 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 in accordance with the provisions of subsection (6) of this section 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 the Commonwealth or a court having jurisdiction in appeals from such a court;

(*b*) the 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 from office 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) When the question of removing the Chief Justice is to be investigated the members of the tribunal shall be selected by the Chairman of the Public Service Commission of the Government of Kenya, and when the question of removing a puisne judge is to be investigated they shall be selected by the Chief Justice.

(7) If the question of removing a judge from office has been referred to a tribunal under subsection (5) of this section, the Governor, acting in accordance with the advice of the Chief Justice in the case of a puisne judge and in accordance with the advice of the Prime Minister in the case of the Chief Justice, may suspend the judge from exercising the functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with such advice as aforesaid, 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.

Oaths to be taken by judges of Supreme Court.

164. A judge of the Supreme Court shall not enter upon the duties of his office until he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by the Central Legislature.

Reference to Supreme Court in cases involving interpretation of Constitution.

165.—(1) Where any question as to the interpretation of this Constitution arises in any proceedings in any subordinate court and the court is of the opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so requests, refer the question to the Supreme Court.

(2) Where any question is referred to the Supreme Court in pursuance of this section, the Supreme Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if that decision is the subject of an appeal under section 170 of this Constitution to the Court of Appeal for Kenya or (whether mediately or direct) to Her Majesty in Council, in accordance with the decision of the Court of Appeal for Kenya or, as the case may be, Her Majesty in Council.

(3) When the Supreme Court is determining any matter in connection with a reference to it under this section (other than an interlocutory matter) it shall be composed of an uneven number of judges, not being less than three.

PART 2

Appellate Courts

Court of Appeal for Eastern Africa or other inter-territorial court.

166.—(1) If the Central Legislature so provides, then, subject to the provisions of this Constitution—

(*a*) the Court of Appeal for Eastern Africa established by the Act of the East African Common Services Organization entitled the Court of Appeal for Eastern Africa Act 1962(a) or by or under any law amending or replacing that Act that has effect for the purposes of this paragraph ; or

(*b*) any other court that may be established as an appellate court for Kenya and any one or more other countries or territories by or under any law that has effect for the purposes of this paragraph

shall have such jurisdiction in relation to appeals from the Court of Appeal for Kenya or the Supreme Court and such powers in relation to that jurisdiction as may be conferred on it by any law :

Provided that no jurisdiction may be conferred under this section on the Court of Appeal for Eastern Africa or any other court to entertain appeals direct from the Supreme Court to the extent to which jurisdiction to entertain such appeals is for the time being conferred on the Court of Appeal for Kenya.

(2) A law shall have effect for the purposes of paragraph (*a*) or paragraph (*b*) of subsection (1) of this section if—

(*a*) in the case of a law made by the Central Legislature, the bill for the law was supported on the final reading in each House of the National Assembly by the votes of three-quarters of all the members of that House ; and

(*b*) in the case of any other law, it has been approved by a resolution of each House of the National Assembly supported by the votes of three-quarters of all the members of that House.

(3) Any jurisdiction conferred upon the Court of Appeal for Eastern Africa or any other court under this section shall not extend to—

(*a*) any question as to the interpretation of this Constitution ; or

(*b*) any question as to the contravention of any of the provisions of sections 1 to 15 (inclusive) of this Constitution (which relate to fundamental rights and freedoms) ; or

(*c*) any question for the determination of which a right of access to the Supreme Court is guaranteed by section 6 of this Constitution (which relates to the rights of persons whose property is compulsorily acquired).

Court of Appeal for Kenya.

167.—(1) The Central Legislature may, if it thinks fit, establish a Court of Appeal for Kenya which, subject to the provisions of this Constitution, shall have such jurisdiction and powers as may be conferred on it by any law.

(a) East African Common Services Organization Act No. 13 of 1962.

(2) The judges of the Court of Appeal for Kenya shall be—

(*a*) the Chief Justice, as President;

(*b*) such number of Justices of Appeal (if any) as may be prescribed by the Central Legislature:

Provided that the office of a Justice of Appeal shall not be abolished while there is a substantive holder thereof; and

(*c*) the puisne judges for the time being of the Supreme Court.

(3) The provisions of sections 161 (3), 161 (4), 162, 163 and 164 of this Constitution shall apply in relation to the Court of Appeal for Kenya and to a Justice of Appeal as they apply in relation to the Supreme Court and to a puisne judge of the Supreme Court.

(4) When the Court of Appeal for Kenya is determining any matter other than an interlocutory matter, it shall be composed of an uneven number of judges, not being less than three.

PART 3

Other Courts

Establishment of other courts.

168.—(1) The Central Legislature may establish courts subordinate to the Supreme Court and courts-martial, and any such court shall, subject to the provisions of this Constitution, have such jurisdiction and powers as may be conferred on it by any law.

(2) The Supreme Court shall have jurisdiction to supervise any civil or criminal proceedings before any subordinate court or any court-martial and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of ensuring that justice is duly administered by any such court.

(3) The Chief Justice may make rules with respect to the practice and procedure of the Supreme Court in relation to the jurisdiction and powers conferred on it by subsection (2) of this section.

Kadhis' courts.

169.—(1) There shall be a Chief Kadhi and such number, not being less than three, of other Kadhis as may be prescribed by the Central Legislature.

(2) A person shall not be qualified to be appointed to hold or act in the office of Kadhi unless—

(*a*) he professes the Muslim religion; and

(*b*) he possesses such knowledge of the Muslim law applicable to any sect or sects of Muslims as qualifies him, in the opinion of the Judicial Service Commission, to hold a court of a Kadhi.

(3) Without prejudice to the generality of section 168 (1) of this Constitution and subject to the provisions of subsection (4) of this section, there shall be such subordinate courts held by Kadhis (in this Chapter referred to as "courts of a Kadhi") as the Central Legislature may establish and each court of a Kadhi shall, subject to the provisions of this Constitution, have such jurisdiction and powers as may be conferred on it by any law.

(4) The Chief Kadhi and the other Kadhis, or the Chief Kadhi and such of the other Kadhis (not being less than three in number) as may be prescribed by or under a law made by the Central Legislature, shall each be empowered to hold a court of a Kadhi having jurisdiction within the Protectorate or within such part of the Protectorate as may be so prescribed:

Provided that no part of the Protectorate shall be outside the jurisdiction of some court of a Kadhi.

(5) The jurisdiction of a court of a Kadhi shall extend to the determination of questions of Muslim law relating to personal status, marriage, divorce or inheritance in proceedings in which all the parties profess the Muslim religion.

PART 4

Appeals

Appeals on constitutional questions and questions relating to fundamental rights.

170.—(1) If a Court of Appeal for Kenya is established under section 167 of this Constitution, then, subject to the provisions of sections 41 (5), 51 (7), 92 (5) and 200 (5) of this Constitution, an appeal direct to that court shall lie as of right from decisions of the Supreme Court in the following cases, that is to say :—

(*a*) final decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution ;

(*b*) final decisions given in exercise of the jurisdiction conferred on the Supreme Court by section 16 of this Constitution (which relates to the enforcement of fundamental rights and freedoms) ; and

(*c*) final decisions of the Supreme Court in the determination of any of the questions for the determination of which a right of access to the Supreme Court is guaranteed by section 6 of this Constitution (which relates to the rights of persons who property is compulsorily acquired) ;

and an appeal shall lie as of right direct to Her Majesty in Council from any decision of the Court of Appeal for Kenya in any such case.

(2) If no Court of Appeal for Kenya is established under section 167 of this Constitution, then, subject as aforesaid, an appeal from decisions of the Supreme Court in any of the cases specified in subsection (1) of this section shall lie as of right direct to Her Majesty in Council.

(3) In this section—

(*a*) references to final decisions of the Supreme Court shall be construed as including references to decisions given in pursuance of section 165 (2) of this Constitution ; and

(*b*) references to decisions of the Court of Appeal for Kenya in any cases specified in subsection (1) of this section shall be construed as including references to decisions given by that Court on appeal from decisions of the Supreme Court in any such cases.

Appeals to Her Majesty in Council in other cases.

171.—(1) Subject to the provisions of sections 41 (5), 51 (7), 92 (5) and 200 (5) of this Constitution and of subsection (4) of this section, an appeal shall lie as of right to Her Majesty in Council from any decision given by the Court of Appeal for Kenya or the Supreme Court in any of the cases to which this subsection applies or from any decision given in any such case by the Court of Appeal for Eastern Africa or any other court in the exercise of any jurisdiction conferred under section 166 of this Constitution.

(2) The cases to which subsection (1) of this section applies are—

(*a*) final decisions in any civil proceedings where the matter in dispute on the appeal to Her Majesty in Council is of the value of £1,000 or upwards or where the appeal involves directly or

indirectly a claim to or question respecting property or a right of the value of £1,000 or upwards;

(*b*) final decisions in proceedings for dissolution or nullity of marriage; and

(*c*) such other cases as may be prescribed by any law.

(3) Subject to the provisions of sections 41 (5), 51 (7), 92 (5) and 200 (5) of this Constitution and of subsection (4) of this section, an appeal from decisions given by the Court of Appeal for Kenya or the Supreme Court or from decisions given by the Court of Appeal for Eastern Africa or any other court in exercise of any jurisdiction conferred under section 166 of this Constitution shall, with the leave of the court that gave the decision, lie to Her Majesty in Council in the following cases, that is to say:—

(*a*) decisions in any civil proceedings where, in the opinion of the court that gave the decision, the question involved in the appeal is one that, by reason of its great general or public importance or otherwise, ought to be submitted to Her Majesty in Council; and

(*b*) such other cases as may be prescribed by any law.

(4) No appeal shall lie under this section direct to Her Majesty in Council from a decision given by any of the courts referred to in subsection (1) and subsection (3) of this section if, under any law—

(*a*) an appeal lies as of right from that decision to any other of those courts; or

(*b*) an appeal lies from that decision to any other of those courts with the leave of the court that gave the decision or some other court and that leave has not been withheld.

Appeals from subordinate courts and courts-martial.

172.—(1) Subject to the provisions of subsection (2) of this section, an appeal shall lie as of right to the Supreme Court from final decisions given by any subordinate court or a court-martial in any civil or criminal proceedings on questions as to the interpretation of this Constitution (not being questions that have been referred to the Supreme Court in pursuance of section 165 of this Constitution) or as to the contravention of any of the provisions of sections 1 to 15 (inclusive) of this Constitution (not being questions that have been referred to the Supreme Court in pursuance of section 16 (3) of this Constitution).

(2) An appeal from a decision given by a subordinate court or a court-martial in any of the cases referred to in subsection (1) of this section—

(*a*) shall not lie direct to the Court of Appeal for Kenya; and

(*b*) shall not lie direct to the Supreme Court if, under any law—

(i) an appeal lies as of right from that decision to another subordinate court or court-martial; or

(ii) an appeal lies from that decision to another subordinate court or court-martial with the leave of the court that gave the decision or of some other court and that leave has not been withheld.

(3) An appeal shall lie as of right to the Supreme Court from final decisions given by any subordinate court in any case in which, if the decision of the subordinate court were a decision of the Supreme Court, then, subject to the provisions of subsection (4) of section 171 of this Constitution, an appeal would lie as of right to Her Majesty in Council under the said section 171:

Provided that—

(*a*) an appeal shall not lie to the Supreme Court from a decision given by a subordinate court in any such case if, under any law—

(i) an appeal lies as of right from that decision to the Court of Appeal for Kenya ; or

(ii) an appeal lies from that decision to the Court of Appeal for Kenya with the leave of the court that gave the decision or of some other court and that leave has not been withheld ; and

(*b*) an appeal shall not lie direct to the Court of Appeal for Kenya or direct to the Supreme Court from a decision given by a subordinate court in any such case if, under any law—

(i) an appeal lies as of right from that decision to another subordinate court ; or

(ii) an appeal lies from that decision to another subordinate court with the leave of the court that gave the decision or of some other court and that leave has not been withheld.

(4) An appeal shall lie from a subordinate court or a court-martial to—

(*a*) the Supreme Court ; or

(*b*) the Court of Appeal for Kenya

in such cases (other than the cases referred to in subsection (1) or subsection (3) of this section) as may be prescribed by any law.

Appeals by special leave.

173. Nothing in this Chapter shall affect any right of Her Majesty to grant special leave to appeal to Her Majesty in Council from the decision of any court in any civil or criminal matter.

PART 5

Judicial Service Commission

Judicial Service Commission.

174.—(1) There shall be a Judicial Service Commission which shall consist of—

(*a*) the Chief Justice, as Chairman ;

(*b*) two persons who are for the time being designated in that behalf by the Governor, acting in accordance with the advice of the Chief Justice, from among the Justices of Appeal or the puisne judges of the Supreme Court ; and

(*c*) two persons who are for the time being designated in that behalf by the Governor, acting in accordance with the advice of the Chairman of the Public Service Commission of the Government of Kenya, from among the independent members of that Commission.

(2) In the exercise of its functions under this Constitution, the Commission shall not be subject to the direction or control of any other person or authority.

(3) Subject to the provisions of this Chapter, the Commission may by regulation or otherwise regulate its own procedure and, with the consent of the Prime Minister in the case of an officer in the public service of the Government of Kenya or in the case of any authority of that Government and with the consent of the President of the Regional Assembly in the case of an officer in the public service of a Region

or in the case of any authority of a Region, may confer powers or impose duties on such an officer or authority for the purpose of the discharge of its functions.

(4) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that any decision of the Commission shall require the concurrence of a majority of all the members thereof.

Appointment, etc. of judicial officers.

175.—(1) The power to appoint persons to hold or act in any offices to which this section applies (including the power to confirm appointments), the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Judicial Service Commission.

(2) The Judicial Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under subsection (1) of this section to any one or more of its members or to any judge of the Supreme Court or to any person holding or acting in an office to which this section applies or, in the case of a power that relates to an office connected with the Court of Appeal for Kenya, to any judge of that Court:

Provided that a power that relates to an office the holder of which is required to possess legal qualifications may not be delegated under this subsection except to one or more members of the Commission.

(3) The offices to which this section applies are—

(*a*) the office of Registrar or Deputy Registrar of the Court of Appeal for Kenya;

(*b*) the office of Registrar or Deputy Registrar of the Supreme Court;

(*c*) the office of Senior Resident Magistrate or Resident Magistrate;

(*d*) the office of Kadhi;

(*e*) the office of president or member of any African court;

(*f*) the office of president or member of any subordinate court (other than an African court or the court of a Kadhi or the court of any magistrate who is authorised, by or under any law, to hold such a court by virtue of his holding or acting in any public office); or

(*g*) such other offices of member of any court or connected with any court as may be prescribed by the Central Legislature.

CHAPTER X

THE PUBLIC SERVICE

Public Service Commissions.

176.—(1) There shall be a Public Service Commission of the Government of Kenya and a Public Service Commission of each Region.

(2) All the Public Service Commissions shall have in common four members (in this Constitution referred to as the "independent members") who shall be the following persons, that is to say:—

(*a*) a Chairman who shall be appointed in accordance with the provisions of subsection (4) of this section;

(*b*) a Deputy Chairman who shall be appointed in accordance with the provisions of subsection (4) of this section ; and

(*c*) two other members who shall be appointed in accordance with the provisions of subsection (4) of this section.

(3) In addition to the independent members each Public Service Commission shall comprise three further members (in this Constitution referred to as the " representative members ") who shall be appointed in accordance with the provisions of subsection (5) of this section.

(4) The Chairman, the Deputy Chairman and the two other independent members shall be appointed by the Governor, acting in accordance with the advice of the Judicial Service Commission.

(5) The representative members of the Public Service Commission of the Government of Kenya shall be appointed by the Governor, acting in accordance with the advice of the Prime Minister, and the representative members of the Public Service Commission of each Region shall be appointed by the Governor, acting in accordance with the advice of the President of the Regional Assembly of that Region.

(6) A person shall not be qualified to be appointed as an independent member if—

(*a*) he is, or has at any time been, a member of either House of the National Assembly, a member of a Regional Assembly or a member (other than an *ex officio*, an appointed or a nominated member) of any Legislative Council established for Kenya by any Order of Her Majesty in Council ; or

(*b*) he is, or has at any time been, nominated as a candidate for election as a member of either House of the National Assembly or of a Regional Assembly or of any such Legislative Council ; or

(*c*) he is, or has at any time been, the holder of an office in any political organisation that sponsors or otherwise supports, or has at any time sponsored or otherwise supported, a candidate for election as a member of either House of the National Assembly or of a Regional Assembly or of such a Legislative Council or of any local government authority (whether established under Chapter XII of this Constitution or by or under any law in force at any time before the coming into operation of this Constitution).

(7) A person shall not be qualified to be appointed as any member of a Public Service Commission if he is a public officer.

(8) A member of a Public Service Commission shall not, within a period of three years commencing with the day on which he last held or acted in the office of a member of the Commission, be eligible for appointment to or to act in any public office.

(9) Subject to the provisions of subsection (11) of this section, the office of a member of a Public Service Commission shall become vacant—

(*a*) at the expiration of three years from the date of his appointment ; or

(*b*) in the case of an independent member, if any circumstances arise that, if he were not such a member, would cause him to be disqualified to be appointed as such.

(10) A person holding the office of member of a Public Service Commission may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and may not be so removed except in accordance with the provisions of this section.

(11) A member of a Public Service Commission shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under subsection (12) of this section and the tribunal has recommended to the Governor that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(12) If the Prime Minister or the President of any Regional Assembly represents to the Governor that the question of removing an independent member under this section ought to be investigated, or if the Chairman of the Commission or, in the case of the Public Service Commission of the Government of Kenya, the Prime Minister or, in the case of the Public Service Commission of a Region, the President of the Regional Assembly of that Region represents to the Governor that the question of removing a representative member under this section 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 Chief Justice 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 the Commonwealth or a court having jurisdiction in appeals from such a court; and

(*b*) the tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to him whether the member ought to be removed under this section.

(13) If the question of removing a member of a Public Service Commission has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the Judicial Service Commission, may suspend that member from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor that that member should not be removed.

(14) If the office of Chairman of a Public Service Commission is vacant or the Chairman is for any reason unable to exercise the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, the Deputy Chairman or, if the office of Deputy Chairman is vacant or the Deputy Chairman is for any reason unable to perform the functions of the office of Chairman, such one of the other independent members as the Governor, acting in accordance with the advice of the Judicial Service Commission, may appoint shall act as Chairman; and the Deputy Chairman or the other independent member shall, subject to the provisions of subsections (9), (11) and (13) of this section, continue to act until a person has been appointed to the office of Chairman and has assumed the functions of that office or, as the case may be, until the person in whose place he is acting has assumed or resumed those functions.

(15) If the office of a member of a Public Service Commission other than the Chairman is vacant or if such a member is acting as Chairman under subsection (14) of this section or is for any other reason unable to exercise the functions of his office, the Governor, acting in accordance with the advice of the Judicial Service Commission in the case of an independent member and in accordance with the advice of the Prime Minister or, as the case may be, the President of the Regional Assembly concerned in the case of a representative member, may appoint a person who is qualified to be appointed to the office of that member to act in place of that member; and any person so appointed shall, subject to the provisions of subsections (9), (11) and (13) of this section, continue to act until a person has been appointed to the office in which he is acting and has assumed the functions of that office or, as the case may be, until the person in whose place he is acting has resumed those functions.

(16) Subject to the provisions of this Chapter, a Public Service Commission shall, in the exercise of its functions under this Constitution, not be subject to the direction or control of any other person or authority.

(17) Subject to the provisions of this Chapter, a Public Service Commission may by regulation or otherwise regulate its own procedure and, with the consent of the Prime Minister in the case of an officer in the public service of the Government of Kenya or in the case of any authority of that Government and with the consent of the President of the Regional Assembly in the case of an officer in the public service of a Region or in the case of any authority of a Region, may confer powers or impose duties on such an officer or authority for the purpose of the discharge of its functions.

(18) A Public Service Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that any decision of the Commission shall require the concurrence of a majority of the members who, in accordance with the provisions of this Chapter, are entitled to participate in the proceedings resulting in that decision.

Establishments.

177.—(1) The establishment of the public service of the Government of Kenya, that is to say, the number and kinds of offices in that service, shall be determined as provided by section 78 of this Constitution.

(2) The establishment of the public service of each Region, that is to say, the number and kinds of offices in that service, shall, subject to the provisions of this Constitution and of any law made by the Regional Assembly of that Region, be determined by the Finance and Establishments committee of that Regional Assembly.

Appointment, etc. of public officers.

178.—(1) Subject to the provisions of this Constitution, the power to appoint persons to hold or act in offices in the public service of the Government of Kenya (including the power to confirm appointments), the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Public Service Commission of the

Government of Kenya and the corresponding powers in relation to offices in the public service of a Region shall vest in the Public Service Commission of that Region.

(2) A Public Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under subsection (1) of this section to any one or more members of the Commission or, where the power relates to an office in the public service of the Government of Kenya and with the consent of the Prime Minister, to any person holding or acting in an office in that service or, where the power relates to an office in the public service of a Region and with the consent of the President of the Regional Assembly of that Region, to any person holding or acting in an office in the public service of that Region.

(3) Before making any appointment to fill a vacancy in any office in the public service of the Government of Kenya or of any Region, a Public Service Commission shall, without prejudice to its power to advertise the vacancy in any other way that it considers expedient, advertise the vacancy in such manner as it thinks will bring it to the attention of persons serving in any of the public services in Kenya; and any such person may notify that Public Service Commission that he wishes to be considered for that appointment.

(4) Before a Public Service Commission or any other person or authority exercises its power under this section to appoint to or to act in any office in the public service of the Government of Kenya or of any Region any person who holds or is acting in any office in any other public service in Kenya, the Commission or that person or authority shall consult the employing authority responsible for that other service, that is to say, the Minister for the time being responsible for the public service of the Government of Kenya in the case of that service and the Chairman of the Finance and Establishments committee of the Regional Assembly in the case of the public service of a Region; if the employing authority objects to the proposed appointment of that person, the independent members of the Public Service Commission shall consider the matter; and if a majority of the independent members agree that the appointment would not be in the interests of good administration in Kenya, the appointment shall not be made.

(5) When a Public Service Commission has, in pursuance of subsection (2) of this section, delegated to a disciplinary authority, that is to say, one or more of its members or a person holding or acting in an office in the public service of the Government of Kenya or of a Region, the power to exercise disciplinary control over any public officer (including the power to remove him from office) and that power has been exercised by the disciplinary authority, the officer in respect of whom it was so exercised may appeal from the decision of the disciplinary authority to the Public Service Commission:

Provided that, where the disciplinary authority is a person holding or acting in an office in the public service of the Government of Kenya or of a Region, the Commission may require appeals to be made to a person holding or acting in an office in that service of higher rank than that of the disciplinary authority before they are made under this subsection to the Commission.

(6) A Public Service Commission may by regulation or otherwise provide for the time and manner of the making of appeals to it under subsection (5) of this section and all matters incidental to such appeals.

(7) When a Public Service Commission is exercising its power to exercise disciplinary control over any public officer (including the power to remove him from office and the powers vested in it by subsections (5) and (6) of this section) only the independent members of that Commission shall be entitled to participate in its proceedings.

(8) In the exercise of any power conferred by this section to appoint persons to hold or act in any office in the public service of the Government of Kenya or of any Region, a Public Service Commission or any other person or authority to whom such power has been delegated under subsection (2) of this section shall give effect to such directions relating to the standards or qualifications (whether in respect of education, professional competence, place of origin, place of residence or otherwise) to be required of any person who is appointed as may be given to the Commission or that person or authority by the Minister for the time being responsible for the public service of the Government of Kenya or, as the case may be, by the Chairman of the Finance and Establishments committee of the Regional Assembly of that Region; but, without prejudice to the generality of section 176 (16) of this Constitution, a Public Service Commission shall not otherwise be subject to the direction or control of any other person or authority in the exercise of the powers conferred on it by this section, and any person or authority to whom powers are delegated under subsection (2) of this section shall, in the exercise of those powers, be subject to the direction and control only of the Commission by whom the delegation was made.

(9) A Public Service Commission may, after consultation with the Minister for the time being responsible for the public service of the Government of Kenya in the case of that service and after consultation with the Chairman of the Finance and Establishments committee of the Regional Assembly in the case of the public service of a Region, prescribe standards or qualifications (whether in respect of health, education, efficiency, professional skill or of any other kind) to be required of members of that service generally or members of that service who hold a particular rank or are engaged on particular duties; and it shall be the duty of the independent members of the Commission to ensure, as far as is practicable, that the standards or qualifications so prescribed are comparable with those prescribed in the case of the other public services in Kenya.

(10) In exercising its powers under this section to appoint persons to hold or act in offices in the public service of the Government of Kenya, the Public Service Commission of that Government shall endeavour to secure, as far as is practicable, that that public service includes at every level a reasonable number of person from each Region and from the Nairobi Area.

(11) In exercising its powers under this section to appoint persons to hold or act in offices in the public service of a Region, the Public Service Commission of that Region shall endeavour to secure, as far as is practicable, that that public service includes at every level a substantial proportion of persons from that Region.

(12) For the purpose of facilitating the transfer of public officers from one public service in Kenya to another and for the purpose of minimising competition between such services for the recruitment or retention of public officers, it shall be the duty of the Government of Kenya and of every Region to ensure, as far as is practicable, that the salaries, allowances and other conditions of service of public officers are similar in each of those services.

(13) To assist the Government of Kenya and the Regions in performing the duty imposed on that Government and on the Regions by subsection (12) of this section, the salaries, allowances and other conditions of service of officers in the various public services in Kenya shall be reviewed from time to time by a committee consisting of the Minister for the time being responsible for finance (who shall be Chairman) and the Chairman of the Finance and Establishments committee of each Regional Assembly (together with the independent members of the Public Service Commissions who shall attend the meetings of the committee in an advisory capacity), and the committee may make such recommendations as it thinks expedient as a result of its review to the Government of Kenya or to any Region.

(14) Before any of the powers conferred by this section in relation to the Clerk or a Clerk-Assistant of a House of the National Assembly are exercised by the Public Service Commission of the Government of Kenya or any other person or authority, the Commission or that person or authority shall consult with the Speaker of that House.

(15) Before a Public Service Commission or any other person or authority exercises its power under this section to appoint to or to act in any public office any person who holds or is acting in any office the power to make appointments to which is vested by this Constitution in the Judicial Service Commission, the Public Service Commission or that person or authority shall consult with the Judicial Service Commission.

(16) A public officer shall not be removed from office or subjected to any other punishment under this section on the grounds of any act done or omitted by him in the exercise of a judicial function conferred on him unless the Judicial Service Commission concurs therein.

(17) The provisions of this section shall not apply in relation to any of the following offices, that is to say:—

(*a*) the office of Deputy Governor;

(*b*) the office of a Justice of Appeal or a judge of the Supreme Court;

(*c*) the office of Attorney-General;

(*d*) the office of Controller and Auditor-General;

(*e*) so far as relates to appointments thereto or to act therein, the office of a permanent secretary or the office of the Secretary to the Cabinet;

(*f*) so far as relates to appointments thereto or to act therein, the office of Civil Secretary of a Region;

(*g*) any office to which section 175 of this Constitution (which relates to offices within the jurisdiction of the Judicial Service Commission) applies;

(*h*) the office of Inspector-General of Police or any other office in the Police Force; or

(*i*) any office on the Governor's personal staff.

Governor's personal staff.

179.—(1) The Governor, acting after consultation with the Prime Minister, may, by order published in the Kenya Gazette, prescribe the offices that are to constitute his personal staff (which shall be offices in the public service of the Government of Kenya), the salaries and allowances that are to be paid to the persons holding or acting in those offices and the sums to be paid to him in respect of the other expenditure attaching to the office of Governor.

(2) Any salaries, allowances or other sums prescribed under subsection (1) of this section shall be a charge on the Consolidated Fund.

(3) The power to appoint persons to hold or act in offices on the Governor's personal staff (including the power to confirm appointments), the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Governor, acting after consultation with the Public Service Commission of the Government of Kenya.

Attorney-General.

180.—(1) The Attorney-General shall be appointed by the Governor, acting in accordance with the advice of the Public Service Commission of the Government of Kenya.

(2) If the office of Attorney-General is vacant or if the Attorney-General is for any reason unable to exercise the functions of his office, the Governor, acting in accordance with the advice of the Public Service Commission of the Government of Kenya, may appoint a person to act as Attorney-General, and any person so appointed shall, subject to the provisions of subsections (4), (6) and (8) of this section, continue to act until a person has been appointed to the office of Attorney-General and has assumed the functions of that office or, as the case may be, until the person in whose place he is acting has resumed those functions.

(3) (*a*) A person shall not be qualified to be appointed to hold or to act in the office of Attorney-General unless he holds one of the specified qualifications and has held one or other of those qualifications for a total period of not less than seven years.

(*b*) In this subsection "the specified qualifications" means the professional qualifications specified by the Advocates Ordinance(a) (or by or under any law amending or replacing that Ordinance) one of which must be held by any person before he may apply under that Ordinance (or under any such law) to be admitted as an advocate in Kenya.

(4) Subject to the provisions of subsection (6) of this section, the Attorney-General shall vacate his office when he attains such age as may be prescribed by the Central Legislature.

(5) A person holding the office of Attorney-General may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(6) The Attorney-General shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under subsection (7) of this section and the tribunal has recommended to the Governor that he ought to be removed for inability as aforesaid or for misbehaviour.

(a) Revised Laws of Kenya 1962, c. 16.

(7) If the Prime Minister or the President of any Regional Assembly or the Chairman of the Public Service Commission of the Government of Kenya represents to the Governor that the question of removing the Attorney-General under this section 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 Chief Justice 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 the Commonwealth or a court having jurisdiction in appeals from such a court; and

(*b*) the tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to him whether the Attorney-General ought to be removed under this section.

(8) If the question of removing the Attorney-General has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the Public Service Commission of the Government of Kenya, may suspend the Attorney-General from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor that the Attorney-General should not be removed.

Controller and Auditor-General.

181.—(1) The Controller and Auditor-General shall be appointed by the Governor, acting in accordance with the advice of the Public Service Commission of the Government of Kenya.

(2) If the office of Controller and Auditor-General is vacant or if the Controller and Auditor-General is for any reason unable to exercise the functions of his office, the Governor, acting in accordance with the advice of the Public Service Commission of the Government of Kenya, may appoint a person to act as Controller and Auditor-General, and any person so appointed shall, subject to the provisions of subsections (3), (5) and (7) of this section, continue to act until a person has been appointed to the office of Controller and Auditor-General and has assumed the functions of that office or, as the case may be, until the person in whose place he is acting has resumed those functions.

(3) Subject to the provisions of subsection (5) of this section, the Controller and Auditor-General shall vacate his office when he attains such age as may be prescribed by the Central Legislature.

(4) A person holding the office of Controller and Auditor-General may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

(5) The Controller and Auditor-General shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under subsection (6) of this section and the tribunal has recommended to the Governor that he ought to be removed for inability as aforesaid or for misbehaviour.

(6) If the Prime Minister or the President of any Regional Assembly or the Chairman of the Public Service Commission of the Government of Kenya represents to the Governor that the question of removing the

Controller and Auditor-General under this section 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 Chief Justice 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 the Commonwealth or a court having jurisdiction in appeals from such a court; and

(*b*) the tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to him whether the Controller and Auditor-General ought to be removed under this section.

(7) If the question of removing the Controller and Auditor-General has been referred to a tribunal under this section, the Governor, acting in accordance with the advice of the Public Service Commission of the Government of Kenya, may suspend the Controller and Auditor-General from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the Governor that the Controller and Auditor-General should not be removed.

(8) A person who holds or has held the office of Controller and Auditor-General shall not be eligible to be appointed to or to act in any other public office.

Appointment of permanent secretaries and Secretary to the Cabinet.

182. The power to appoint a person to hold or act in the office of permanent secretary or Secretary to the Cabinet shall vest in the Governor, acting after consultation with the Prime Minister and the Public Service Commission of the Government of Kenya.

Appointment of Civil Secretaries of Regions.

183. The power to appoint a person to hold or act in the office of Civil Secretary of a Region shall vest in the Public Service Commission of that Region but, before making any such appointment, the Commission shall consult the President of the Regional Assembly of that Region.

Liwalis and Mudirs in Coast Region.

184.—(1) There shall be for the Coast Region such offices of Liwali and such offices of Mudir as may be determined by a law made by the Regional Assembly of that Region or, subject to any such law, by the Finance and Establishments committee of that Regional Assembly.

(2) A person shall not be qualified to be appointed to hold or act in the office of Liwali or the office of Mudir unless he professes the Muslim religion.

(3) Before the Public Service Commission of the Coast Region or any other person or authority exercises its power under section 178 of this Constitution to appoint any person to hold or act in the office of Liwali or the office of Mudir, the Commission or that person or authority shall make such consultation as it considers necessary or expedient with any other person or authority that appears to the Commission or to the first-mentioned person or authority to be qualified to advise on the needs and wishes of persons who—

(*a*) are resident in the Protectorate; and

(*b*) profess the Muslim religion

or any group or groups of such persons:

Provided that a law made by the Regional Assembly of the Coast Region may establish or provide for the establishment of an advisory board for the purposes of this subsection and if any such board is established, then, without prejudice to the foregoing provisions of this subsection, the Commission or the said person or authority shall, before exercising its power under this section to appoint a person to hold or act in the office of Liwali or the office of Mudir, consult that board.

Pensions laws and protection of pensions rights.

185.—(1) The law to be applied with respect to any pensions benefits that were granted to any person before the coming into operation of this Constitution shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is not less favourable to that person.

(2) The law to be applied with respect to any pensions benefits (not being benefits to which subsection (1) of this section applies) shall—

(*a*) in so far as those benefits are wholly in respect of a period of service as a public officer that commenced before the date on which this Constitution came into operation, be the law that was in force immediately before that date; and

(*b*) in so far as those benefits are wholly or partly in respect of a period of service as a public officer that commenced after the date on which this Constitution came into operation, be the law in force on the date on which that period of service commenced,

or any law in force at a later date that is not less favourable to that person.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law for which he opts shall, for the purposes of this section, be deemed to be more favourable to him than the other law or laws.

(4) All pensions benefits shall (except to the extent to which, in the case of benefits under the Provident Fund Ordinance(a), the Widows' and Orphans' Pensions Ordinance(b), the Asiatic Widows' and Orphans' Pensions Ordinance(c) and the Asian Officers' Family Pensions Ordinance(d) or under any law amending or replacing any of those Ordinances, they are a charge on a fund established by any of those Ordinances or by any such law and have been duly paid out of that fund to the person or authority to whom payment is due) be a charge on the Consolidated Fund.

(5) All sums, that, under any of the Ordinances referred to in subsection (4) of this section or under any law amending or replacing any of those Ordinances, are to be paid by the Government of Kenya into any fund established by any of those Ordinances or by any such law or are otherwise to be paid by the Government of Kenya for the purposes of any of those Ordinances or any such law shall be a charge on the Consolidated Fund.

(6) Any person who is entitled to the payment of any pensions benefits and who is ordinarily resident outside Kenya may, within a reasonable time after he has received that payment, remit the whole of it (free from any deduction, charge or tax made or levied in respect of its remission) to any country of his choice outside Kenya:

(a) Revised Laws of Kenya 1962, c. 191.
(b) Revised Laws of Kenya 1962, c. 192.
(c) Revised Laws of Kenya 1962, c. 193.
(d) Revised Laws of Kenya 1962, c. 194.

Provided that nothing in this subsection shall be construed as preventing—

(*a*) the attachment, by order of a court, of any payment or part of any payment to which a person is entitled in satisfaction of the judgment of a court or pending the determination of civil proceedings to which he is a party to the extent to which such attachment is permitted by the law with respect to pensions benefits that applies in the case of that person ; or

(*b*) the imposition of reasonable restrictions as to the manner in which any payment is to be remitted.

(7) In this section "pensions benefits" means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as public officers or for the widows, children, dependants or personal representatives of such persons in respect of such service.

(8) References in this section to the law with respect to pensions benefits include (without prejudice to their generality) references to the law regulating the circumstances in which such benefits may be granted or in which the grant of such benefits may be refused, the law regulating the circumstances in which any such benefits that have been granted may be withheld, reduced in amount or suspended and the law regulating the amount of any such benefits.

(9) For the purposes of this section—

(*a*) any office in any naval, military or air force established by or under any law made by any legislature in Kenya ;

(*b*) to the extent to which pensions benefits in respect of service in such an office are payable under any of the Ordinances referred to in subsection (4) of this section or under any law amending or replacing any of those Ordinances, any office in the service of the East Africa High Commission or the East African Common Services Organization ; and

(*c*) any office in the service of such body, authority, department, service or other organization as the Governor, acting in his discretion, may designate by notice which shall be published in the Kenya Gazette

shall be regarded as an office in the public service of the Government of Kenya.

(10) The Central Legislature may, to the exclusion of any Regional Assembly, make laws with respect to pensions benefits.

(11) The power conferred on the Central Legislature by subsection (10) of this section shall include a power to make provision under which persons holding or acting in offices in the public service of a Region may be required to make contributions to any fund established by any of the Ordinances specified in subsection (4) of this section or by any law amending or replacing any such Ordinance.

Power to withhold pensions, etc.

186.—(1) Where under any law any person or authority has a discretion—

(*a*) to decide whether or not any pensions benefits shall be granted ; or

(*b*) to withhold, reduce in amount or suspend any such benefits that have been granted,

those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the Public Service Commission concurs in

the refusal to grant the benefits or, as the case may be, in the decision to withhold them, reduce them in amount or suspend them.

(2) Where the amount of any pensions benefits that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him shall be the greatest amount for which he is eligible unless the Public Service Commission concurs in his being granted benefits of a smaller amount.

(3) The Public Service Commission shall not concur under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held the office of Justice of Appeal, judge of the Supreme Court, Attorney-General, Controller and Auditor-General or Inspector-General of Police has been guilty of misbehaviour in that office unless he has been removed from that office by reason of such misbehaviour.

(4) Before the Public Service Commission concurs under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held any office to which, at the time of such action, section 175 of this Constitution applies has been guilty of misbehaviour in that office, the Public Service Commission shall consult the Judicial Service Commission.

(5) Before the Public Service Commission concurs under subsection (1) or subsection (2) of this section in any action taken on the ground that any person who holds or has held any office in the Police Force (or has held any office in any police force in Kenya before this Constitution comes into operation) has been guilty of misbehaviour in that office, the Public Service Commission shall consult the Police Service Commission.

(6) In this section "pensions benefits" means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as public officers or for the widows, children, dependants or personal representatives of such persons in respect of such service.

(7) For the purposes of this section—

(*a*) any office in any naval, military or air force established by or under any law made by any legislature in Kenya;

(*b*) to the extent to which pensions benefits in respect of service in such an office are payable under any of the Ordinances referred to in section 185 (4) of this Constitution or under any law amending or replacing any of those Ordinances, any office in the service of the East Africa High Commission or the East African Common Services Organization; and

(*c*) any office in the service of such body, authority, department, service or other organization as the Governor, acting in his discretion, may designate by notice which shall be published in the Kenya Gazette

shall be regarded as an office in the public service of the Government of Kenya.

(8) In this section references to the Public Service Commission are references to the Public Service Commission of the Government of Kenya and the provisions of section 178 (7) of this Constitution shall apply in relation to the exercise of the powers of that Commission under this section as they apply in relation to the exercise by that Commission of the power to exercise disciplinary control over a public officer.

CHAPTER XI

LAND

PART 1

Central Land Board

Establishment of Central Land Board.

187.—(1) There shall be a Central Land Board which shall consist of—

(*a*) a Chairman appointed by the Governor, acting in his discretion;

(*b*) a Deputy Chairman appointed by the Governor, acting in his discretion;

(*c*) such member representing the Government of Kenya as may for the time being be designated in that behalf by the Governor, acting in accordance with the advice of the Prime Minister;

(*d*) such member representing each Region as may for the time being be designated in that behalf by the Governor, acting in accordance with the advice of the President of the Regional Assembly of that Region; and

(*e*) such member representing the owners of agricultural land that may be selected for purchase for the purposes of land settlement under section 188 of this Constitution as may for the time being be designated in that behalf by the Governor, acting after consultation with the Chairman.

(2) No person shall be qualified to be appointed as Chairman or Deputy Chairman if he is a Minister, a Parliamentary Secretary, a member of either House of the National Assembly or of a Regional Assembly or a member of a committee of a Regional Assembly, and no person shall be qualified to be appointed as Chairman or Deputy Chairman or designated as any other member of the Board if he is a public officer.

(3) Subject to the provisions of this section, the Chairman or the Deputy Chairman shall vacate his office—

(*a*) at the expiration of four years from the date of his appointment; or

(*b*) if any circumstances arise that, if he were not Chairman or, as the case may be, Deputy Chairman, would cause him to be disqualified to be appointed as such.

(4) A person holding the office of Chairman or Deputy Chairman 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 may not be so removed except in accordance with the provisions of this section.

(5) The Chairman or the Deputy Chairman shall be removed from office by the Governor if the question of his removal from office has been referred to a tribunal appointed under subsection (6) of this section and the tribunal has recommended to the Governor that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(6) If the Prime Minister or the President of any Regional Assembly represents to the Governor that the question of removing the Chairman

or the Deputy Chairman under this section ought to be investigated or if the Governor, acting in his discretion, considers that the question 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 Chief Justice 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 the Commonwealth or a court having jurisdiction in appeals from such a court; and

(*b*) the tribunal shall enquire into the matter and report on the facts thereof to the Governor and recommend to him whether the Chairman or, as the case may be, the Deputy Chairman ought to be removed under this section.

(7) A member of the Board other than the Chairman and the Deputy Chairman shall vacate his office if any circumstances arise that, if he were not such a member, would cause him to be disqualified to be designated as such.

(8) If the question of removing the Chairman or the Deputy Chairman has been referred to a tribunal under this section, the Governor, acting in his discretion, may suspend the Chairman or, as the case may be, the Deputy Chairman from the exercise of the functions of his office and any such suspension may at any time be revoked by the Governor, acting in his discretion, and shall in any case cease to have effect if the tribunal recommends to the Governor that the Chairman or, as the case may be, the Deputy Chairman should not be removed.

(9) If the office of Chairman is vacant or the Chairman is for any reason unable to exercise the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, they shall be exercised by the Deputy Chairman.

(10) If the office of Deputy Chairman is vacant or the Deputy Chairman is acting as Chairman under subsection (9) of this section or is for any other reason unable to exercise the functions of his office, the Governor, acting in his discretion, may appoint a person who is qualified to be appointed as Deputy Chairman to act as Deputy Chairman; and any person so appointed shall, subject to the provisions of subsections (3), (5) and (8) of this section, continue to act until a person has been appointed to and has assumed the functions of the office of Deputy Chairman or, as the case may be, until the person in whose place he is acting has resumed those functions.

Functions and powers of Board.

188.—(1) It shall be the duty of the Board—

(*a*) to select, for the purposes of land settlement schemes, agricultural land within the areas to which this section applies;

(*b*) to assess the fair purchase price for such land;

(*c*) to purchase such land by agreement with the owners thereof; and

(*d*) to convey to such persons as may, after consultation with the Minister for the time being responsible for land settlement, be nominated in that behalf by the President of the Regional Assembly of the Region in which the land is situated such estates, rights or interests in or over the land as may be necessary to give effect to a settlement scheme relating to the land.

(2) For the purpose of assisting the Government of Kenya and the Regions in the formulation and the implementation of land settlement schemes, the Board shall from time to time consult with the Central Settlement Committee established by paragraph 12 (2) of Schedule 5 of this Constitution as to the future exercise by the Board of its functions under subsection (1) (*a*) of this section.

(3) The Board shall be a body corporate with perpetual succession and power to sue and be sued and, subject to the provisions of this Chapter, to do all such things as bodies corporate may lawfully do.

(4) Without prejudice to the generality of subsection (3) of this section, the Board may do all things that appear to it to be incidental or supplementary to the carrying out of any of its duties under subsection (1) of this section or otherwise to be necessary or expedient for or in consequence of the carrying out of any of those duties.

(5) The areas to which this section applies are the areas which, on the 1st January 1956, were Scheduled Areas for the purposes of the Agriculture Ordinance 1955(a), and the expression "agricultural land" shall, for the purposes of this section, be construed as referring to all land which was on that date agricultural land for the purposes of that Ordinance.

(6) In the exercise of its functions under paragraphs (*a*), (*b*) and (*c*) of subsection (1) of this section the Board shall not be subject to the direction or control of any other person or authority.

Procedure of Board.

189.—(1) The Board shall not meet except by the authority of the Chairman who shall summon the Board to meet whenever he considers it necessary so to do:

Provided that the Chairman shall summon a meeting of the Board whenever he is requested so to do by not less than four of the members.

(2) The Chairman shall, so far as is practicable, attend and preside at all meetings of the Board, and, in the absence of the Chairman, the Deputy Chairman shall preside.

(3) The Board may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that—

(*a*) the Board may not act at any time when both the office of the Chairman and the office of the Deputy Chairman are vacant; and

(*b*) any decision of the Board shall require the support of a majority of all the members thereof.

(4) Subject to the provisions of this Chapter, the Board may regulate its own procedure.

Staff of Board.

190.—(1) There shall be a Secretary to the Board who shall be assisted by such subordinate staff as the Board may decide.

(2) The Secretary to the Board shall be responsible, in accordance with such instructions as may be given to him by the Board, for

(a) Ordinance No. 8 of 1955.

arranging the business for and keeping the minutes of the Board and for the organisation and supervision of the subordinate staff of the Board.

(3) The office of Secretary to the Board and offices on the subordinate staff of the Board shall not be regarded as public offices for the purposes of this Constitution except for the purposes of sections 32 (1) (*f*), 39 (2), 87 (1) (*f*), 150 (3) (*d*), 150 (4), 176 (7), 176 (8) and 181 (8) thereof (which relate to disqualification for election or appointment to certain offices) but this subsection shall not prevent the secondment of any public officer to act in the office of Secretary to the Board or in any office on the subordinate staff of the Board.

(4) The power to appoint persons to hold or act in the office of Secretary to the Board or in offices on the subordinate staff of the Board (including the power to confirm appointments), the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Board but, before exercising any of its powers under this subsection, the Board shall consult the Public Service Commission of the Government of Kenya.

Finances of Board, etc.

191.—(1) The funds of the Board shall be derived from grants and loans made to it by the Government of Kenya and from any monies that may accrue to it from the exercise of the powers conferred on it by section 188 (4) of this Constitution.

(2) The expenses of the Board, including all monies expended on or in connection with the purchase of land or otherwise in the exercise of its functions under this Chapter, the salary and allowances of the Chairman, any allowances payable to the other members of the Board and the emoluments of the staff of the Board shall be defrayed out of the funds of the Board.

(3) Any allowances payable to the members of the Board and the emoluments of the staff of the Board shall be prescribed by the Governor, acting in his discretion.

(4) The salary of the Chairman shall be prescribed by the Governor, acting in his discretion, and, together with his other terms of service (including allowances), shall not be altered to his disadvantage after his appointment.

(5) Where the salary or other terms of service of the Chairman depend upon his option, the salary or terms for which he opts shall, for the purposes of subsection (4) of this section, be deemed to be more advantageous to him than any others for which he might have opted.

PART 2

Land Tenure

Interpretation.

192.—(1) In this Part of this Chapter "the Special Areas" means the areas of land the boundaries of which were specified in the First Schedule to the Trust Land Ordinance(a) as in force immediately before the coming into operation of this Constitution.

(2) In this Part of this Chapter references to a county council shall, in relation to any area of land that may for the time being be specified by the Governor, acting in his discretion, by notice which shall

(a) Revised Laws of Kenya 1962, c. 288.

be published in the Kenya Gazette and in the Regional Gazette of the Region in which that land is situated, be construed as if they were references to such other local government authority having jurisdiction over that area as may be so specified.

Confirmation of subsisting titles and interests in land.

193.—(1) All estates, interests or rights in or over land which the Governor or any other officer or authority of the Government of Kenya, acting in exercise or purported exercise of any power in that behalf conferred by any law, has at any time before the coming into operation of this Constitution created, granted or recognised are hereby confirmed—

(*a*) as having been validly created, granted or recognised; and

(*b*) to the extent to which they were still subsisting immediately before the day on which this Constitution came into operation, as continuing as from that day according to their respective tenors and subject to the provisions of this Chapter and of any other law for the time being in force.

(2) Where, immediately before the day on which this Constitution came into operation, any land was subject to an unadjudicated claim made under the Land Titles Ordinance(a), that claim shall be deemed to have continued unabated on that day and to have continued as from that day subject to adjudication in accordance with the provisions of that Ordinance or any law amending or replacing that Ordinance.

Land vested in Regions.

194. Subject to the provisions of sections 195 and 198 of this Constitution, all estates, interests and rights in or over land situated in a Region that, immediately before the day on which this Constitution came into operation, were vested in Her Majesty or in the Governor on behalf of Her Majesty in right of the Government of Kenya shall be deemed to have vested in the Region on that day.

Land vested in Government of Kenya.

195.—(1) All estates, interests or rights in or over land situated in the Nairobi Area that, immediately before the day on which this Constitution came into operation, were—

(*a*) vested in Her Majesty or in the Governor on behalf of Her Majesty in right of the Government of Kenya; or

(*b*) registered in the name of the Trust Land Board under the Land Registration (Special Areas) Ordinance(b)

shall be deemed to have vested on that day or, as the case may be, to have re-vested on that day in the Governor on behalf of Her Majesty in right of the Government of Kenya.

(2) There shall also be deemed to have vested in the Governor on behalf of Her Majesty in right of the Government of Kenya on the day on which this Constitution came into operation such estates, interests or rights in or over land situated within a Region as the Governor, acting in his discretion, may designate or may have designated in that behalf in exercise of powers conferred on him by or under the Order of Her Majesty in Council to which this Constitution is scheduled.

Disposition of land by Regions.

196. Subject to the provisions of section 201 of this Constitution and of any law, the Regional Assembly of a Region or any person

(a) Revised Laws of Kenya 1962, c. 282.
(b) Revised Laws of Kenya 1962, c. 283.

or authority authorised in that behalf by the Regional Assembly may make grants or dispositions of any estates, interests or rights in or over land that are for the time being vested in the Region.

Disposition of land by Government of Kenya.

197. Subject to the provisions of section 201 of this Constitution and of any law, the Governor or any person or authority authorised in that behalf by the Governor may make grants or dispositions of any estates, interests or rights in or over land that are for the time being vested in the Governor on behalf of Her Majesty in right of the Government of Kenya.

Trust land.

198.—(1) Subject to the provisions of section 195 of this Constitution and of subsection (2) of this section, the following descriptions of land shall be Trust land, that is to say:—

(*a*) land in the Special Areas which was, immediately before the day on which this Constitution came into operation, vested in the Trust Land Board by virtue of any Order of Her Majesty in Council or which was then registered in the name of the Trust Land Board;

(*b*) the areas of land that were known before the said day as Special Reserves, Temporary Special Reserves, Special Leasehold Areas and Special Settlement Areas and the boundaries of which were described respectively in the Fourth, Fifth, Sixth and Seventh Schedules to the Crown Lands Ordinance(a) as in force immediately before that day, the areas of land that were immediately before that day communal reserves by virtue of a declaration under section 58 of that Ordinance and the areas of land in respect of which a permit to occupy was in force immediately before that day under section 62 of that Ordinance;

(*c*) land situated in a Region the freehold title to which is registered in the name of a county council; and

(*d*) land the freehold title to which is vested in a county council by virtue of an escheat under the provisions of section 201 of this Constitution.

(2) A county council may, in such manner and subject to such conditions as may be prescribed by a law made by the Regional Assembly of the Region in which the land is situated, request that the provisions of any law to which this subsection applies shall apply to any area of Trust land vested in that county council by subsection (4) of this section and when the title to any parcel of land within that area is registered under any such law otherwise than in the name of the county council it shall cease to be Trust land.

(3) The laws to which subsection (2) of this section applies are—

(*a*) the Land Registration (Special Areas) Ordinance(b); and

(*b*) any other law permitting the registration of individual titles to estates, interests or rights in or over land that, immediately before such registration, is Trust land (except to the extent to which the law permits the registration of estates, interests or rights vested in persons or authorities for whose use and occupation the land has been set apart under the provisions of this Chapter).

(a) Revised Laws of Kenya 1962, c. 280. (b) Revised Laws of Kenya 1962, c. 283.

(4) All Trust land shall vest in the county council within whose area of jurisdiction it is situated.

(5) Each county council shall hold the Trust land vested in it by this section for the benefit of the persons ordinarily resident on that land and shall give effect to such rights, interests or other benefits in respect of the land as may, under the African customary law for the time being in force and applicable thereto, be vested in any tribe, group, family or individual.

(6) Subject to the provisions of this section, a Regional Assembly may make laws with respect to the administration by a county council of the Trust land vested in it.

(7) Subject to the provisions of subsection (10) of this section, a law made by the Regional Assembly of a Region may empower any county council within the Region to set apart any area of Trust land vested in that county council for use and occupation—

(*a*) by any public body or authority for public purposes; or

(*b*) for the purpose of the extraction of minerals or mineral oils; or

(*c*) by any person or persons for purposes which in the opinion of that county council are likely to benefit the persons ordinarily resident in that area or any other area of Trust land vested in that county council either by reason of the use to which the area so set apart is to be put or by reason of the revenue to be derived from rent in respect thereof,

and any such law may prescribe the manner in which and the conditions subject to which such setting apart shall be effected.

(8) Where a county council has set apart any area of land in pursuance of subsection (7) of this section, any rights, interests or other benefits in respect of that land that were previously vested in any tribe, group, family or individual under African customary law shall be extinguished.

(9) Where a county council has set apart any area of land in pursuance of subsection (7) of this section, it may, subject to any law, make grants or dispositions of any estate, interest or right in or over that land or any part of it to any person or authority for whose use and occupation it may be set apart in pursuance of the said subsection (7).

(10) No setting apart in pursuance of subsection (7) of this section shall have effect unless provision is made by the law under which the setting apart takes place for the prompt payment of full compensation to any resident of the area of land set apart who—

(*a*) under the African customary law for the time being in force and applicable to the land, has any right to occupy any part thereof; or

(*b*) is, otherwise than in common with all other residents of the land, in some other way prejudicially affected by the setting apart.

(11) No right, interest or other benefit under African customary law shall have effect for the purposes of this section to the extent to which it is repugnant to any written law.

Acquisition of land for Kenya Government purposes, and setting apart of Trust land for Kenya Government or Regional purposes.

199.—(1) Where the Prime Minister is satisfied that any estate, interest or right in or over land that is vested in a Region is required for—

(*a*) the purposes of the Government of Kenya ; or

(*b*) the purposes of any body corporate established for public purposes by a law made by the Central Legislature ; or

(*c*) the purposes of the East African Common Services Organization ; or

(*d*) the purpose of the extraction of minerals (other than common minerals) or mineral oils,

he may, after consultation with the President of the Regional Assembly of that Region, so declare by notice which shall be published in the Kenya Gazette and in the Regional Gazette of that Region and that estate, interest or right shall then cease to be vested in the Region and shall vest instead in the Governor on behalf of Her Majesty in right of the Government of Kenya or, as the case may be, in such body corporate referred to in paragraph (*b*) of this subsection, in the East African Common Services Organization, in such officer or authority of that Organization or in such person or authority for the purpose referred to in paragraph (*d*) of this subsection as may be specified in such notice:

Provided that where the President of the Regional Assembly informs the Prime Minister that the land in question is occupied or is intended shortly to be occupied for the purposes of the Region, the Prime Minister shall not exercise his powers under this subsection except to the extent to which, in his opinion, he is strictly required so to do by the exigencies of the national interest.

(2) Where any estate, interest or right in or over land is acquired from a Region under the provisions of subsection (1) of this section, the Government of Kenya shall make prompt payment of full compensation therefor to that Region and the provisions of sections 6 (2) and 170 of this Constitution shall apply in relation to that payment of compensation and in relation to the adjudication of questions relating thereto as they apply in relation to those matters when property is compulsorily acquired from any person.

(3) Where the Prime Minister is satisfied that the use and occupation of any area of Trust land is required for any of the purposes specified in subsection (1) of this section, he may, after consultation with the President of the Regional Assembly of the Region in which the land is situated and with the county council in which the land is vested, give written notice to that county council that the land is required to be set apart for use and occupation for those purposes ; the land shall then be set apart accordingly and, subject to the provisions of any law, there shall vest in the Governor on behalf of Her Majesty in right of the Government of Kenya or in such other person or authority referred to in the said subsection (1) as may from time to time be specified by written notice given by the Prime Minister to the county council such estates, interests or rights in or over that land or any part of it as may be so specified:

Provided that where the land in question or any part of it is already set apart under subsection (4) of this section or where the President of the Regional Assembly informs the Prime Minister that the land or any part of it is intended shortly to be set apart under that subsection, the Prime Minister shall not exercise his powers under this

subsection except to the extent to which, in his opinion, he is strictly required so to do by the exigencies of the national interest.

(4) Where the President of the Regional Assembly of any Region is satisfied that the use and occupation of any area of Trust land is required for—

(*a*) the purposes of the Region ; or

(*b*) the purposes of any body corporate established for public purposes by a law made by the Regional Assembly ; or

(*c*) the purpose of the extraction of common minerals,

he may, after consultation with the county council in which the land is vested, give written notice to that county council that the land is required to be set apart for use and occupation for those purposes ; the land shall then be set apart accordingly and, subject to the provisions of any law, there shall vest in the Region or, as the case may be, in such body corporate referred to in paragraph (*b*) of this subsection or in such person or authority for the purpose referred to in paragraph (*c*) of this subsection as may from time to time be specified by written notice given by the President of the Regional Assembly to the county council such estates, interests or rights in or over that land or any part of it as may be so specified.

(5) Where land is required to be set apart under subsection (3) or subsection (4) of this section—

(*a*) the Central Legislature, in the case of a setting apart under subsection (3) of this section, or a law made by the Regional Assembly of the Region, in the case of a setting apart under subsection (4) of this section, may prescribe the manner in which and the conditions subject to which such setting apart shall be effected ;

(*b*) subsection (8) of section 198 of this Constitution shall apply in relation to such setting apart as it applies in relation to a setting apart in pursuance of subsection (7) of that section ; and

(*c*) the Government of Kenya, in the case of a setting apart under subsection (3) of this section, or the Region, in the case of a setting apart under subsection (4) of this section, shall make prompt payment of full compensation for the setting apart to such persons as, under subsection (10) of the said section 198, are entitled to such compensation when land is set apart in pursuance of subsection (7) of that section.

(6) The provisions of subsections (3) and (4) of this section shall apply as well in relation to land that has already been set apart in pursuance of section 198 (7) of this Constitution as in relation to other land, and in such case a setting apart under this section shall extinguish any estate, interest or right in or over the land or any part thereof that may be vested in any person or authority in consequence of the setting apart in pursuance of the said section 198 (7) but the provisions of section 6 of this Constitution shall apply in relation to any such setting apart under this section as if it were a compulsory acquisition by the Government of Kenya under a law made by the Central Legislature or, as the case may be, by the Region under a law made by the Regional Assembly of the estate, interest or right so extinguished.

(7) The provisions of subsection (3) of this section shall apply as well in relation to land that has already been set apart under subsection (4) thereof as in relation to other land, and in such case a setting apart under subsection (3) shall extinguish any estate,

interest or right in or over the land or any part thereof that may be vested in the Region or any body corporate or any person or authority engaged in the extraction of minerals in consequence of a setting apart under subsection (4) but the provisions of section 6 of this Constitution (other than, in the case where the estate, interest or right is vested in the Region, paragraphs (*a*) and (*b*) of subsection (1) thereof) shall apply in relation to such setting apart under subsection (3) of this section as if it were a compulsory acquisition by the Government of Kenya under a law made by the Central Legislature of the estate, interest or right.

Land no longer required for Kenya Government or Regional purposes, etc.

200.—(1) Where any estate, interest or right in or over any land (other than Trust land) situated in a Region that is vested in the Governor on behalf of Her Majesty in right of the Government of Kenya is no longer required—

(*a*) for the purposes of the Government of Kenya ; or

(*b*) for the purposes of any body corporate established for public purposes by a law made by the Central Legislature ; or

(*c*) for the purposes of the East African Common Services Organization,

the Government of Kenya shall offer to release that estate, interest or right to the Region.

(2) Every offer made in pursuance of subsection (1) of this section shall be made in writing to the President of the Regional Assembly of the Region and shall be subject to the condition that the Region shall pay to the Government of Kenya the market value (at the date of the offer) of the estate, interest or right concerned.

(3) If, within six months from the receipt by the President of a Regional Assembly of an offer made in pursuance of subsection (1) of this section, he gives written notice to the Government of Kenya that the Region accepts the offer, the estate, interest or right concerned shall thereupon cease to be vested in the Governor and shall vest instead in the Region and the market value or such smaller sum as the parties may have agreed shall then become payable by the Region to the Government of Kenya, but if no such notice is given within the six months, the estate, interest or right shall, subject to the provisions of section 197 of this Constitution, remain vested in the Governor on behalf of Her Majesty in right of the Government of Kenya.

(4) Where the Prime Minister or the President of a Regional Assembly is satisfied that any land that has been set apart under subsection (3) or, as the case may be, subsection (4) of section 199 of this Constitution is no longer required for any of the purposes specified in subsection (1) or, as the case may be, subsection (4) of that section, the Prime Minister or the President of the Regional Assembly shall in writing so notify the county council in whose area of jurisdiction the land is situated and thereupon the setting apart shall cease to have effect and any estate, interest or right vested in any person or authority in consequence of the setting apart shall be extinguished and (without prejudice to the subsequent making of a further setting apart under any provision of this Chapter) the land shall again be held by the county council in accordance with the provisions of section 198 of this Constitution:

Provided that where any estate, interest or right that is vested in a person or authority other than the Government of Kenya, a Region, the East African Common Services Organization or any officer or

authority of that Organization is extinguished in pursuance of this subsection, the provisions of section 6 of this Constitution (other than paragraphs (*a*) and (*b*) of subsection (1) thereof) shall apply in relation to that extinguishment as if it were a compulsory acquisition by the Government of Kenya under a law made by the Central Legislature or, as the case may be, by the Region under a law made by the Regional Assembly of the estate, interest or right so extinguished.

(5) Where any dispute arises between the Government of Kenya and any Region as to the market value of any estate, interest or right for the purposes of this section, either party may refer the question to the Supreme Court whose decision thereon shall not be subject to appeal; and the Chief Justice may make rules as to the practice and procedure of the Supreme Court in relation to any reference to it under this subsection.

Escheat.

201.—(1) Where any person in whom there is vested an estate, interest or right in or over land dies intestate and without heirs, that estate, interest or right shall escheat—

(*a*) if the land is situated in a Region but is not in the Special Areas and is not such land as is specified in paragraph (*b*) or paragraph (*c*) of section 198 (1) of this Constitution, to the Region in which it is situated;

(*b*) if the land is situated in the Nairobi Area, to the Governor on behalf of Her Majesty in right of the Government of Kenya; and

(*c*) if the land is situated in the Special Areas or is such land as is specified in paragraph (*b*) or paragraph (*c*) of section 198 (1) of this Constitution, to the county council in whose area of jurisdiction the land is situated.

(2) Where a company in which there is vested any estate, interest or right in or over land is dissolved, then, except to the extent to which provision is made by or under the Companies Ordinance(a) or any law amending or replacing that Ordinance for the vesting of that estate, interest or right in some other person or authority, it shall escheat in like manner as if it were vested in a person who dies intestate and without heirs.

Purchase of head leases by Central Land Board.

202. Where a leasehold estate or interest in any land situated in the areas to which section 188 of this Constitution applies vests in the Central Land Board, being an estate or interest the immediate reversion of which is vested in the Governor or in the Region in which the land is situated and in respect of which no other person or authority has a superior estate or interest, the reversion shall be extinguished and the leasehold estate or interest acquired by the Board shall be converted into an estate in fee simple, but without prejudice to any estate, interest or right, by way of a mortgage, charge or otherwise, subject to which the Board may have acquired the leasehold estate or interest.

Minerals and mineral oils.

203.—(1) All unextracted minerals (other than common minerals) and mineral oils that are situated in any part of Kenya shall be deemed to have vested in the Governor on behalf of Her Majesty in right of the Government of Kenya on the day on which this Constitution came into operation.

(a) Revised Laws of Kenya 1962, c. 486.

(2) All unextracted common minerals that are situated in the Nairobi Area shall be deemed to have vested in the Governor on behalf of Her Majesty in right of the Government of Kenya on the day on which this Constitution came into operation.

(3) All unextracted common minerals that are situated in a Region shall be deemed to have vested in that Region on the day on which this Constitution came into operation.

(4) The vesting of minerals and mineral oils, in accordance with the provisions of this section, in the Governor or in a Region shall be subject to—

(*a*) any rights in respect thereof that, by or under any law, were granted to or recognised as being vested in any person (other than the Governor) before the day on which this Constitution came into operation and that were subsisting immediately before that day; and

(*b*) any rights in respect thereof that may, subject to any law, be granted to any person on or after that day by the Governor (or by any person or authority authorised in that behalf by him or by or under any law) or, as the case may be, by the Regional Assembly of the Region (or by any person or authority authorised in that behalf by the Regional Assembly or by or under any law).

Water.

204. The water of every body of water in Kenya which, immediately before the day on which this Constitution came into operation was vested in the Crown in respect of the Colony and in His Highness the Sultan of Zanzibar in respect of the Protectorate shall be deemed to have vested on that day in the Governor on behalf of Her Majesty in right of the Government of Kenya; but such vesting shall be subject to any rights of user—

(*a*) that, by or under any law, were granted to or recognised as being vested in any person before that day and were subsisting immediately before that day; and

(*b*) that may, subject to any law, be granted by the Governor (or by any person or authority authorised in that behalf by him or by or under any law) on or after that day.

PART 3

Control over Transactions in Agricultural Land.

Interpretation.

205.—(1) In this Part of this Chapter—

"agricultural land" means—

(*a*) all land in a Region that is not within the area of jurisdiction of any municipality or township or of any trading centre or market established under any law; and

(*b*) all land in the Nairobi Area that is declared by or under a law made by the Central Legislature to be agricultural land for the purposes of this Part of this Chapter;

"land transaction" means any transaction in agricultural land described in paragraph (*a*), paragraph (*b*) or paragraph (*c*) of subsection (1) of section 208 of this Constitution; and

"the Region" means, in relation to a county council, a Divisional Board or any land, the Region in which that council or Board has jurisdiction or that land is situated.

(2) Where, in pursuance of section 192 (2) of this Constitution, some local government authority other than a county council is for the time being specified in relation to any area of land, references in this

Part of this Chapter to a county council shall be construed as if they were references to the other local government authority that is so specified.

(3) This Part of this Chapter shall not apply in relation to any estates, interests or rights in or over land that, by reason of any condition or covenant in the title thereto or by reason of any limitation imposed by any law, are subject to the restriction that the land may not be used for agriculture or to the condition that the land shall be used for a non-agricultural purpose.

Establishment of divisions.

206. For the purposes of this Part of this Chapter, a county council shall, subject to the provisions of any law made under section 211 (1) (*a*) of this Constitution, divide the area within its jurisdiction into such two or more divisions as appear to the county council to be necessary or expedient for those purposes.

Divisional Land Control Boards.

207.—(1) There shall be for each division established under section 206 of this Constitution, a Divisional Land Control Board (in this Part of this Chapter referred to as a "Divisional Board") which, subject to the provisions of a law made under section 211 (1) (*b*) of this Constitution, shall have jurisdiction over the division for the purposes of this Part of this Chapter and which shall be constituted in such manner and shall exercise such functions as are hereinafter specified.

(2) Each Divisional Board shall consist of such number of members appointed, elected or otherwise selected in such manner as, subject to the provisions of any law in that behalf made by the Regional Assembly of the Region, may be prescribed by the county council.

(3) Any provision prescribing the number and mode of appointment, election or selection of members of a Divisional Board shall be such as will ensure the result that more than one-half of the members of the Board are able to represent the interests of owners or occupiers of agricultural land within the division:

Provided that the question whether any provision ensures that result shall not be enquired into in any court.

(4) A law made by the Regional Assembly of the Region may prescribe the qualifications and disqualifications for appointment, election or selection of persons as members of a Divisional Board and the tenure of office of any member.

(5) A law made by the Regional Assembly of the Region may, subject to the provisions of this Part of this Chapter, prescribe the procedure of a Divisional Board, and, subject thereto, the procedure of any Divisional Board shall be such as the Board itself may determine.

(6) Subject to its rules of procedure, a Divisional Board may act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that any decision of a Board shall require the concurrence of a majority of all the members thereof.

Transactions affecting agricultural land.

208.—(1) No person shall be a party to any of the following transactions, that is to say:—

(*a*) the sale, lease, charge, mortgage, exchange, partition or any other disposal of or dealing with any estate, interest or right in or over agricultural land; or

(*b*) the division of any agricultural land into a number of parcels held under separate titles; or

(*c*) the sale, transfer, charge or any other disposal of or dealing with any share, debenture or stock in any private company registered under the Companies Ordinance(a) (or under any law amending or replacing that Ordinance) if there is for the time being vested in that company an estate, interest or right in or over any agricultural land,

unless the consent to such transaction of the Divisional Board in whose area of jurisdiction the land in question is situated (or which has jurisdiction by virtue of a law made under section 211 (1) (*b*) of this Constitution) has been given in accordance with the provisions of this Part of this Chapter; and every land transaction in respect of which such consent has not been given shall be absolutely void for all purposes.

(2) Any agreement to be a party to any land transaction shall be absolutely void for all purposes—

(*a*) at the expiration of three months after the making of the agreement if application for consent has not been made within that time to the appropriate Divisional Board; or

(*b*) if an application is made and refused, at the end of such time as may be prescribed by or under a law made by the Regional Assembly of the Region for the institution of an appeal from such refusal under section 210 of this Constitution, or, where such an appeal has been instituted, on the dismissal of the appeal.

(3) If any money or other valuable consideration has been paid in the course of any land transaction that is void under the provisions of this section or under any agreement that is or becomes void thereunder, that money or consideration shall be recoverable as a civil debt by the person who paid it from the person to whom it was paid.

(4) Nothing in this section shall apply to any succession to any estate, interest or right in or over land under the will or as a result of the intestacy of any person unless such succession involves a division of the land into a number of parcels held under separate titles.

(5) The provisions of this section shall be without prejudice to the powers vested by Part 1 of this Chapter in the Central Land Board or by Part 2 of this Chapter in the Government of Kenya, a Region or (in respect of Trust land) a county council.

Functions of Divisional Boards.

209.—(1) A Divisional Board shall consider any application made to it for consent to a land transaction and, subject to the provisions of any law made in pursuance of section 211 (2) (*b*) of this Constitution, shall, in its absolute discretion, give or refuse its consent to that transaction:

Provided that in the case of a transaction in land situated within the areas to which section 188 of this Constitution applies a Divisional Board shall not refuse consent save on agricultural or economic grounds.

(2) In the exercise of its functions under subsection (1) of this section, a Divisional Board shall, when appropriate, have regard to the effect which the grant or refusal of consent may have on the economic development of the land concerned or on the raising or lowering of the standards of good husbandry within the division and shall also take into consideration such other matters as may be prescribed by any law made by the Regional Assembly of the Region.

(a) Revised Laws of Kenya 1962, c. 486.

Appeals from Divisional Boards.

210.—(1) Any person aggrieved by the refusal of a Divisional Board to give its consent to any transaction in land that is not situated in the areas to which section 188 of this Constitution applies may, within 30 days of such refusal, appeal in writing, stating the grounds of appeal, to the county council within whose area of jurisdiction the land concerned is situated, and the county council shall hear and determine the appeal.

(2) A county council may by resolution and subject to such conditions as it thinks fit delegate to a committee of the council the duty of hearing and determining appeals from Divisional Boards, either generally or in relation to any specified appeal.

(3) A county council or any committee thereof shall, in hearing and determining any appeal, take into consideration the matters mentioned in section 209 (2) of this Constitution.

(4) Any person aggrieved by the refusal of a Divisional Board to give its consent to any transaction in land that is situated in the areas to which section 188 of this Constitution applies may, within 30 days of such refusal, appeal in writing, stating the grounds of appeal, to the Appeals Tribunal appointed under this section, and the Appeals Tribunal shall hear and determine the appeal.

(5) The Appeals Tribunal shall consist of a Chairman, who shall be a person who is for the time being designated in that behalf by the Chief Justice from among persons who hold one of the specified qualifications and have held one or other of those qualifications for a total period of seven years, together with two Assessors one of whom shall be a person for the time being designated in that behalf by the President of the Regional Assembly of the Region in which the land concerned is situated and the other a person so designated by the Prime Minister:

Provided that so long as there is a Chairman of the Agricultural Appeals Tribunal established by section 193 of the Agriculture Ordinance(a), as that section was in force immediately before the coming into operation of this Constitution, he shall be the Chairman of the Tribunal appointed under this section.

(6) The Chairman of the Tribunal shall have regard to the advice given to him by the Assessors on any question raised in any appeal but he shall not be bound by such advice and the decision of the Tribunal on any appeal shall be that of the Chairman alone whether or not the Assessors or either of them concurs therein.

(7) In hearing and determining any appeal the Tribunal shall not uphold the refusal of consent save on agricultural or economic grounds and shall take into consideration the matters mentioned in section 209 (2) of this Constitution.

(8) In this section "the specified qualifications" means the professional qualifications specified by the Advocates Ordinance(b) (or by or under any law amending or replacing that Ordinance) one of which must be held by any person before he may apply under that Ordinance (or under any such law) to be admitted as an advocate in Kenya.

Power of Regional Assemblies to make laws.

211.—(1) The Regional Assembly of the Region may make laws for the purpose of giving effect to the provisions of this Part of this Chapter and, without prejudice to the generality of the foregoing, may make provision for any of the following matters, that is to say:—

(*a*) the manner in which the area of jurisdiction of a county council is to be divided into divisions;

(a) Revised Laws of Kenya 1962, c. 318. (b) Revised Laws of Kenya 1962, c. 16.

(*b*) in the case where land that is the subject of a land transaction is situated within the area of jurisdiction of more than one Divisional Board within the area of jurisdiction of the same county council, the allocation of jurisdiction in respect of that transaction to any one of those Boards;

(*c*) the procedure for applications for consent to land transactions;

(*d*) the power to enter and inspect land to which any application for consent relates;

(*e*) the procedure in appeals to county councils or to the Appeals Tribunal;

(*f*) the charging of fees for any process in connection with an application for consent to a land transaction or in connection with an appeal to a county council or to the Appeals Tribunal.

(2) A law made by the Regional Assembly of the Region may—

(*a*) authorise a county council, with the concurrence of a Divisional Board, to exempt from the provisions of this Part of this Chapter any class of land transaction relating to land situated within the area of jurisdiction of that Board; or

(*b*) prohibit or make provision for the prohibition of the giving of consent to—

(i) any land transaction or class of transaction specified by or under the law; or

(ii) any land transaction which would result in the creation of a separate parcel of land that would have a smaller area or a smaller frontage than such area or frontage as may be specified by or under the law.

Nairobi.

212. In the application of this Part of this Chapter to the Nairobi Area—

(*a*) references to a county council shall be construed as references to the City Council of Nairobi; and

(*b*) references to a law made by a Regional Assembly shall be construed as references to a law made by the Central Legislature.

CHAPTER XII

Local Government

Interpretation.

213. In this Chapter—

"local government authority area" means the area of jurisdiction of any local government authority; and

"the Regional Assembly" means, in relation to any local government authority or any local government authority area, the Regional Assembly of the Region in which that authority has jurisdiction or in which that area is situated.

Establishment of local government authority areas and local government authorities.

214.—(1) Each Region shall be divided into such local government authority areas as may for the time being be determined, in accordance with the provisions of this Chapter, by the Regional Assembly and each such area shall be either a municipality or a county as may for the time being be so determined.

(2) There may be established within each municipality or county such of the following further local government authority areas as may for the time being be determined, in accordance with the provisions of this Chapter, by the Regional Assembly, that is to say:—

(*a*) within a municipality, one or more local council areas;

(*b*) within a county, one or more townships, county divisions or local council areas; and

(*c*) within a county division, one or more local council areas.

(3) For each local government authority area there shall be a local government authority as follows:—

(*a*) for each municipality, a municipal council;

(*b*) for each county, a county council;

(*c*) for each township, a township authority;

(*d*) for each county division, either an urban council or an area council as the Regional Assembly may determine in accordance with the provisions of this Chapter; and

(*e*) for each local council area, a local council.

(4) Each local government authority may exercise such functions as may be entrusted to it by the Regional Assembly or, subject to the provisions of section 64 of this Constitution, by the Governor and shall have such powers and shall perform such duties as may be conferred or imposed on it by or under a law made by the Regional Assembly or, subject to the provisions of the said section 64, by or under a law made by the Central Legislature.

Township authorities.

215. A township authority shall be constituted in such manner as may be prescribed by or under a law made by the Regional Assembly and the provisions of sections 216, 217, 218, 219, 220 and 221 of this Constitution shall not apply in relation to township authorities.

Composition of local government authorities other than township authorities.

216.—(1) Each local government authority shall consist of the following members, that is to say:—

(*a*) such number of councillors (in this Chapter referred to as "elected councillors") as may be prescribed by or under a law made by the Regional Assembly who shall be elected in accordance with the provisions of section 217 of this Constitution;

(*b*) subject to the provisions of subsection (2) of this section, such number (if any) of councillors as may be prescribed by or under a law made by the Regional Assembly who shall be nominated or appointed in such manner as may be so prescribed; and

(*c*) in the case of a municipal council or a county council and subject to the provisions of subsection (3) of this section, such number (if any) of councillors (in this Chapter referred to as "aldermen") as may be prescribed by or under a law made by the Regional Assembly who shall be elected by the councillors who are not aldermen either from among their own number or from among any persons who are qualified to be elected as elected councillors of that authority.

(2) The number of persons who are to be nominated or appointed as councillors of any local government authority under subsection (1) (*b*) of this section shall not exceed one-third of the number of elected councillors prescribed for that authority under subsection (1) (*a*) of this section.

(3) The number of persons who are to be elected as aldermen of any municipal council or county council under subsection (1) (*c*) of this section shall not exceed one-third of the number of elected councillors prescribed for that authority under subsection (1) (*a*) of this section.

Election of elected councillors.

217.—(1) Each local government authority area shall be divided into such electoral areas as may for the time being be determined, in accordance with the provisions of this Chapter, by the Regional Assembly:

Provided that the Regional Assembly may determine that the whole of any local government authority area shall constitute an electoral area.

(2) Each electoral area established under this section shall, in such manner as may be prescribed by or under a law made by the Regional Assembly, elect to the local government authority for the local government authority area of which it forms part or which it constitutes one or more elected councillors as may be so prescribed.

(3) The qualifications and disqualifications for registration as a voter in elections of elected councillors shall be as set out in Part IV of Schedule 2 of this Constitution.

(4) Every person who is registered in any electoral area as a voter in elections of elected councillors shall, unless he is disqualified by any law made by the Regional Assembly from voting in such elections on the grounds of his having been convicted of an offence connected with elections or on the grounds of his having been reported guilty of such an offence by the court trying an election petition, be entitled so to vote in that electoral area in accordance with the provisions of any law in that behalf made by the Regional Assembly; and no other person may so vote.

(5) Notwithstanding the provisions of subsections (2), (3) and (4) of this section, provision may be made by or under a law made by the Regional Assembly that, in lieu of the councillor or councillors to be elected to any county council by any electoral area within the county, there shall be a councillor or the same number of councillors appointed by any urban council or area council within which that electoral area wholly falls; and references in this Chapter to an elected councillor or to the election of any person or the nomination of any person for election as an elected councillor shall be construed as including references to a person appointed as a councillor in pursuance of this subsection or to the appointment of a person or the nomination of a person for appointment as a councillor in pursuance of this subsection.

Qualifications for election as an elected councillor.

218.—(1) Subject to the provisions of subsection (2) of this section and of section 220 of this Constitution, a person shall be qualified to be elected as an elected councillor of any local government authority if, and shall not be so qualified unless, at the date of his nomination for election, he is registered as a voter in elections of elected councillors of that local government authority or, in the case of an urban council or an area council, he is registered as a voter in elections of elected councillors of the county council of the county within which the urban council or area council has jurisdiction.

(2) Provision may be made by or under a law made by the Regional Assembly that any or all of the electoral areas into which a local government authority area is divided under section 217 of this Con-

stitution shall elect elected councillors who are required to possess such qualifications additional to those specified in subsection (1) of this section as may be prescribed by or under such a law:

Provided that—

(*a*) the number of elected councillors who are required to possess such additional qualifications shall not exceed one-third of the total number of elected councillors prescribed for the local government authority concerned; and

(*b*) at least one elected councillor elected by each electoral area shall not be required to possess such additional qualifications.

Qualifications for nomination, etc., as a councillor other than an elected councillor.

219. Subject to the provisions of section 220 of this Constitution, a law made by the Regional Assembly may prescribe, or may provide for the prescription of, qualifications to be possessed by persons who are to be nominated, appointed or otherwise selected as councillors (other than elected councillors) of any local government authority and may prescribe, or may provide for the prescription of, different qualifications for different classes of such councillors.

Disqualifications for councillors.

220.—(1) A person shall not be qualified to be elected, nominated, appointed or otherwise selected as a councillor of a local government authority if, at the date of his nomination for election or at the date of his nomination, appointment or other selection, as the case may be—

(*a*) he is under sentence of death imposed on him by any court in Kenya; or

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

(*c*) he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Kenya; or

(*d*) he holds or is acting in any office of emolument in the service of that authority or of any other local government authority whose area of jurisdiction includes or is included in the area of jurisdiction of that authority,

or if, within the five years immediately preceding that date, he has, under any law in that behalf made by the Regional Assembly, been surcharged in respect of the accounts of that authority to a sum of or exceeding 1,000 shillings or such greater sum as may for the time being be prescribed by or under a law made by the Regional Assembly.

(2) A law made by the Regional Assembly may prescribe, or may provide for the prescription of, disqualifications for nomination for election as an elected councillor or for nomination, appointment or other selection as a councillor of a local government authority additional to those specified in subsection (1) of this section and may prescribe, or may provide for the prescription of, different disqualifications for different classes of councillors.

(3) Without prejudice to the generality of subsection (2) of this section, a law made by the Regional Assembly may provide that a person who, at the date of his nomination for election, holds or is acting in any office that is specified in that law and the functions of which involve responsibility for, or in connection with, the conduct of any election to a local government authority or the compilation of

any register of voters for the purposes of such an election shall not be qualified to be elected as an elected councillor of that local government authority.

(4) Without prejudice to the generality of subsection (2) of this section, a law made by the Regional Assembly may provide that a person who is convicted by any court of any offence that is prescribed by that law and that is connected with the election of members of either House of the National Assembly or of a Regional Assembly or of a local government authority or who is reported guilty of such an offence by the court trying an election petition shall not be qualified to be nominated for election as an elected councillor or to be nominated, appointed or otherwise selected as a councillor of a local government authority for such period (not exceeding five years) following his conviction or, as the case may be, following the report of the court as may be so prescribed.

Tenure of seats of councillors.

221.—(1) An elected councillor of a local government authority shall vacate his seat on that authority if any circumstances arise that, if he were not such a councillor, would cause him to be disqualified to be elected as such under section 220 (1) of this Constitution or under any law made in pursuance of section 220 (2), section 220 (3) or section 220 (4) thereof.

(2) A councillor (other than an elected councillor) of a local government authority shall vacate his seat on that authority—

(*a*) if any circumstances arise that, if he were not such a councillor, would cause him to be disqualified to be nominated, appointed or otherwise selected as such a councillor under section 220 (1) of this Constitution or under any law made in pursuance of section 220 (2), section 220 (3) or section 220 (4) thereof; or

(*b*) in the case of a councillor belonging to a class of councillors for which, by virtue of a law made in pursuance of section 220 (2) of this Constitution, different disqualifications have been prescribed from those prescribed for other classes of councillors, if any circumstances arise that, if he were not a councillor of that class, would cause him to be disqualified under that law to be nominated, appointed or otherwise selected as such.

(3) A law made by the Regional Assembly may provide that an elected councillor of a local government authority who was required, by or under a law made in pursuance of subsection (2) of section 218 of this Constitution, to possess any particular qualification additional to those specified in subsection (1) of that section shall vacate his seat on that authority if he ceases to possess that qualification.

(4) A law made by the Regional Assembly may provide that a councillor of a local government authority who was required, by or under a law made in pursuance of section 219 of this Constitution, to possess any particular qualification before he was nominated, appointed or otherwise selected as such a councillor shall vacate his seat on that authority if he ceases to possess that qualification.

(5) A law made by the Regional Assembly may, in order to permit any councillor of a local government authority who has been sentenced to death, adjudged or declared to be of unsound mind, adjudged or declared bankrupt, surcharged or convicted or reported guilty of any offence prescribed under section 220 (4) of this Constitution to

appeal against the decision in accordance with any law, provide that, subject to such conditions as may be prescribed by a law made by the Regional Assembly, the decision shall not have effect for the purposes of this section until such time as may be so prescribed.

Temporary replacement of local government authority by Commission.

222.—(1) If at any time it appears to the Regional Assembly that—

(*a*) a period of three months or more has elapsed between one meeting of a municipal council and the next or a period of six months or more has elapsed between one meeting of any other local government authority and the next; or

(*b*) any local government authority is unlikely to be able to meet its financial commitments; or

(*c*) any local government authority is failing to exercise its functions in such manner as would best serve the interests of the inhabitants of its area of jurisdiction,

the Regional Assembly may, by Order, remove from office all the councillors (or other members) of that authority and appoint in their place a Commission, consisting of a Chairman and not less than two other members, who may then exercise all the powers and shall perform all the duties of that authority.

(2) Before making an Order under subsection (1) of this section, the Regional Assembly shall cause an inquiry to be held into the affairs of the local government authority in question and any councillor (or other member), officer or employee of that authority shall be entitled to give evidence and to make representations at that inquiry.

(3) A Commission appointed under subsection (1) of this section may exercise the powers and shall perform the duties of a local government authority for such period, not exceeding nine months from the date of its appointment, as may be specified in the Order by which it was appointed or any Order amending or replacing that Order and the Regional Assembly shall take all such steps as may be necessary to ensure that the local government authority is re-constituted before the expiration of that period and is able to hold a meeting within a reasonable time after such expiration.

(4) The powers vested in a Regional Assembly by this section shall be without prejudice to any other power vested in it by any of the other provisions of this Chapter.

Procedure for establishing local government authorities, local government authority areas and electoral areas.

223.—(1) The power vested by this Chapter in the Regional Assembly—

(*a*) to determine which areas within the Region shall constitute local government authority areas;

(*b*) to determine whether any local government authority area shall be a municipality, a county, a township, a county division having an urban council, a county division having an area council or a local council area; or

(*c*) to determine the division of any local government authority area into electoral areas or to determine that any local government authority area shall constitute an electoral area,

shall be exercised by Order made by the Regional Assembly.

(2) Before any Order is made in pursuance of subsection (1) of this section, the following procedure shall be complied with, that is to say:—

(*a*) a notice, setting out a draft of the Order and specifying a period (not being less than two months from the date of publication of the notice) during which objections thereto or observations thereon may be sent to the Civil Secretary of the Region, shall be published in the Regional Gazette of the Region and in such other manner as appears to the Regional Assembly to be likely to bring it to the attention of the inhabitants of those areas of the Region that will be affected by the making of such an Order;

(*b*) after the expiry of the period specified in the notice the Regional Assembly shall appoint a Commission of Inquiry which shall consist of such one or more persons as appear to the Regional Assembly to be qualified to advise on the questions in issue;

(*c*) the Commission shall inquire into and report to the Regional Assembly on the proposals embodied in the draft and on any objections thereto or observations thereon that may have been received by the Civil Secretary within the time specified in the notice and shall, in its report, advise whether the Order should be made in the terms of the published draft or in such amended form as the Commission may specify or should not be proceeded with; and

(*d*) the report of the Commission shall be laid before the Regional Assembly.

(3) No Order may be made in pursuance of subsection (1) of this section save in accordance with the advice of a Commission of Inquiry appointed under subsection (2) thereof.

Laws relating to local government.

224. Subject to the provisions of this Constitution, the Regional Assembly may make laws with respect to local government within the Region.

Nairobi.

225.—(1) For the purposes of this Chapter, the Nairobi Area shall be a municipality.

(2) The municipal council for the Nairobi Area shall be known as the City Council of Nairobi.

(3) Subject to the provisions of subsections (1) and (2) of this section, the provisions of this Chapter (other than subsections (2) and (3) of section 223 of this Constitution) shall apply in relation to the local government of the Nairobi Area as if—

(*a*) references therein to laws made by the Regional Assembly were references to laws made by the Central Legislature;

(*b*) references therein to Orders made by the Regional Assembly were references to Orders made by the Minister for the time being responsible for the local government of the Nairobi Area; and

(*c*) any functions in relation to the making of such Orders that are vested by those provisions in the Regional Assembly were instead vested in the said Minister.

(4) Before any Order in relation to the Nairobi Area is made under section 223 (1) of this Constitution (as applied by subsection (3) of

this section), the following procedure shall be complied with, that is to say:—

(*a*) a notice, setting out a draft of the Order and specifying a period (not being less than two months from the date of publication of the notice) during which objections thereto or observations thereon may be sent to the permanent secretary of the department of the Government of Kenya that is for the time being responsible for the local government of the Nairobi Area, shall be published in the Kenya Gazette and in such other manner as appears to the Minister for the time being responsible for the local government of the Nairobi Area to be likely to bring it to the attention of the inhabitants of those parts of the Nairobi Area that will be affected by the making of such an Order;

(*b*) after the expiry of the period specified in the notice the Minister shall appoint a Commission of Inquiry which shall consist of such one or more persons as appear to him to be qualified to advise on the questions in issue;

(*c*) the Commission shall inquire into and report to the Minister on the proposals embodied in the draft and on any objections thereto or observations thereon that may have been received by the permanent secretary within the time specified in the notice and shall, in its report, advise whether the Order should be made in the terms of the published draft or in such amended form as the Commission may specify or should not be proceeded with; and

(*d*) the report of the Commission shall be laid before both Houses of the National Assembly.

(5) No Order in relation to the Nairobi Area may be made in pursuance of section 223 (1) of this Constitution (as applied by subsection (3) of this section) save in accordance with the advice of a Commission of Inquiry appointed under subsection (4) of this section.

(6) Without prejudice to the generality of section 54 (2) of this Constitution, the Senate shall establish a standing advisory committee (hereinafter referred to as "the Nairobi Standing Committee") whose duty it shall be to keep under review all matters relating to the administration of the Nairobi Area.

(7) The Nairobi Standing Committee shall consist of one Senator representing a District in each Region (who shall be chosen by all the Senators representing the Districts in that Region) and one other Senator (who shall be chosen by the Minister for the time being responsible for the local government of the Nairobi Area) who shall be chairman of the Committee.

(8) The Nairobi Standing Committee shall, as soon as is practicable after the beginning of each calendar year, report to the Senate upon the administration of the Nairobi Area within the preceding calendar year and shall include in that report such recommendations as it thinks fit; and the Committee shall transmit a copy of that report to the Minister for the time being responsible for the local government of the Nairobi Area.

CHAPTER XIII

ALTERATION OF REGIONAL BOUNDARIES

Agreement to alter Regional boundaries.

226.—(1) Any two Regions that have a common boundary may, by agreement in writing between the Presidents of the respective Regional Assemblies, alter that boundary in accordance with the provisions of this section.

(2) Subject to the provisions of subsection (4) of this section, no agreement to alter the boundary between two Regions shall have effect unless it is subsequently approved by a law made by the Regional Assembly of each of those Regions and, after both those laws have come into operation, by a resolution of each House of the National Assembly.

(3) Subject to the provisions of subsection (4) of this section, a bill for a law in pursuance of subsection (2) of this section shall not be passed by a Regional Assembly unless at the final reading of that bill in the Regional Assembly it was supported by the votes of two-thirds of all the members thereof.

(4) An agreement made in pursuance of subsection (1) of this section during the period of six months beginning with the day on which this Constitution came into operation may take effect without the approval of either House of the National Assembly and the provisions of subsection (3) of this section shall not apply in relation to a bill for a law approving such an agreement:

Provided that the provisions of this subsection shall not apply in relation to any agreement if the number of the inhabitants of any part or parts of a Region which are to be transferred to another Region by virtue of that agreement exceeds, either alone or when added to the number of inhabitants of any other part or parts of the Region which have previously been transferred to another Region by virtue of such an agreement, five per cent. of the number of the inhabitants of the whole Region before any such transfer or, if there has been a previous transfer or transfers, before the first of such transfers.

(5) For the purposes of this section, the number of inhabitants of a Region or of any part thereof shall be ascertained by reference to the latest census of the population of Kenya held in pursuance of any law.

(6) An agreement made in pursuance of subsection (1) of this section shall, subject to the provisions of this Chapter, take effect on the date on which it is approved under subsection (2) of this section by resolution of the second House of the National Assembly to give such approval or, in the case of such an agreement as is referred to in subsection (4) of this section, on the date on which both the laws made by the two Regional Assemblies approving the agreement have come into operation or, in either case, on such later date as may be specified by or under the agreement.

Effect on District boundaries of alteration of Regional boundaries.

227.—(1) Any agreements made in pursuance of section 226 of this Constitution shall (except in the case where the part of a Region that is to be transferred to another Region by virtue of the agreement consists of the whole of one or more Districts) include provision for altering the boundaries of the Districts in the two Regions in such manner as may seem to the Presidents of the two Regional Assemblies

to be expedient in consequence of the alteration of the boundary between the two Regions:

Provided that—

(*a*) no District may be extinguished and no new District may be created as a result of any such alteration;

(*b*) no alteration shall be made in the boundary of any District unless part of that District is to be transferred by virtue of the agreement or unless that District is contiguous to a District part of which is to be so transferred;

(*c*) no part of a Region shall, as a result of any such alteration, not be included within a District; and

(*d*) no District may form part of more than one Region.

(2) The alteration of the boundary of a District in pursuance of subsection (1) of this section shall not affect the seat of any Senator representing that District in the Senate at the date when the alteration otherwise takes effect under section 226 (6) of this Constitution, but if there is then no such Senator or if that Senator dies or otherwise vacates his seat before the expiration of his term of office, the alteration shall at once take effect for the purpose of elections to the Senate in that District.

(3) For the purposes of section 225 of this Constitution a Senator shall, notwithstanding any alteration of a Regional boundary, be regarded as representing a District within the Region within which the District which he represents was situated at the date when he was elected to the Senate.

Effect on House of Representatives of alteration of Regional boundaries.

228.—(1) The alteration of the boundary between two Regions by virtue of an agreement made in pursuance of section 226 of this Constitution shall not affect the seat of any member of the House of Representatives.

(2) The Electoral Commission shall, as soon as an alteration of the boundary between two Regions has taken effect under section 226 (6) of this Constitution, review the number and boundaries of the constituencies forming part of the two Regions under section 40 of this Constitution and, in accordance with the provisions of the said section 40, make, by order, such alteration therein as it considers desirable in the light of the alteration of the Regional boundary and in the light of the review and, in particular, shall make such alteration therein as is necessary or expedient to secure that no constituency shall form part of more than one Region; but the order made by the Electoral Commission shall not take effect for the purpose of elections to the House of Representatives in the Regions concerned or for the purpose of elections of Specially Elected Members of that House until the next dissolution of the Central Legislature after the making of the order.

Effect on Regional Assemblies of alteration of Regional boundaries.

229.—(1) A law made by a Regional Assembly in pursuance of section 226 (2) of this Constitution may, if it seems to the Regional Assembly to be necessary or expedient so to do in consequence of the alteration of the Regional boundary that is approved by that law, include provision for the alteration of the number or the boundaries of the constituencies into which the several Districts within the Region are divided, in accordance with section 84 (2) of this Constitution, for the purpose of electing Elected Members to the Regional Assembly:

Provided that that law shall include such provision as is necessary to give effect to paragraph (*b*) of the proviso to section 95 of this Constitution.

(2) Subject to the provisions of subsections (3), (4) and (5) of this section, any alteration of the number or boundaries of constituencies that is made in pursuance of subsection (1) of this section by any law shall not affect the seat of any member of the Regional Assembly and shall not, until the next dissolution of the Regional Assembly after the alteration of the Regional boundary that is approved by that law has taken effect under section 226 (6) of this Constitution, take effect for the purpose of elections to the Regional Assembly (including elections of Specially Elected Members thereof).

(3) Where the area transferred from one Region to another in consequence of the alteration of a Regional boundary consists of or includes the whole of one or more constituencies, the member of the Regional Assembly of the Region from which that area is transferred who represents any such constituency shall, at the date on which the alteration of the Regional boundary takes effect under section 226 (6) of this Constitution, cease to be a member of that Regional Assembly and shall instead become a member of the Regional Assembly of the other Region as if he had been elected as such under the provisions of this Constitution and notwithstanding that, under this Constitution or any other law relating to elections to that other Regional Assembly, he may not be qualified to be elected as such; and, until that other Regional Assembly next stands dissolved, he shall not vacate his seat therein unless any circumstances arise that, if he had remained a member of the former Regional Assembly, would have caused him to vacate his seat as such.

(4) Where the area transferred from one Region to another in consequence of the alteration of a Regional boundary consists of part only of one or more constituencies or includes, in addition to the whole of one or more constituencies, part only of one or more constituencies, that area or, as the case may be, the part of that area that consists of part only of one or more constituencies shall, as soon as is practicable after the alteration in the Regional boundary has taken effect under section 226 (6) of this Constitution, be established by a law made by the Regional Assembly of the Region to which it is transferred as a new constituency for the election of an Elected Member to that Regional Assembly under subsection (5) of this section:

Provided that, where that area or the said part thereof consists of two or more separate areas not having a common boundary, the law made by the Regional Assembly may establish any one of those areas as a separate constituency.

(5) As soon as is practicable after any new constituency has been established under subsection (4) of this section, elections shall be held in accordance with the provisions of Part 2 of Chapter V of this Constitution for the election of an Elected Member to the Regional Assembly in that constituency.

(6) The provisions of subsections (2), (3), (4) and (5) of this section shall, until the next dissolution of the Regional Assembly after the alteration of the Regional boundary has taken effect under section 226 (6) of this Constitution, have effect notwithstanding the provisions of sections 84 (1) and 84 (2) and the proviso to section 95 of this Constitution.

Effect on local government within Region of alteration of Regional boundaries.

230.—(1) A law made by a Regional Assembly in pursuance of section 226 (2) of this Constitution shall (except where the area to be transferred from one Region to another in consequence of the alteration of the Regional boundary that is approved by that law consists of the whole of one or more counties or municipalities) include such provision as seems to the Regional Assembly to be necessary or expedient by reason of the alteration of the Regional boundary for bringing the local government of the Region into conformity with the provisions of Chapter XII of this Constitution.

(2) Any alteration in the boundaries of local government areas that is made in pursuance of subsection (1) of this section by any law shall take effect on the date on which the alteration of the Regional boundary that is approved by that law takes effect under section 226 (6) of this Constitution or on such later date (not being later than one year thereafter) as may be specified by or under the law.

(3) If any period intervenes between the date on which the alteration of the Regional boundary takes effect under section 226 (6) of this Constitution and the date on which any alteration in the boundaries of local government areas takes effect under this section, a law made by a Regional Assembly may make provision for the local government during that period of any area that is to be or has been transferred to it in pursuance of the alteration of the Regional boundary.

(4) The provisions of subsection (1) of this section shall have effect notwithstanding the provisions of section 223 of this Constitution and the provisions of subsection (3) of this section shall have effect notwithstanding any of the provisions of Chapter XII of this Constitution.

CHAPTER XIV

MISCELLANEOUS

Resignations.

231.—(1) Any person who is appointed, elected or otherwise selected to any office established by this Constitution or any office of Minister established under this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed, elected or otherwise selected:

Provided that—

(*a*) the resignation of a person from the office of Speaker or Deputy Speaker of either House of the National Assembly shall be addressed to that House;

(*b*) the resignation of a person from the office of President or Vice-President of a Regional Assembly shall be addressed to the Regional Assembly;

(*c*) the resignation of any person from the office of member of either House of the National Assembly or a Regional Assembly shall be addressed to the Speaker of that House or the President of that Regional Assembly; and

(*d*) the resignation of any person from the office of Chairman or member of a committee of either House of the National Assembly or a joint committee of the two Houses of the National Assembly or a committee of a Regional Assembly shall be addressed to the Speaker of that House or, in the case of a member of such a joint committee, to the Speaker of the House of which that person is a member or to the President of that Regional Assembly, as the case may require.

(2) The resignation of any person from any such office as aforesaid shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or any person authorised by that person or authority to receive it.

Re-appointments and concurrent appointments.

232.—(1) Where any person has vacated any office established by this Constitution or any office of Minister established under this Constitution, he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.

(2) Where this Constitution vests in any person or authority the power to make any appointment to any office, a person may be appointed to that office, notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending the relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection, then, for the purposes of any function conferred upon the holder of that office, the person last appointed shall be deemed to be the sole holder of the office.

Interpretation.

233.—(1) In this Constitution, unless the context otherwise requires—

"African court" means any court established under the African Courts Ordinance 1951(a) or by or under any law amending or replacing that Ordinance;

"the Colony of Kenya" means the territory that, immediately before the coming into operation of this Constitution, was comprised in the Colony of Kenya;

"common mineral" means clay, murrum, sand, soda (except soda forming part of the Lake Magadi soda deposit), limestone, sandstone or other stone (not being a precious or semi-precious stone) and such other mineral substances as may for the time being be declared by or under a law made by the Central Legislature to be a common mineral;

"the Commonwealth" means the United Kingdom, Canada, Australia, New Zealand, India, Pakistan, Ceylon, Ghana, the Federation of Malaya, the Federation of Nigeria, the Republic of Cyprus, Sierra Leone, Tanganyika, Jamaica, Trindidad, Uganda, the Federation of Rhodesia and Nyasaland, the State of Singapore and any dependency of any such country;

"court-martial" means, except in sections 77 and 81 of this Constitution, any court-martial established by the Central Legislature under section 168 of this Constitution;

"the Court of Appeal for Kenya" means any court established under section 167 of this Constitution;

"financial year" means the period of twelve months ending on the 30th June in any year or on such other day as the Central Legislature may prescribe;

"Justice of Appeal" means a judge of the Court of Appeal for Kenya other than the Chief Justice or a puisne judge of the Supreme Court;

"Kenya" means the Colony of Kenya and the Protectorate;

"oath" includes affirmation;

"the oath of allegiance" means such oath of allegiance as may be prescribed by the Central Legislature;

(a) Ordinance No. 65 of 1951.

"the Protectorate" means the territory that, immediately before the coming into operation of this Constitution, was comprised in the Protectorate of Kenya;

"public office" means any office in the public service of the Government of Kenya or of any Region;

"public officer" means a person holding or acting in any public office;

"the public service of the Government of Kenya" includes the public service of that Government at any time before this Constitution came into operation;

"session" means the period beginning when the two Houses of the National Assembly first meet after the commencement of this Constitution or after the Central Legislature has at any time been prorogued or dissolved and ending when the Central Legislature is prorogued or is dissolved without having been prorogued;

"sitting" means, in relation to a House of the National Assembly, the period during which that House is sitting continuously without adjournment and includes any period during which it is in committee; and

"subordinate court" means any court of law in Kenya other than—

(*a*) the Court of Appeal for Kenya; or

(*b*) any court on which jurisdiction is conferred under section 166 of this Constitution; or

(*c*) the Supreme Court; or

(*d*) a court-martial.

(2) In this Constitution, unless the context otherwise requires, references to offices in the public service of the Government of Kenya—

(*a*) shall be construed as including references to the offices of Justices of Appeal, judges of the Supreme Court, Chief Kadhi and Kadhi and to the offices of members of all subordinate courts, being offices the emoluments attaching to which or any part of the emoluments attaching to which are paid directly out of monies provided by the Central Legislature; but

(*b*) shall not be construed as including references to the offices of members of any court on which jurisdiction is conferred under section 166 of this Constitution.

(3) In this Constitution references to a public office shall, subject to the provisions of sections 185 (9) and 186 (7) of this Constitution and of subsection (4) of this section, not be construed as including—

(*a*) references to the office of the Speaker or Deputy Speaker of either House of the National Assembly, the Prime Minister or any other Minister, a Parliamentary Secretary, a member of the National Assembly, the President or Vice-President of a Regional Assembly, a member of a Regional Assembly, or the Chairman or a member of any committee of either House of the National Assembly or a Regional Assembly; or

(*b*) references to the office of a member of any Commission established by this Constitution, a member of the Advisory Committee on the Prerogative of Mercy, a member of the Advisory Commission to be appointed under section 146 of this Constitution, a

member of an advisory board established in pursuance of the proviso to section 184 (3) of this Constitution, a member of the Central Land Board, a member of a Divisional Land Control Board, a member of the Appeals Tribunal appointed under section 210 of this Constitution, a member of a local government authority, a member of a Commission appointed under section 222 of this Constitution to replace a local government authority, a member of a Commission of Inquiry appointed under section 223 of this Constitution, a member of any Commodity Board established under paragraph 2 of Schedule 5 of this Constitution, a member of the Central Agricultural Board, a member of the Central Settlement Committee, a member of the National Forest Authority, a member of the Central Road Authortiy or a member of any such body as is referred to in paragraph 3 or paragraph 4 (2) of Schedule 5 of this Constitution; or

(*c*) save in so far as may be provided by a law made by the legislature (whether the Central Legislature or a Regional Assembly) having power to make laws with respect to that office, references to the office of a member of any other council, board, panel, committee or other similar body (whether incorporated or not) established by or under any law; or

(*d*) references to an office in any naval, military or air force.

(4) For the purposes of sections 32 (1) (*f*), 39 (2), 87 (1) (*f*), 150 (3) (*d*), 150 (4), 176 (7), 176 (8) and 181 (8) of this Constitution (which relate to disqualification for election or appointment to certain offices), offices in any naval, military or air force and offices in the East African Common Services Organization shall be regarded as public offices.

(5) For the purposes of this Constitution, a person shall not be regarded as holding an office by reason only of the fact that he is in receipt of a pension or other like allowance.

(6) In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the term designating his office shall be construed as including, to the extent of his authority, a reference to any person for the time being authorised to exercise the functions of that office.

(7) Except in the case where this Constitution provides for the holder of any office thereunder to be such person holding or acting in any other office as may for the time being be designated in that behalf by some specified person or authority, no person may, without his consent, be nominated for election to any such office or be appointed to or to act therein or otherwise be selected therefor.

(8) References in this Constitution to the power to remove a public officer from his office shall be construed as including references to any power conferred by any law to require or permit that officer to retire from the public service:

Provided that—

(*a*) nothing in this subsection shall be construed as conferring on any person or authority the power to require a Justice of Appeal or a judge of the Supreme Court or the Attorney-General or the Controller and Auditor-General or the Inspector-General of Police to retire from the public service; and

(*b*) any power conferred by any law to permit a person to retire from the public service shall, in the case of any public officer who may be removed from office by some person or authority other than a Commission established by this Constitution, vest in the Public Service Commission of the Government of Kenya, and the provisions of subsection (7) of section 178 of this Constitution shall apply thereto as they apply to the powers referred to in that subsection.

(9) Any provision in this Constitution that vests in any person or authority the power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish any office or to any law providing for the compulsory retirement of public officers generally or any class of public officer on attaining an age specified therein.

(10) Where this Constitution vests in any person or authority the power to appoint any person to act in or to exercise the functions of any office if the holder thereof is himself unable to exercise those functions, no such appointment shall be called in question on the grounds that the holder of the office was not unable to exercise those functions.

(11) No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in the exercise of any functions under this Constitution shall be construed as precluding a court from exercising jurisdiction in relation to any question whether that person or authority has exercised those functions in accordance with this Constitution or any other law.

(12) Without prejudice to the provisions of section 32 (3) of the Interpretation Act 1889(a) (as applied by subsection (15) of this section), where any power is conferred by this Constitution to make any order, regulation or rule or pass any resolution or give any direction or make any declaration or designation, the power shall be construed as including the power, exercisable in like manner and subject to the like conditions, if any, to amend or revoke any such order, regulation, rule, resolution, direction, declaration or designation.

(13) Any reference in this Constitution to a law made before the day on which this Constitution came into operation shall, unless the context otherwise requires, be construed as a reference to that law as it had effect immediately before that day.

(14) Any reference in this Constitution to a law that amends or replaces any other law shall be construed as including a reference to a law that modifies, re-enacts, with or without amendment or modification, or makes different provision in lieu of that other law.

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

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

Sections 27 and 82.

SCHEDULE 1

BOUNDARIES

PART I

THE REGIONS

(a) *The Coast Region*

Commencing at a point south of Kore Wells being the intersection of a line running parallel to and 3 miles north of the Tana River with the continuation of the Benare-Kore Wells road;

thence generally southerly by a tributary known as Ndajeri to the Tana River;

thence up-stream and generally westerly by the course of that river to the confluence of the Rojewero River;

thence south-easterly by a straight line to the trigonometrical beacon Katumba, and continuing south-easterly by a straight line to the point where a line due west from Masabubu (Massabubu), near the Tana River would intersect the meridian 39° East;

thence due south by that meridian to the intersection of the Thua (Thowa or Galole) River;

thence south-westerly and up-stream by the course of that river to a point three miles up-stream from Kambukoni (Aboboka) Wells;

thence south-easterly, by a straight line, to the westernmost water-pan at Utisi (Waldera);

thence south-westerly, by a straight line, to the confluence of the Jtito and Tiva (Kokani) Rivers at Meakungu (Dololo) Dikabata;

thence westerly and up-stream by the Tiva (Kokani) River to a point two miles up-stream from the Hidilathi (Chaluma) Wells;

thence south-easterly by a straight line to the Athi (Sabaki or Galana) River at Malka Jirma;

thence westerly and up-stream by the course of that river to its confluence with the Tsavo River;

thence continuing generally westerly and up-stream by the Tsavo River to the intersection of the western boundary of the Nairobi-Mombasa main road reserve;

thence generally north-westerly by that road reserve boundary to its intersection with the generally northern boundary of the western section of the Tsavo Royal National Park;

thence westerly and northerly, excluding Mtito Andei, and generally south-westerly by the north-western boundary of that park to trigonometrical point Chyulu 2;

thence generally north-westerly by that park boundary to trigonometrical beacon Ridge;

thence on a true bearing of 191° 34′ and for a distance of 35,445 feet to trigonometrical station Chamwie;

thence on a true bearing of 223° 46′ for a distance of 10,555 feet, to beacon Lava;

thence on a true bearing of 187° 02′ for a distance of 69,760 feet passing through Magoine Camp site to trigonometrical beacon Rocks, and continuing on that same true bearing for a distance of approximately 760 feet to the intersection of that line with the Rombo (or Ngare Len) River;

thence westerly and up-stream by the course of that river to a point which lies on a true bearing of 0° 00′ 23″ and approximately 300 feet from a beacon t.23 on the south side of that river;

thence on a true bearing of 180° 00′ 23″ for a distance of approximately 300 feet to the beacon t.23 aforementioned;

thence continuing on that same true bearing for a distance of 32,009 feet and passing through trigonometrical beacon Mid to a beacon MSE and continuing by that same true bearing of 180° 00′ 23″ for a distance of approximately 120 feet to the intersection of that line with the Ollaioni (Tsavo) River;

thence south-westerly and up-stream by the course of that river to the confluence of the Njugini River;

thence generally north-westerly and westerly and up-stream by the course of that river to its intersection with the eastern boundary of original L.R. No. 9378;

thence northerly by part of that boundary to trigonometrical beacon Njugini;

thence westerly on a true bearing of 266° 02′ for a distance of 36,637 feet to a beacon MR on the Kenya-Tanganyika international boundary;

thence southerly, south-westerly and generally south-easterly by that boundary to the point Ras Jimbo on the coast line (Indian Ocean) due south of Vanga;

thence generally north-easterly by that coast line to the intersection of the Kenya-Somalia international boundary south-west of Ras Chiamboni;

thence generally northerly by that international boundary to Boundary Pillar No. 29 on the boundary between the Coast and North-Eastern Regions;

thence generally westerly along a straight line by that regional boundary to a point formerly known as Ngombe Well (geographical co-ordinates 40° 54′ E and 1° 43′ S);

thence south-westerly by a straight line to the point where a line running approximately 3 miles east of and parallel to the median line of the Tana River would intersect an east-west line passing one mile north of the most northerly point of Mwina, Section XIX of the Coast Land Unit;

thence generally northerly and north-westerly by a line running parallel to and not less than 3 miles east and north-east of the median line of the course of the Tana River to the intersection of a line running due east from a beacon on the south-east corner of Garissa Township;

thence due west to that beacon;

thence by the boundaries of that township, so that Garissa is excluded from the Coast Region, to a beacon at the most westerly corner of the township;

thence due north to the intersection with a line running parallel to and 3 miles generally north-east of the median line of the Tana River;

thence generally north-westerly and westerly by that line to the point of commencement.

(b) *The Eastern Region*

Commencing at a point on the Kenya-Ethiopia international boundary at the north end of Lake Rudolf and due north of the trigonometrical beacon on North Island;

thence by a straight line due south through that beacon and continuing by that line due south to the intersection of that line with the generally western shore of Lake Rudolf at a point north-west of the Turkwell Delta;

thence generally easterly and south-easterly by that shore line to a point due north of Teleki's Volcano at the southern end of Lake Rudolf;

thence generally north-easterly and northerly by the lake shore to a point due west of Sirima water-hole where the Sirima River (seasonal) enters Lake Rudolf;

thence easterly by that seasonal river bed to Sirima water-hole;

thence south-easterly by a straight line to the intersection of that line with the generally eastern boundary of Mount Nyiru Forest Reserve at beacon E in the vicinity of Lonjerin water-hole;

thence continuing generally south-easterly by that forest reserve boundary to South Horr;

thence by the South Horr-Baragoi road easterly and southerly for approximately six miles to the junction of the South Horr-Laisamis road;

thence generally south-easterly by that road to Illaut water-hole;

thence continuing generally south-easterly by a series of straight lines through the summits of Maramoro, Kisiriit and Lonyeri Pesho hills to Eilamoton (Ilamoton);

thence continuing south-easterly by a straight line to the Nabachakutuk (Napasha Kotok) lugga;

thence down-stream by the course of that river to its confluence with the Merille (Lodosoit) lugga;

thence down-stream and generally easterly by the course of that river to the Serirua Wells or water-hole;

thence south-easterly by a straight line to the Koya (Koiya) Wells or water-hole;

thence southerly by a straight line through Sebbei (Seepi) Rock and continuing southerly by a straight line to a point at the south-west corner of a lava rock formation known as Funum Kurum and north-west of Toronwor water-hole;

thence south-easterly by a straight line to a point lying between Kom Lola Well and Kom Galla Well on the Laga Lim;

thence southerly by a straight line to the summit of a hill Timtu (or Puaa);

thence south-easterly by a straight line to Chanler's Falls on the Ewaso Ngiro (Nyiro);

thence up-stream following the centre course of that river generally westerly, south-westerly, north-westerly, again westerly and generally southerly to the intersection of a straight line, through trigonometrical beacons Mukogodo and Lendili, with that river;

thence easterly, by that straight line, through the beacons Lendili and Mukogodo to the intersection of that line with the Engare Ndare River;

thence generally southerly and up-stream by the course of that river to its intersection with the northern side of the Timau-Isiolo road reserve;

thence generally south-westerly by that road reserve boundary to the intersection of the generally eastern boundary of Timau Township;

thence north-westerly, south-westerly, and southerly by the eastern, northern and western boundaries of that township to the intersection of the latter boundary with the northern side of the Timau-Nanyuki road reserve;

thence continuing generally south-westerly by that road reserve boundary to its intersection with the Liki River;

thence south-easterly and up-stream by the course of that river, which forms part of the generally north-eastern boundary of Nanyuki Township, and continuing by the course of the Liki River, beyond the intersection of the south-eastern boundary of that township for a distance of approximately one and three-quarter miles to the point where the Liki River first emerges from, and forms part of, the Mount Kenya Forest Reserve;

thence by a straight line in a south-easterly direction to the summit of Mt. Kenya (Batian);

thence continuing by a straight line in a south-easterly direction to the point where the generally southern boundary of the Mount Kenya Forest Reserve is intersected by the Kiye River;

thence generally southerly and down-stream by the course of that river to its confluence with the Rupingazi River;

thence generally southerly and down-stream by the course of that river to its confluence with the Thiba River;

thence up-stream by the course of that river to its confluence with the Izima River;

thence up-stream by the course of that river to the intersection of the Mushamba—Karaba track;

thence generally westerly by that track to Karaba, and thence generally westerly by road No. C283 to its intersection with road No. C219 at a point approximately one thousand yards north of trigonometrical point Tana (Mutithi);

thence generally westerly by that road to its intersection with the Thika-Sagana road reserve;

thence generally southerly by the eastern boundary of that road reserve, crossing the New Tana River Bridge and continuing generally southerly by that road reserve boundary to its intersection with the generally western boundary of L.R. No. 9449 south of the Thaba Thaba River;

thence southerly by part of the generally western boundary of L.R. No. 9449 to the north-east corner of L.R. No. 10314;

thence westerly, south-westerly and generally south-easterly by the northern, western and south-western boundaries of L.R. No. 10314 to the most westerly corner of L.R. No. 9450;

thence generally south-easterly by part of the generally south-western boundary of L.R. No. 9450 and the north-eastern boundary of L.R. No. 9452 to the northernmost corner of L.R. No. 4720;

thence continuing generally southerly by the generally eastern boundaries of L.R. No. 4720 to the most northerly corner of L.R. No. 3570;

thence north-easterly following the north-western boundary of L.R. No. 2016 to its intersection with an unnamed river;

thence generally south-easterly by the course of that river to the intersection of the north-western boundary of L.R. No. 3567;

thence by the north-western, north-eastern and south-eastern boundaries of L.R. No. 3567 to its most southerly corner;

thence westerly and south-easterly by the generally south-eastern boundaries of L.R. No. 3888 to the northern boundary of L.R. No. 2308;

thence easterly by part of that boundary to the most northerly corner of L.R. No. 2307;

thence south-easterly by the north-eastern boundary of L.R. No. 2307 to its most easterly corner on the Idhanga Hills;

thence by a straight line south-easterly to the hill Zongololoni;

thence south-westerly by a straight line to the most easterly corner of original L.R. No. 3581;

thence by the south-eastern boundary of that farm and by that extended boundary to the Thika River;

thenoe continuing south-westerly by the north-western boundary of L.R. No. 2288 (C.L.) to the Athi River;

thence up-stream by the centre course of the Athi River to its intersection, on the west bank, with the southern boundary of L.R. No. 7271 which forms part of the generally south-eastern boundary of the Nairobi Area;

thence generally westerly, south-westerly and south-easterly by the generally south-eastern boundaries of the Nairobi Area to the north-western boundary of Athi River Trading Centre;

thence southerly and north-westerly by the Nairobi Area boundary to the intersection of the western boundary of L.R. No. 10029;

thence southerly and south-easterly by the generally western boundaries of L.R. No. 10029 to the Kitengela River;

thence down-stream by the course of that river to its intersection with the western boundary of L.R. No. 10021 on its south bank;

thence south-westerly and south-easterly by the western and south-western boundaries of L.R. No. 10021 to the intersection of the latter boundary with the generally western boundary of the railway reserve of the main Nairobi-Mombasa railway line;

thence generally south-easterly by that railway reserve boundary and including all trading centres on that line to its intersection with the Kiboko River south-east of Kiboko Station;

thence generally south-westerly and up-stream by the course of that river to its intersection with the extended straight line joining trigonometrical beacons Chyulu 1 and Emali;

thence by that straight line south-easterly to trigonometrical beacon Chyulu 1;

thence generally south-easterly and southerly by a series of lines joining the summits of the Chyulu (Ngulia) Range for a distance of approximately 12 miles to trigonometrical beacon Ridge on the boundary of the Coast Region;

thence generally easterly, northerly and again easterly by that boundary to the tri-junctional point of the Eastern, Coast and North-Eastern Regional boundaries at a point just south of Kore Wells, 3 miles north of the Tana River;

thence continuing generally northerly, north-easterly and again generally northerly by the boundary of the North-Eastern Region to the intersection with the Kenya-Ethiopia international boundary at a point approximately 17 miles east of Moyale in the vicinity of Kubi Kuyara and known as Godoma;

thence generally westerly and north-westerly by that international boundary to the point of commencement.

(c) *The Central Region*

Commencing at the highest peak of Mount Kenya (Batian);

thence generally north-westerly by part of the boundary of the Eastern Region to the intersection of the south-eastern boundary of Nanyuki Township with the Liki River;

thence by the generally south-eastern, south-western, and part of the generally southern boundary of that township to the eastern boundary of the railway reserve of the Nyeri-Nanyuki railway line;

thence generally south-westerly, south-easterly and southerly by that railway reserve boundary (including Naro Moru Township and station reserve) to its intersection with the Rongai River at the most southerly corner of L.R. No. 6361;

thence generally south-westerly and down-stream by the course of that river to its intersection, on the south side, with the north-eastern boundary of L.R. No. 1245;

thence south-easterly and south-westerly by the north-eastern and south-eastern boundaries of that farm to its most southerly corner;

thence generally north-westerly by the southern boundaries of L.R. Nos. 1245 and 10239 and generally northerly by part of the generally western boundaries of the latter farm to the Uaso Nyiro (Ewaso Ngiro) River which river forms the north-western boundary of L.R. No. 10239;

thence generally northerly, and downstream, by that river to the intersection of the northern boundary of L.R. No. 4773/2 with the west bank of that river;

thence generally westerly by the northern boundaries of L.R. No. 4773/2 and northerly by part of the eastern boundary of L.R. No. 5102 to the most northerly corner of the latter farm;

thence generally westerly by the northern boundaries of L.R. Nos. 6306, 3366, 2598 and continuing generally westerly by the most northern boundary of the South Laikipia Forest Reserve to its intersection with the south-eastern boundary of L.R. No. 9484;

thence by that boundary generally south-westerly to the most southerly corner of that farm;

thence north-westerly and westerly by the south-western boundaries of L.R. No. 9484 and continuing westerly by the southern boundary of L.R. No. 7321 to its intersection with the generally eastern boundary of the Aberdare Forest Reserve;

thence generally north-westerly by that forest reserve boundary to its intersection with the north-western boundary of L.R. No. 7321;

thence generally north-easterly and easterly by the north-western boundaries of L.R. Nos. 7321 and 7320 and continuing easterly by the northern boundaries of L.R. Nos. 2627/2/1, 3448 and part of the northern boundary of L.R. No. 2625 to the south-eastern corner of L.R. No. 9522;

thence north-westerly and south-westerly by the eastern and northern boundaries of L.R. No. 9522 to the south-eastern corner of L.R. No. 2508/2;

thence generally north-westerly by the eastern boundaries of the latter farm and of L.R. No. 5157 and continuing north-westerly by the north-eastern boundary of L.R. No. 6397 to the most northerly corner of that farm;

thence south-westerly by the northern boundaries of L.R. Nos. 6397 and 3288 to the south-east corner of L.R. No. 3260;

thence generally north-westerly by the eastern boundary of the latter farm and the north-eastern boundary of L.R. Nos. 2492/2, 2491/3 and 2491/1 to the intersection of the latter boundary with the south-eastern boundary of Rumuruti Forest;

thence south-westerly by part of that forest reserve boundary and continuing generally south-westerly by the south-eastern and southern boundaries of L.R. No. 7182/2;

thence southerly by the western boundary of L.R. No. 9385 to the most northerly corner of L.R. No. 2490;

thence south-westerly by the north-western boundaries of L.R. No. 2490 to the most northerly corner of L.R. No. 2486;

thence south-westerly by the north-western boundary of L.R. No. 2486 to its most westerly corner;

thence south-easterly by the south-western boundary of that farm to its most southerly corner;

thence south-westerly by the south-eastern boundary of L.R. No. 9569 to the north-east corner of L.R. No. 7522/1;

thence westerly by the northern boundary of L.R. No. 7522/1 and continuing generally westerly, southerly and north-westerly by the generally northern boundaries of L.R. No. 7522/4 to the extreme north-western corner of the latter farm;

thence southerly by part of the generally western boundary of L.R. No. 7522/4 to a beacon adjacent to the most easterly corner of Thomson's Falls Township;

thence south-westerly by a straight line to that corner;

thence south-westerly and north-westerly by the southern and part of the western boundaries of that township to the intersection of the extended northern boundary of L.R. No. 2915/7;

thence south-westerly by that boundary and southerly by part of the western boundaries of that farm to the north-eastern corner of Ol Bolossat Forest Reserve;

thence westerly by that forest reserve boundary to the north-east corner of L.R. No. 10185;

thence generally southerly, westerly and northerly by the eastern and part of the southern boundaries of that farm to the north-east corner of L.R. No. 3337;

thence generally south-westerly by the northern boundary of that farm and the northern and generally western boundaries of L.R. No. 8809 to the intersection of the latter with the extreme northern boundary of the Bahati Forest Reserve;

thence generally southerly and westerly by the generally eastern and southern boundaries of that forest reserve to its extreme south-west corner;

thence generally southerly by the western boundaries of L.R. Nos. 465/2/R, 8262, 10448 and 1157/5 to the south-west corner of the last farm and continuing to the Mbaruk River;

thence up-stream by the centre course of that river and part of the southern boundary of L.R. No. 10447 to its intersection with the western boundary of L.R. No. 10444;

thence southerly and generally north-easterly by the western and southern boundaries of that farm to its south-east corner;

thence southerly by part of the western boundaries of L.R. No. 6221/R and L.R. No. 10217 to the south-western corner of the latter farm;

thence generally easterly by the southern boundaries of L.R. Nos. 10217, 6559 and 5278 to the Oleolondo River;

thence down-stream, in a generally southerly direction, by the course of the Oleolondo River, which merges into the Malewa River, and continuing by the course of that river generally southerly to the intersection of the southern boundary of L.R. No. 3989/R with the eastern bank of the Malewa River;

thence generally easterly and north-easterly by the southern boundaries of L.R. No. 3989/R and L.R. No. 3989/1 to the north-west corner of LR No. 425/7;

thence southerly by the western boundaries of L.R. Nos. 425/7, 425/8 and 425/10 and the western and south-western boundaries of L.R. No. 425/6/R to the southerly corner of the last farm;

thence easterly by the southern boundary and north-easterly by part of the eastern boundary of L.R. No. 7655 to its intersection with the Muruaki River;

thence up-stream by the course of that river in a generally southerly direction to its intersection with the northern boundary of L.R. No. 3787;

thence south-westerly by that farm boundary to its most westerly corner and continuing across a farm road to the north-east corner of L.R. No. 8756;

thence south-easterly by a straight line forming the north-eastern boundaries of L.R. Nos. 8756, 1301/3, 8758 and 3491 to the most easterly corner of the last farm;

thence south-westerly by part of the south-eastern boundary of L.R. No. 3491 to the most northerly corner of L.R. No. 8760;

thence south-easterly by the eastern boundary of that farm to the north-east corner of L.R. No. 9394;

thence south-easterly by the north-east boundary of L.R. No. 9394 to the most westerly corner of L.R. No. 6236;

thence continuing south-easterly by the western boundaries of L.R. Nos. 6236, 3480, 5256, 5257, 10782 and 10783 to the most southerly corner of the last farm;

thence continuing south-easterly and south-westerly by the generally western boundaries of L.R. No. 1310/8 to the north-east corner of L.R. No. 391-2;

thence generally southerly by the eastern boundaries of that farm to its most southerly corner at Kinjabe Triangulation Point on Kinjabi Hill;

thence south-easterly by the south-western boundary of L.R. No. 1312/5 to its southerly corner;

thence generally south-easterly and southerly by part of the generally western boundary of the Kikuyu Escarpment Forest Reserve to the intersection of the south-eastern boundary of L.R. No. 378;

thence south-westerly by that boundary to the most southerly corner of that farm;

thence north-westerly by part of the south-western boundary of L.R. No. 378 to the intersection of the south-eastern boundary of L.R. No. 374;

thence south-westerly by the south-eastern boundaries of L.R. Nos. 374 and 373 to beacon Q at the southernmost corner of the latter farm;

thence by a straight line on a true bearing of 194° 42′ 28″ for a distance of 8,377 feet to beacon P;

thence by a straight line on a true bearing of 195° 45′ 49″ for a distance of 16,736 feet to beacon N;

thence by a straight line on a true bearing of 195° 45′ 42″ for a distance of 7,798 feet to beacon M;

thence by a straight line on a true bearing 218° 11′ 19″ for a distance of 12,962 feet to beacon L;

thence by a straight line on a true bearing of 100° 53′ 20″ for a distance of 62,841 feet to beacon Masai on the generally southern boundary of the Dagoretti Forest Reserve;

thence south-westerly and south-easterly by that forest reserve boundary to the point where the Mbagathi River emerges from the forest;

thence south-easterly and down-stream by the course of that river to its intersection with the generally western boundary of the Nairobi Area;

thence generally north-easterly, easterly and south-easterly by the Nairobi Area boundary to a point on the generally eastern boundary of the Nairobi Area where it is joined by the Eastern Region boundary at the southernmost corner of L.R. No. 63 on the Athi River;

thence generally north-easterly, north-westerly and again north-easterly and northerly by the boundary of the Eastern Region to the point of commencement.

(d) *The Rift Valley Region*

Commencing at a point common to the international boundaries of Kenya, Uganda and Sudan in the vicinity of Mount Zulia;

thence generally southerly by the Kenya-Uganda international boundary to the intersection of that boundary by the Suam River where that river emerges from the crater on Mount Elgon in the vicinity of Hot Springs;

thence south-easterly by a straight line passing to the west of trigonometrical beacon Koitoboss to the source of the Kimothon River;

thence continuing generally south-easterly and downstream by the course of that river for approximately four and a quarter miles to the intersection of a cut and beaconed line on the south bank;

thence south-westerly and south-easterly by that line to a beacon at the south-west corner of L.R. No. 6439/2;

thence continuing south-easterly by the south-western boundary of that farm to its intersection with the Kaptesang River;

thence down-stream by that river to its confluence with the Kamakoiwa River;

thence generally easterly and southerly by the course of that river to the intersection of the southern boundary of L.R. No. 5776/R on the east bank;

thence generally north-easterly by the southern boundaries of L.R. Nos. 5776/R and 5777;

thence continuing north-easterly by the southern boundaries of L.R. Nos. 1837/R and 7520 to the most southerly corner of L.R. No. 7521;

thence continuing generally north-easterly by the south-eastern boundary of that farm and the southern and part of the eastern boundaries of L.R. No. 8987 and the southern boundaries of L.R. No. 7059/2 and L.R. No. 7060 to the western boundary of L.R. No. 8986;

thence south-westerly and easterly by part of the south-western and southern boundaries of that farm to the intersection of the southern boundary with the Nzoia River;

thence generally easterly and up-stream by the course of that river to the most northerly corner of L.R. No. 1804/R in the vicinity of Hoey's Bridge;

thence generally southerly by the eastern boundaries of L.R. No. 1804/R and 7223 to the south-west corner of L.R. No. 837/5;

thence generally northerly and easterly by the southern boundary of that farm following the course of the Little Nzoia River to the north-east corner of L.R. No. 9504;

thence southerly by the eastern boundaries of L.R. Nos. 9504 and 9505 to the intersection of the latter boundary with the Kipsangwe River;

thence up-stream by the course of that river to the north-west corner of L.R. No. 10248;

thence southerly by the western boundaries of that farm and of part of the western boundary of L.R. No. 10249 to the north-east corner of L.R. No. 8510/2;

thence by the eastern boundary of that farm to its intersection with the generally northern boundary of Soy Trading Centre;

thence by the generally western boundaries of Soy Trading Centre and L.R. No. 805/R to the intersection of the western boundary of that farm with the Sergoit River;

thence generally south-westerly, down-stream by the course of that river, to its intersection with the generally eastern boundary of Turbo Trading Centre;

thence generally northerly, westerly and southerly by the generally eastern, northern and western boundaries of that Trading Centre to the intersection of the last boundary with the Sergoit River;

thence south-westerly and down-stream by the course of that river, which forms the south-eastern boundary of L.R. No. 7446, to its most southerly corner;

thence north-westerly by the south-western boundary of that farm and northerly by part of the western boundary to its intersection with the Murogusi River;

thence south-westerly and down-stream by the course of that river, which forms the south-eastern boundaries of L.R. Nos. 3832/3 and 3832/1, and part of the south-eastern boundary of L.R. No. 7825, to the intersection of that river with the generally southern boundary of the railway reserve of the Eldoret-Tororo main railway line;

thence generally south-westerly by that railway reserve boundary to its intersection with the northern boundary of the Turbo-Broderick Falls road reserve at Kipkarren River Station;

thence generally westerly by that road reserve boundary to its intersection with the south-western boundary of L.R. No. 4719;

thence south-easterly by part of the latter boundary to the most northerly corner of L.R. No. 6176;

thence south-westerly by the western boundaries of L.R. Nos. 6176 and 4130 to the most westerly corner of the latter farm at beacon 88S8;

thence on a true bearing of 131° 08′ 00″ for a distance of 8,428 feet to beacon NN. 20;

thence on a true bearing of 138° 18′ 50″ for a distance of 2,496 feet to beacon NN. 19;

thence on a true bearing of 109° 36′ 20″ for a distance of 5,492 feet to beacon NN. 18;

thence on true bearing of 130° 22′ 30″ for a distance of 9,198 feet to beacon NN. 17;

thence on a true bearing of 174° 29′ 20″ for a distance of 4,820 feet to beacon NN. 16;

thence on a true bearing of 132° 08′ 40″ for a distance of 7,964 feet to beacon NN. 15;

thence on a true bearing of 149° 48′ 00″ for a distance of 6,555 feet to beacon NN. 14;

thence on a true bearing of 151° 51′ 30″ for a distance of 10,835 feet to beacon NN. 13;

thence on a true bearing of 155° 02′ 40″ for a distance of 7,883 feet to beacon NN. 12;

thence on a true bearing of 181° 52′ 00″ for a distance of 16,106 feet to beacon NN. 11;

thence on a true bearing of 200° 45′ 10″ for a distance of 6,762 feet to beacon NN. 10;

thence on a true bearing of 299° 20′ 40″ for a distance of 4,991 feet to beacon NN. 9;

thence on a true bearing of 171° 16′ 10″ for a distance of 13,626 feet to beacon NN. 8;

thence on a true bearing of 135° 00′ 00″ for a distance of 450 feet to beacon NN. 7;

thence on a true bearing of 158° 12′ 50″ for a distance of 8,939 feet to beacon NN. 6;

thence on a true bearing of 151° 35′ 10″ for a distance of 4,355 feet to beacon NN. 5;

thence on a true bearing of 154° 46′ 00″ for a distance of 7,077 feet to beacon NN. 4;

thence on a true bearing of 150° 14′ 10″ for a distance of 3,046 feet to beacon NN. 3;

thence on a true bearing of 159° 38′ 30″ for a distance of 1,187 feet to beacon NN. 2;

thence on a true bearing of 155° 49′ 30″ for a distance of 5,211 feet to beacon NN. 1;

thence on a true bearing of 172° 07′ 10″ for a distance of 2,458 feet to beacon SKP. 11 (Chakiakak);

thence on a true bearing of 267° 35′ 18″ for a distance of 6,188 feet to beacon 19 NE;

thence on a true bearing of 280° 30′ 46″ for a distance of 2,087 feet to beacon Kipsogur;

thence on a true bearing of 201° 35′ 28″ for a distance of 12,908 feet to beacon RB;

thence on a true bearing of 273° 42′ 22″ for a distance of 5,037 feet to beacon FE;

thence on a true bearing of 198° 24′ 53″ for a distance of approximately 11,048 feet to the centre course of the Yala River;

thence down-stream by the centre course of that river to its intersection with a line bearing 28° 35′ 34″ from beacon NW on the south bank of that river;

thence by that line through beacon NW on a true bearing of 208° 35′ 34″ and for a distance of approximately 3,098 feet to the Mchomekek River;

thence up-stream by the course of that river to its intersection with the east or south side of the Eldoret-Kisumu main road reserve;

thence south-westerly by that road reserve boundary for a distance of approximately one mile to a point where the road turns sharply to the north-west;

thence by a line generally south-westerly to the confluence of the Kibeita and Mwala streams on the south side of the Eldoret-Kisumu main road reserve;

thence by a straight line south-westerly to its intersection with the south-eastern boundary of the aforementioned road reserve at a point approximately half a mile north of Musasa Market;

thence southerly by that road reserve boundary to Musasa Market;

thence generally south-westerly following a shallow ditch to the source of the Sigong (North) stream;

thence continuing generally south-westerly to the confluence of the Sigong and Garagoli streams;

thence following the Garagoli stream to its confluence with the Maryan stream;

thence generally southerly by a straight line to the confluence of the Chemongo and Sous streams;

thence continuing generally southerly and up-stream by the Sous stream to its source in the vicinity of Serem Market;

thence continuing south-westerly, by a straight line, to the intersection of that line with the north side of the Serem road junction;

thence continuing generally south-westerly by the generally eastern boundaries of the Kapsotik and Banja sub-locations to the intersection of the generally northern boundary of the Kapkerer sub-location of the Nyangori Location;

thence continuing generally westerly and south-westerly by the generally northern and north-western boundaries of the latter sub-location to its intersection with the generally north-eastern boundary of Kapsengere sub-location;

thence by that boundary generally northerly and generally westerly, to its intersection with the Kisumu-Kapsabet road;

thence generally southerly by that road to its intersection with the northern boundary of the Nyangori Mission land;

thence north-easterly, south-easterly and south-westerly by part of the northern, the eastern and part of the southern boundaries of that land to its intersection with the western boundary of the Kisumu-Kakamega road reserve (B. 2/1);

thence generally south-easterly by that road reserve boundary to its intersection with the common boundary of the Nyangori and Kajulu Locations on the north side of that road reserve;

thence generally north-easterly by that common boundary, which is marked by a line of cairns, to the most northerly point of Kajulu Location approximately one mile south of Banja Market;

thence by a straight line south-westerly to a beacon at the extreme north-eastern corner of L.R. No. 654/18;

thence generally southerly by the generally eastern boundaries of that farm to a beacon at the most northerly corner of L.R. No. 654/R;

thence following the line at the foot of the Nandi Escarpment generally south-easterly by the generally north-eastern boundary of L.R. No. 654/R to the north-west corner of L.R. No. 10419;

thence easterly by the northern boundaries of L.R. Nos. 10419 and 1494 and part of the northern boundary of L.R. No. 5446 to its intersection with the northern boundary of L.R. No. 2724 (Waterfall Reserve);

thence north-easterly and south-westerly by the northern and eastern boundaries of that reserve to the north-west corner of L.R. No. 7545;

thence generally easterly, and continuing to follow the foot of the Nandi Escarpment, and by the generally northern boundaries of L.R. No. 7545, to a beacon at its north-east corner and on the western boundary of L.R. No. 1602/5;

thence south-easterly by the northern boundary of the latter farm to the north-west corner of L.R. No. 1603;

thence southerly and easterly by the western and southern boundaries of L.R. No. 1603 and continuing easterly by the southern boundaries of L.R. Nos. 1604/R and 1605 to the north-east corner of L.R. 1587/R;

thence south-easterly by part of the generally eastern boundaries of L.R. No. 1587/R to the most northerly corner of L.R. No. 1587/1 (Kiboin Salt Lick);

thence south-westerly, south-easterly, north-easterly and again south-easterly by the generally eastern boundaries of L.R. No. 1587/R to the Kundos (Kapchure) River;

thence generally north-easterly and up-stream by the course of that river to its intersection with the south-western boundary of L.R. No. 1608/1;

thence by that boundary, north-westerly, for a distance of approximately sixty-five feet to a beacon at the south-west corner of L.R. No. 1608/1;

thence north-easterly by the north-western boundaries of L.R. Nos. 1608 and 6008 to a beacon at the most northerly corner of the last farm on the east bank of the Kundos (Kapchure) River;

thence generally north-easterly and northerly and up-stream by the course of that river to its intersection, on the east bank, with the southern boundary of L.R. No. 7057;

thence south-easterly by the southern boundaries of L.R. Nos. 7057 and 1468 to the intersection of the latter boundary with the Ainomotua River;

thence generally easterly and up-stream by the course of that river to its intersection with the eastern boundary of L.R. No. 3106 on the south bank of that river;

thence generally southerly by the eastern boundary of that farm, parts of the western boundaries of L.R. Nos. 1625 and 6015/3 and the western boundaries of L.R. Nos. 6052, 1628 and 1629 to the south-west corner of the last farm;

thence easterly by the southern boundary of that farm to its south-east corner;

thence south-easterly by the south-western boundary of L.R. No. 1452/2 to a beacon at its most southerly corner on the south or east bank of an un-named water-course which water-course forms part of the north-western boundary of L.R. No. 4193/6/R;

thence north-easterly by that water-course boundary to the intersection of the north-eastern boundary of that farm;

thence south-easterly by the north-eastern boundaries of L.R. Nos. 4193/6/R, 6030 and 4492 to the most easterly corner of the last farm;

thence easterly by the northern boundaries of L.R. Nos. 7550, 1445/4 and 1445/3 to the north-east corner of the last farm;

thence generally southerly by the eastern boundary of that farm, crossing the Fort Ternan-Muhoroni road and railway reserve and continuing generally southerly by the eastern boundary of L.R. No. 3113 to its intersection with the Kipchoriet River which forms the southern boundary of that farm;

thence south-westerly and down-stream by that river boundary to the confluence of the Kipchoriet with the Nyando River;

thence generally westerly and north-westerly and downstream by the course of that river to its intersection with a line bearing 26°. 42′ 10″ from beacon CK. 56 on the south side of that river;

thence by that line on a true bearing of 206° 42′ 10″ through beacon CK. 56 and for a distance of approximately 5,246 feet to beacon CK. 55;

thence on a true bearing of 201° 23′ 22″ for a distance of approximately 1,297 feet to beacon CK. 54;

thence on a true bearing of 261° 09′ 34″ for a distance of approximately 101 feet to beacon CK. 53;

thence on a true bearing of 210° 43′ 21″ for a distance of approximately 4.576 feet to beacon CK. 52;

thence on a true bearing of 207° 31′ 53″ for a distance of approximately 4,569 feet to beacon CK. 51;

thence on a true bearing of 211° 37′ 10″ for a distance of approximately 3,942 feet to beacon CK. 50;

thence on a true bearing of 253° 31′ 37″ for a distance of approximately 3,215 feet to beacon CK. 49;

thence on a true bearing of 263° 10′ 33″ for a distance of approximately 2,402 feet to beacon CK. 48;

thence on a true bearing of 256° 39′ 14″ for a distance of approximately 4,756 feet to beacon CK. 47;

thence on a true bearing of 259° 30′ 49″ for a distance of approximately 1,367 feet to beacon CK. 46;

thence on a true bearing of 220° 56′ 08″ for a distance of approximately 1,459 feet to beacon CK. 45;

thence on a true bearing of 229° 02′ 48″ for a distance of approximately 2,870 feet to beacon CK. 44;

thence on a true bearing of 206° 53′ 34″ for a distance of approximately 431 feet to beacon CK. 43;

thence on a true bearing of 197° 29′ 44″ for a distance of approximately 1,231 feet to beacon CK. 42;

thence on a true bearing of 199° 18′ 37″ for a distance of approximately 3,833 feet to beacon CK. 41;

thence on a true bearing of 193° 46′ 54″ for a distance of approximately 1,476 feet to beacon CK. 40;

thence on a true bearing of 185° 35′ 21″ for a distance of 2,231 feet to beacon CK. 39;

thence on a true bearing of 185° 53′ 12″ for a distance of approximately 1,844 feet to beacon CK. 38;

thence on a true bearing of 185° 38′ 34″ for a distance of approximately 3,377 feet to beacon CK. 37;

thence on a true bearing of 199° 14′ 24″ for a distance of approximately 1,491 feet to beacon CK. 36;

thence on a true bearing of 181° 02′ 52″ for a distance of approximately 956 feet to beacon CK. 35;

thence on a true bearing of 174° 00′ 33″ for a distance of approximately 1,815 feet to beacon CK. 34;

thence on a true bearing of 194° 46′ 41″ for a distance of approximately 1,036 feet to beacon CK. 33;

thence on a true bearing of 211° 28′ 43″ for a distance of approximately 946 feet to beacon CK. 32;

thence on a true bearing of 199° 42′ 26″ for a distance of approximately 811 feet to beacon CK. 31;

thence on a true bearing of 192° 16′ 58″ for a distance of approximately 731 feet to beacon CK. 30;

then on a true bearing of 168° 49′ 55″ for a distance of approximately 436 feet beacon CK. 29;

thence on a true bearing of 173° 49′ 19″ for a distance of approximately 635 feet to beacon CK. 28;

thence on a true bearing of 197° 23′ 18″ for a distance of approximately 242 feet to beacon CK. 27;

thence on a true bearing of 191° 05′ 00″ for a distance of approximately 825 feet to beacon CK. 26;

thence on a tru earing of 182° 20′ 11″ for a distance of approximately 465 feet to beacon CK. 25;

thence on rue bearing of 189° 12′ 40″ for a distance of approximately 919 feet to beacon CK. 24;

thence on a true bearing of 186° 35′ 28″ for a distance of approximately 1,403 feet to bea CK. 23;

thence on a o 179° 07′ 38″ for a distance of approximately 1,254 feet to be 2

thence on a true g 08′ 20″ for a distance of approximately 165 feet through bea n to the centre course of the Awach River;

thence generally south by the course of that river to its intersection with an extended line between beacons CK. 21 and CK. 21B;

thence on a true bearing of 226° 18′ 40″ for a distance of approximately 522 feet through beacon CK 21B to beacon CK. 21;

thence on a true bearing of 211° 32′ 00″ for a distance of approximately 1,956 feet to beacon CK. 20;

thence on a true bearing of 229° 14′ 05″ for a distance of approximately 768 feet to beacon CK. 19;

thence on a true bearing of 229° 33′ 19″ for a distance of approximately 1,182 feet to beacon CK. 18;

thence on a true bearing of 230° 54′ 13″ for a distance of approximately 1,003 feet to beacon CK. 17;

thence on a true bearing of 229° 18′ 28″ for a distance of approximately 2,976 feet to beacon CK. 16;

thence on a true bearing of 222° 49′ 10″ for a distance of approximately 1,548 feet to beacon CK. 15X;

thence on a true bearing of 232° 56′ 46″ for a distance of approximately 676 feet to beacon CK. 15;

thence on a true bearing of 224° 04′ 56″ for a distance of approximately 1,944 feet to beacon CK. 14;

thence on a true bearing of 216° 10′ 07″ for a distance of approximately 927 feet to beacon CK. 13xa;

thence on a true bearing of 237° 24′ 16″ for a distance of approximately 677 feet to beacon CK. 13x;

thence on a true bearing of 231° 23′ 23″ for a distance of approximately 766 feet to beacon CK. 13;

thence on a true bearing of 239° 38′ 50″ for a distance of 1,683 feet to beacon CK. 12;

thence on a true bearing of 248° 48′ 49″ for a distance of 1,483 feet to beacon CK. 11;

thence on a true bearing of 241° 07′ 26″ for a distance of approximately 480 feet to beacon CK. 10;

thence on a true bearing of 263° 26′ 38″ for a distance of approximately 758 feet to beacon CK. 9;

thence on a true bearing of 234° 41′ 58″ for a distance of approximately 1,372 feet to beacon CK. 8;

thence on a true bearing of 234° 41′ 58″ for a distance of approximately 113 feet to the centre course of the Buara (Asao) River;

thence generally southerly and up-stream by the centre course of that river to beacon CK. 7x in the centre of the river bed;

thence on a true bearing of 237° 33′ 19″ for a distance of approximately 55 feet to beacon CK. 7;

thence on a true bearing of 176° 27′ 44″ for a distance of 3,341 feet to beacon CK. 6;

thence on a true bearing of 168° 28′ 19″ for a distance of approximately 1,411 feet to beacon CK. 5;

thence on a true bearing of 157° 15′ 31″ for a distance of approximately 1,693 feet to beacon CK. 4;

thence on a true bearing of 157° 22′ 25″ for a distance of approximately 205 feet to beacon CK. 4d;

thence on a true bearing of 176° 58′ 29″ for a distance of approximately 1,275 feet to beacon CK. 3;

thence on a true bearing of 171° 40′ 47″ for a distance of approximately 1,680 feet to beacon CK. 2;

thence on a true bearing of 195° 24′ 34″ for a distance of approximately 346 feet to beacon CK. 1;

thence on a true bearing of 181° 01′ 56″ for a distance of approximately 152 feet to beacon CK;

thence continuing on that bearing of 181° 01′ 56″ for a distance of approximately 50′ to the centre course of the Sondo River;

thence generally southerly and up-stream by the course of that river to its confluence with the Kipsonoi River;

thence generally south-easterly and up-stream by the centre course of that river for a distance of approximately three-quarters of a mile to the confluence of an unnamed tributary on the south side;

thence generally south-westerly by the course of that tributary to the confluence of another unnamed tributary then continuing southerly to the nearest point of the Kericho-Sotik road;

thence continuing generally southerly by that road to its intersection with the Sotik-Kisii road at a point approximately 3 miles west of Sotik;

thence south-westerly by that road to its intersection with the western boundary of L.R. No. 5411;

thence south-easterly by part of that boundary and the western boundaries of L.R. Nos. 946/1 and 10099 to the most easterly corner of L.R. No. 5460/1;

thence south-westerly by the south-eastern boundaries of L.R. Nos. 5460/1, 5460/3 and 3644/10 to the most southerly corner of the last farm:

thence generally north-westerly and westerly by the generally southern boundaries of that farm to its south-west corner;

thence generally southerly by the Manga Hill ridge to Olekele Hill (trigonometrical point Gelegele);

thence on a true bearing of 256° 05′ 53″ for a distance of 55,521 feet to beacon Kisuna;

thence on a true bearing of 255° 45′ 49″ for a distance of 16,076 feet to beacon Gap;

thence on a true bearing of 256° 33′ 24″ for a distance of 10,561 feet to beacon Onanja;

thence on a true bearing of 255° 42′ 21″ for a distance of 11,070 feet to beacon Nyabitunya;

thence on a true bearing of 254° 52′ 56″ for a distance of 3,435 feet to beacon Nyabitunya W;

thence on a true bearing of 256° 37′ 51″ for a distance of 15,293 feet to beacon Makenche;

thence on a true bearing of 253° 41′ 37″ for a distance of 6,219 feet to beacon T;

thence on a true bearing of 262° 42′ 45″ for a distance of 4,669 feet to beacon R at the source of the Sare (Sari) River;

thence generally westerly and down-stream by the centre course of that river to its intersection, on the south bank, with the south-eastern boundary of L.R. No. 8059;

thence south-westerly by that boundary on a true bearing of 225° 48′ 54″ for a distance of approximately 25,700 feet to beacon A;

thence on a true bearing of 172° 38′ 46″ for a distance of approximately 10,964 feet to the intersection of an elephant ditch at the most northerly corner of L.R. No. 8060;

thence generally south-easterly and southerly by the generally eastern boundary of L.R. No. 8060 to the intersection of that boundary with the Migori (Gori) River;

thence generally south-easterly and up-stream by the centre course of that river to the confluence of the Kasumi (Chesumwe) River;

thence by a straight line on a true bearing of 166° 46′ approximately to a boundary pillar (B.P. 17) on the Kenya-Tanganyika international boundary;

thence south-easterly by that international boundary to its intersection with the generally western boundary of the Coast Region;

thence generally easterly and northerly by that regional boundary to the intersection of the generally south-western boundary of the Eastern Region at trigonometrical point Ridge at the southern end of the Chyulu Range;

thence generally north-westerly by part of the boundary of the Eastern Region and continuing generally north-westerly by part of the south-western boundary of the Nairobi Area to its intersection with the generally southern boundary of the Central Region;

thence generally westerly, northerly, south-easterly and again northerly by the generally western and northern boundaries of the Central Region to the intersection of the northern boundary with the Eastern Region, in the vicinity of Nanyuki;

thence generally north-easterly, northerly, westerly, again northerly, easterly and again north-westerly and northerly by that boundary to its intersection with the Kenya-Ethiopia-Sudan international boundary at the north end of Lake Rudolf;

thence north-westerly, westerly and south-westerly by the Kenya—Sudan international boundary to the point of commencement.

(e) *The Nyanza Region*

Commencing at the trigonometrical pillar New Samia at the north-west corner of North Ugenya Location on the boundary between the Western and Nyanza Regions;

thence by that location boundary south-easterly, by a straight line, to the source of Okhakhala River;

thence continuing generally south-easterly down-stream by the course of that river to its confluence with the Gaula River;

thence generally northerly and up-stream by the course of that river to the confluence of the Ofula stream;

thence easterly by that stream to its source;

thence continuing generally easterly, north-easterly and again easterly by the generally northern boundary of North Ugenya Location to its north-east corner on the Lunao River;

thence north-easterly and up-stream by the centre line of a swamp formed by the Lunao River to the intersection of that line, on its east side, with the north-eastern boundary of the Murumba sub-location of North Wanga Location;

thence generally south-easterly by that boundary to its intersection with the Nzoia River;

thence down-stream by the course of that river to its intersection with the generally eastern boundary of Tingare sub-location of South Wanga Location on the south side of that river;

thence south-easterly and southerly by the generally eastern boundaries of that sub-location to the Lyala (Kisama) River;

thence south-westerly and down-stream by the course of that river, which forms part of the generally southern boundary of Tingare sub-location, to its intersection with the generally eastern boundary of Buholo Location;

thence generally southerly by the eastern boundary of that location to the Viratsi River;

thence generally north-easterly and up-stream by the course of that river for a distance of approximately 1¼ miles to its confluence with the Okwero River;

thence generally north-easterly and up-stream by that river to its source at the most northerly corner of Ruwe sub-location at a point approximately one quarter of a mile south of Musanda Village;

thence south-easterly by a motorable track which forms the north-eastern boundary of Ruwe sub-location to the Viratsi River;

thence generally south-westerly, and down-stream by the course of that river, to its confluence with the Adoho River which forms the north-eastern boundary of Yiro sub-location of the Marama Location;

thence generally south-easterly and south-westerly by the generally eastern boundaries of Yiro sub-location to the Siga River;

thence up-stream and generally easterly by the course of that river which forms part of the north-eastern boundary of the Malanga sub-location and the northern boundary of the Regea sub-location, both of which are in the North Gem Location, to the intersection of the eastern boundary of Regea sub-location on the south side of the Siga River;

thence generally southerly, south-westerly and westerly, including Regeya Village, to the north-east corner of Maliera sub-location of the North Gem Location;

thence southerly, south-easterly and again southerly by the generally eastern boundaries of Maliera sub-location to the northern boundary of the Nyawara sub-location of South Gem Location;

thence generally easterly and south-easterly by part of the latter sub-location boundary to the intersection of the north-western boundary of the Nyamninia sub-location of the North Gem Location;

thence generally northerly and generally easterly by the latter sub-location boundary and continuing northerly by the north-western boundary of the Anyiko sub-location of the North Gem Location to the Sawoso River;

thence generally south-easterly and north-easterly and up-stream by the course of that river, to its source;

thence by a straight line north-easterly to the source of the Tartaru (Tatiro) stream;

thence generally easterly and south-easterly by that stream to its confluence with the Yala River;

thence generally south-easterly, southerly and south-westerly by part of the common boundary between the North Gem and Kisa Locations which boundary is formed partly by the Yala River, and continuing south-easterly and southerly by that location boundary to its intersection with the northern boundary of the Yala-Kaimosi road reserve (C. 535) in the vicinity of Ebu Kambuli Market;

thence south-westerly and generally southerly by the common boundary between North Gem and Kisa Locations to the Edzawa River;

thence south-westerly and down-stream by the course of that river for approximately half a mile;

thence generally southerly by part of the common boundary between the North Gem and Bunyore Locations to the point where that boundary intersects the west side of the Yala-Maseno road reserve (B. 8);

thence south-easterly by that road reserve boundary for approximately one mile to its intersection, on the west side, with the southern boundary of the Marenyo sub-location of the North Gem Location;

thence westerly by part of that boundary to the intersection of the eastern boundary of Lihanda sub-location;

thence generally southerly and south-westerly by the generally eastern boundaries of the Lihanda and Uranga sub-locations of the North Gem Location and continuing generally southerly and south-westerly by the

common boundary between the South Gem and Seme Locations, to its intersection with the generally northern boundary of Rata sub-location of the Seme Location;

thence generally easterly and generally southerly by that sub-location boundary to its intersection with the north-western boundary of the Kolunje sub-location of the Seme Location;

thence generally north-easterly by that boundary to its intersection with the common boundary of the Seme and Kisumu Locations;

thence generally northerly by that common boundary to a point common to the Seme, Kisumu and Bunyore Location boundaries;

thence north-easterly by the common boundary between the Bunyore and Kisumu Locations to its intersection with the generally south-western boundary of Maseno Township;

thence generally northerly and north-easterly by the generally western and north-western boundaries of that township to its most northerly corner;

thence generally south-easterly by the generally north-eastern boundary of Maseno Township to its intersection with the generally northern boundary of the Kisumu Location;

thence generally easterly by part of that boundary to its intersection with the western boundary of the Masana sub-location of Kisumu Location;

thence generally south-westerly and generally north-easterly by part of the western and generally southern boundaries of that sub-location to the generally north-eastern boundary of the Kisumu Location;

thence south-easterly by that location boundary to its intersection with the generally western boundary of the Rift Valley Region;

thence generally easterly, south-easterly, north-westerly, south-westerly, southerly, again south-westerly and southerly by the boundary of the Rift Valley Region to its intersection with the Kenya-Tanganyika international boundary at Boundary Pillar B.P. 17;

thence generally north-westerly by that international boundary to its intersection with the Kenya-Uganda international boundary;

thence generally northerly by that international boundary, to a point in Lake Victoria north-west of Mageta Island and due west of a point on the lake shore line where that shore line is intersected by the north-western boundary of the Yimbo Location of the Central Nyanza District;

thence due east by a straight line to that point of intersection;

thence generally north-easterly by part of the generally western boundary of Yimbo Location and continuing generally northerly, crossing the Yala Swamp, by the western boundary of the Busonga Location to the intersection of that boundary with the south bank of the Nzoia River at a point north north-west of Siamungu Market;

thence generally north-easterly and up-stream by the course of that river to the intersection of the generally western boundary of North Ugenya Location;

thence by part of the generally western boundary of that location, north-easterly, easterly, generally southerly and generally northerly to Odima Hill;

thence generally north-westerly by part of the generally western boundary of North Ugenya Location to the point of commencement.

(f) *The Western Region*

Commencing at a point on the Kenya-Uganda international boundary in the vicinity of Hot Springs where the Suam River emerges from the crater on Mount Elgon;

thence generally south-easterly, easterly, southerly, westerly and again generally southerly by part of the generally western boundary of the Rift

Valley Region, to the intersection of that boundary with the generally northern boundary of the Nyanza Region;

thence generally westerly, north-westerly, again westerly and generally south-westerly by part of the generally northern boundary of the Nyanza Region to the intersection of that boundary with the Kenya-Uganda international boundary at a point in Lake Victoria north-west of Mageta island;

thence generally northerly and north-easterly by that international boundary to the point of commencement.

(g) *The North-Eastern Region*

Commencing at a point on the Kenya-Ethiopia international boundary approximately 17 miles east of Moyale in the vicinity of Kubi Kuyara (hill) also known as Godoma;

thence generally southerly along the main stock track and continuing southerly to the intersection of a boundary cut (motorable track) with the south side of the Moyale-Mandera road;

thence continuing generally southerly by that motorable track between the two hills Hote Balanga and Hote Dadacha to a point approximately four-and-a-half miles north of Korondil (hill);

thence south-westerly by a motorable track passing Kubi Bubi (hill) to its intersection with the Moyale-Buna road;

thence continuing generally south-westerly and westerly by the motorable track following the Nyatta Ridge and for a further distance of about 20 miles to the intersection of a track or stock route at a point in the vicinity of Dedach Milsadetu and Dedach Lokhole;

thence generally southerly and south-westerly by that track or stock route following a line via the Malbe Haradi (plain), the east side of Tuli Roba (hill) and Fuldiko to Duke Galla;

thence westerly by a straight line to its intersection with a motorable track known as the Locust Road in the vicinity of Dolo Barsiri;

thence southerly by that motorable track for a distance of approximately 33 miles to Arba-Jahan;

thence generally south-easterly by the Lagh Tito-Bogal to its intersection with the Merti-Wajir road;

thence westerly by that road for a distance of approximately 13 miles to Hadado cross-roads;

thence south-easterly by a motorable track to its intersection with the Isiolo-Wajir road at a point approximately 1½ miles south-west of Habaswein;

thence south-westerly by the Isiolo-Wajir road to Mado Gashi;

thence generally easterly by the Mado Gashi-Garissa road (D. 803) to the thalweg of the Galana Gof;

thence continuing south-westerly by the thalweg of the Galana Gof to Benane;

thence generally southerly by the Benane-Kore Wells Road to the intersection of a line (just south of Kore Wells) running parallel to and three miles north of the Tana River;

thence generally easterly and south-easterly by that line to its intersection with a line running due north from the beacon at the western-most corner of Garissa Township, close to the Tana River;

thence due south to that beacon;

thence by the boundaries of that township, the boundaries being the Tana River, so that Garissa Township falls within the North-Eastern Region, to a beacon at the south-east corner close to the Tana River;

thence due east to the line running parallel to and 3 miles generally north-east of the Tana River;

thence generally south-easterly by that line to the intersection of an east-west line passing one mile north of the most northerly point of Mwina, section XIX, of the Coast Land Unit;

thence north-easterly by a straight line to a point formerly known as Ngombe Well (geographical co-ordinates 40° 54′ E and 1° 43′ S);

thence generally easterly by a straight line to Boundary Pillar No. 29 on the Kenya-Somalia international boundary;

thence generally northerly by that international boundary to its intersection with the Kenya-Ethiopia international boundary;

thence generally westerly by that international boundary to the point of commencement.

Part II

The Nairobi Area

Commencing at the intersection of the Riara River with the eastern side of the Nairobi-Kamiti road reserve;

thence westerly and up-stream by the course of that river to the intersection of the eastern boundary of the Kiambu Forest Reserve on the south bank;

thence southerly and westerly by the eastern and southern boundaries of that Forest Reserve to its most south-westerly corner;

thence westerly and southerly by part of the northern and by the western boundaries of L.R. No. 3991 and continuing in a straight line to the south-east corner of L.R. No. 76;

thence generally westerly and north-westerly by the southern boundaries of that farm to its intersection of the eastern boundary of Nairobi-Kiambu road reserve;

thence south-easterly by that road reserve boundary to its intersection with the extended south-western boundary of L.R. No. 7153/2;

thence north-westerly by that extended boundary to the most southerly corner of that farm;

thence north-westerly by the south-western boundaries of L.R. No. 7153/2, L.R. No. 5974/3 and L.R. No. 7268 and continuing generally north-westerly by part of the northern boundary of L.R. No. 23 and the northern boundary of L.R. No. 22 to the north-west corner of the latter farm;

thence south-westerly by the north-western boundary of L.R. No. 22 to Ruiruaka River;

thence down-stream by the course of that river to its intersection with the north-western boundaries of L.R. No. 21 on the south bank;

thence south-westerly by those boundaries to the Karura River;

thence down-stream by the course of that river to its intersection with the north-western boundary of L.R. No. 18/6 on the south bank;

thence south-westerly by the north-western boundaries of that plot and of L.R. No. 7008 to the north-west corner of L.R. No. 5828;

thence north-westerly by the north-eastern boundaries of L.R. Nos. 3861 and 3862 and south-westerly by part of the north-western boundary of the latter plot to its intersection with the north-eastern boundaries of L.R. No. 2951;

thence north-westerly and south-westerly by the north-eastern and north-western boundaries of L.R. No. 2951 to the Gitathuru River;

thence up-stream by the course of that river to the intersection of the western boundary of Kabete Experimental Farm (original L.R. No. 189/R) with the south bank;

thence generally southerly by part of the western boundary of that farm, the north and north-western boundary of L.R. No. 9912 and continuing generally southerly by that experimental farm boundary to the northern boundary of the main Nairobi-Nakuru road in the vicinity of Uthiru Trading Centre;

thence westerly by that road boundary for a distance of approximately 1¼ miles to its junction with the Dagoretti Road (C. 393) on the south side;

thence generally south-westerly and southerly by the generally western side of that road to the point where it intersects the northern boundary of L.R. No. 196;

thence westerly, south-westerly and again generally westerly by the north and north-western boundaries of L.R. No. 196 to the north-eastern corner of L.R. No. 197;

thence north-westerly by the north-eastern boundary of that plot and continuing north-westerly by the north-eastern boundary of L.R. No. 2377 to the north-west corner of that plot;

thence south-westerly and south-easterly by the north-western and south-western boundaries of L.R. No. 2377 to its intersection with the north-western boundary of L.R. No. 197;

thence south-westerly and south-easterly by part of the north-western boundary and the south-western boundary of that plot and continuing south-easterly by the south-western boundary of L.R. No. 5842 to the most southerly corner of that plot;

thence south-westerly and south-easterly by the north-western and south-western boundaries of L.R. No. 1161 and continuing south-easterly by the south-western boundary of L.R. No. 192/3 to the most southerly corner of the latter plot;

thence north-easterly by part of the south-eastern boundary of L.R. No. 192/3 to its intersection with the extended western boundary of L.R. No. 193/4;

thence south-easterly by the western boundary of the latter farm to its most southerly corner on the generally north-west boundary of Ololua Forest Reserve;

thence north-easterly and generally south-easterly by the north-western and north-eastern boundaries of that forest reserve, which latter boundary is formed partly by the Mbagathi River, and continuing generally easterly and south-easterly by that river and the Empakasi River which forms part of the generally southern boundary of Nairobi Royal National Park, and continuing generally south-easterly by that park boundary to its intersection with the western boundary of Athi River Trading Centre;

thence northerly by part of that trading centre boundary to the intersection of the north-eastern boundary of the railway reserve of the Nairobi-Mombasa main railway line;

thence generally north-westerly by that railway reserve boundary to its intersection with the north-western boundary of L.R. No. 7149;

thence north-easterly by that boundary and continuing generally north-westerly by the generally northern boundary of L.R. No. 3864 to its most northerly corner on the western boundary of L.R. No. 7283;

thence north-westerly by part of the latter boundary and continuing north-westerly by the western boundary of L.R. No. 7340 to the north-west corner of that plot;

thence north-easterly and south-easterly by the northern and part of the eastern boundary of L.R. No. 7340 to its intersection with the north-western boundary of L.R. No. 8485 ;

thence north-easterly by the latter boundary and continuing north-easterly by part of the generally northern boundary of L.R. No. 3673 and continuing easterly by that boundary to its intersection with the Athi River ;

thence generally north-easterly and down-stream by the centre course of that river to its intersection with the north-eastern boundary of L.R. No. 7388 on its west bank ;

thence north-westerly by that boundary to its intersection with the south-eastern boundary of L.R. No. 55/1 ;

thence north-easterly, north-westerly, south-westerly and again north-westerly by the south-eastern and generally north-eastern boundaries of L.R. No. 55/1 to the intersection of the latter boundary with the Nairobi River ;

thence south-westerly and up-stream by the course of that river to its confluence with the Gatharaini (Getathuru) River ;

thence generally westerly and up-stream by the course of that river to its intersection with the north-western boundary of the Nairobi-Ruiru-Thika road reserve ;

thence north-easterly by that road reserve boundary to its intersection with the Kamiti River ;

thence generally north-westerly and up-stream by the course of that river to its intersection with the generally western boundary of L.R. No. 7640 (original number 3741.A) ;

thence generally south-westerly and south-easterly by the latter boundary to the most westerly corner of L.R. No. 8569/R ;

thence south-westerly, by a straight line crossing the Nairobi-Kamiti road, to the most northerly corner of L.R. No. 10502 and continuing south-westerly by the north-western boundary of that plot to its intersection with the centre line of the Kiu River ;

thence down-stream by the centre line of that river, crossing the Nairobi-Kamiti road to the point where the river is intersected by the north-western boundary of L.R. No. 71/5 ,

thence south-westerly by part of that boundary to its intersection with the eastern boundary of the Nairobi-Kamiti road reserve ;

thence south-easterly by that road reserve boundary to the point of commencement.

PART III

THE DISTRICTS

1. *The Tana River District*

Commencing at the confluence of the Rojewero (or Mackenzie) River with the Tana River on the boundary between the Coast and Eastern Regions ;

thence generally south-easterly, southerly, westerly and again south-easterly by that boundary to the Galana (Athi or Sabaki) River at Malka Jirma ;

thence generally easterly and down-stream by the course of that river to a point on the north bank having a U.T.M. grid reference EG. 243608 ;

thence by a straight line, north-easterly through trigonometrical beacon 191/S/3 in the Lali Hills to a point approximately 4 miles north-east of Hassa Badalo water-hole ;

thence south-easterly by a straight line to the centre of the mouth of the Mto Kilifi River;

thence due east by a straight line to the limit of the territorial waters in the Indian Ocean;

thence generally north-easterly and easterly by that limit to a point east of the southernmost point of Ras Samaki;

thence westerly by a straight line, passing through the southernmost point of Ras Samaki to trigonometrical station Sita Pembe;

thence west-south-westerly by a straight line to trigonometrical station Kimbarja;

thence north-westerly by a straight line to the most southerly point of the perimeter of Witu Trading Centre;

thence due west by a straight line to the intersection of that line with the meridian 40° 15′ E;

thence due north by that meridian to its intersection with latitude 2° 15′ S;

thence north-north-westerly by a straight line to the point where a line running approximately 3 miles east of the median line of the Tana River would intersect an east-west line passing one mile north of the most northerly point of Mwina, Section XIX of the Coast Land Unit;

thence generally northerly, north-westerly and westerly by the boundary of the Coast and North-Eastern Regions, to its intersection with the boundary of the Eastern Region at a point approximately 3 miles north of the Tana River and south of Kore Wells;

thence generally southerly and generally westerly by the boundary of the Eastern Region to the point of commencement.

2. *The Lamu District*

Commencing at a point formerly known as Ngombe Well (geographical co-ordinates 40° 54′ E and 1° 43′ S) on the common boundary between the Coast and North-Eastern Regions;

thence easterly by a straight line to B.P. No. 29 on the Kenya-Somalia international boundary;

thence due south by that international boundary to the high water mark of the Indian Ocean;

thence due south-east to the limit of the territorial waters in the Indian Ocean;

thence generally south-westerly by that limit to its intersection with a straight line easterly from trigonometrical beacon Sita Pembe, passing through the southernmost point of Ras Samaki;

thence westerly by that straight line, passing through the southernmost point of Ras Samaki to trigonometrical beacon Sita Pembe;

thence west, south-westerly by a straight line to trigonometrical beacon Kimbarja;

thence north-westerly by a straight line to the most southerly point of Witu Trading Centre;

thence due west by a straight line to its intersection with the meridian 40° 15′ E;

thence due north by that meridian to its intersection with latitude 2° 15′ S;

thence north north-westerly by a straight line to the point where a line running approximately 3 miles east of, and parallel to, the median line of the Tana River would intersect an east-west line passing one mile north of the most northerly point of Mwina, Section XIX of the Coast Land Unit;

thence north-easterly by a straight line to the point of commencement.

3. *The Kilifi District*

Commencing at a point approximately 4 miles north-east of Hassa Badalo water-hole;

thence south-easterly by a straight line to the centre of the mouth of the Mto Kilifi River;

thence due east by a straight line to the limit of the territorial waters in the Indian Ocean;

thence generally southerly and generally south-westerly by that limit to a point due east of the centre of Mtwapa Creek;

thence by a straight line to the centre of Mtwapa Creek;

thence by the centre line of the centre channel of Mtwapa Creek generally westerly and generally northerly to its intersection with the centre line of the centre channel of Gungombe Creek, and by the centre line of the centre channel of Gungombe Creek generally westerly to a point due north of the intersection of the generally northern boundary of Subdivision No. 500 of Section II, Mombasa Mainland North, with the high-water mark in Gungombe Creek;

thence by a straight line to that point of intersection on the high-water mark;

thence westerly by that generally northern boundary of Subdivision No. 500 to the intersection of a straight line between the northernmost corner of Subdivision No. 506 of the same section and the most northerly corner of Subdivision No. 500;

thence westerly by that straight line to the northernmost corner of Subdivision No. 506;

thence by part of the generally northern boundary of Subdivision No. 506, the northern boundary of Subdivision No. 620 of the same section and again part of the generally northern boundary of Subdivision No. 506 to the north-west corner of the latter subdivision;

thence by a straight line south-westerly to the northernmost corner of Subdivision No. 498 of the same section;

thence by the north-western and south-western boundaries of Subdivision No. 498 to its southernmost corner;

thence by part of the south-eastern boundary of that subdivision to its intersection with the southern boundary of Subdivision No. 504 of the same section;

thence by the southern boundaries of Subdivision No. 504 and Subdivision No. 505A of the same section to the south-west corner of Subdivision No. 497 of the same section;

thence by the south-western boundary of Subdivision No. 497 to its southern corner;

thence by part of the north-western boundary of Subdivision No. 496 of the same section and part of the north-eastern boundary of Subdivision No. 490 of the same section to the north-west corner of the latter subdivision;

thence southerly by the western boundaries of Subdivision No. 490 and Subdivisions Nos. 489 and 488 of the same section and continuing by the last boundary extended to the centre line of the Chalu (Mleji) River;

thence by the centre line of that river downstream to the point where it would intersect the extension of the north-western boundary of Subdivision No. 479, Section II, Mombasa Mainland North;

thence by that extended boundary and continuing by the north-western boundary of Subdivision No. 479 to its intersection with the north-eastern boundary of Subdivision No. 541 of the same section;

thence by part of the north-eastern boundary and northern, western and southern boundaries of Subdivision No. 541 to its intersection with the western boundary of Subdivision No. 478 of the same section;

thence by part of the western boundary of Subdivision No. 478 and generally southern boundary of the same subdivision to its intersection with the western boundary of Subdivision No. 477 (western part);

thence south-westerly by part of the western boundary of Subdivision No. 477 (western part) to its south-west corner;

thence by the south-western boundary of that subdivision and continuing by that boundary extended to the centre line of the Chalu (Mleji) River;

thence by the centre line of that river down-stream to its intersection with the extension of the north-eastern boundary of the western part of Subdivision No. 436, Section II, Mombasa Mainland North;

thence by that extended boundary and the north-eastern, northern and western boundaries of Subdivision No. 436 (western part) to its southernmost corner on the right bank of the Chalu (Mleji) River;

thence by a straight line due east to the centre line of that river;

thence by the centre line of that river down-stream to its intersection with the extension of the north-western boundary of Subdivision No. 435, Section II, Mombasa Mainland North;

thence by that extended boundary of Subdivision No. 435 to its north-western corner;

thence by the north-western, western and southern boundaries of Subdivision No. 435 and by part of the western boundary of Subdivision No. 453 of the same section to its intersection with the north-eastern boundary of Subdivision No. 426 of the same section;

thence by part of the north-eastern boundary and by the north-western boundary of Subdivision No. 426 to its western corner;

thence by part of the generally northern boundary and by the generally western boundary of Subdivision No. 672 of the same section to its intersection with the high-water mark of the Chalu (Mleji) River, on the west bank;

thence by a straight line due south to the centre line of that river;

thence by the centre line of that river down-stream to the waters of Mwakirungi Creek;

thence generally southerly and westerly by the centre line of the waters of that creek to the intersection of the edge of that creek with the generally northern boundary of Subdivision No. 546, Section II, Mombasa Mainland North;

thence by that latter boundary north-westerly and generally south-westerly to its intersection with the eastern boundary of Subdivision No. 642 of the same section;

thence by the eastern and northern boundaries of Subdivision No. 642 to its north-west corner;

thence by the north-eastern boundary of Subdivision No. 607 of the same section to its most northerly corner;

thence north-westerly and generally westerly by the Coast Land Unit boundary, and continuing generally south-westerly by that land unit boundary, common with the north-western boundary of Subdivision No. 378, Section V, Mombasa Mainland North, to the most northerly corner of Subdivision No. 312 of the same section;

thence by a straight line south-westerly to the south-east corner of Mazeras Township;

thence by part of the south-eastern boundary of that township south-westerly to its intersection with the generally eastern boundary of Subdivision No. 412/R, Section V, Mombasa Mainland North;

thence by the latter boundary generally southerly to its intersection with the Msapuni River;

thence by that river down-stream to its intersection with the western boundary of Subdivision No. 136, Section V, Mombasa Mainland North;

thence by the western, northern, eastern and south-eastern boundaries of Subdivision No. 136 to the latter's intersection with the Msapuni River;

thence by that river down-stream to its intersection with the south-eastern boundary of Subdivision No. 296, Section V, Mombasa Mainland North;

thence by the south-eastern boundary of Subdivision No. 296 and the south-eastern boundary of Subdivision No. 139/R of the same section to the south-east corner of the latter subdivision;

thence by a straight line south-westerly across the pipe line reserve and the Nairobi-Mombasa road reserve and the railway reserve of the Nairobi-Mombasa main railway line to the north-west corner of Subdivision No. 1128, Section VI, Mombasa Mainland North;

thence by part of the western boundary of Subdivision No. 1128 to the north-eastern corner of L.R. No. 4526 on the generally southern boundary of the before-mentioned railway reserve;

thence generally north-westerly by that railway reserve boundary, and including all station and other railway reserves, to its interesection with the Mang'ombe (Maji ya Chumvi) River;

thence generally northerly and up-stream by the course of that river to its confluence with the Manjewa River;

thence continuing generally northerly and north-westerly and up-stream by the course of the Manjewa (Ngutu) River to its source marked by a cairn;

thence by a line due west to its intersection with the western boundary of North Nyika, Section XVIII of the Coast Land Unit, north of Mackinnon Road Station reserve;

thence north-easterly by a straight line, being part of that land unit boundary, to a point on the northern bank of the Galana (Sabaki) River having a U.T.M. grid reference E.G. 243608;

thence north-easterly by a straight line through trigonometrical point 191/S/3 in the Lali Hills, and continuing by that line north-easterly to the point of commencement.

4. The Kwale District

Commencing at the north-western corner of Mackinnon Road Township;

thence south-easterly by the north-eastern boundary of that township to its north-eastern corner;

thence north-easterly by a straight line (being part of the western boundary of North Nyika, Section XVIII of the Coast Land Unit) to a point due west of a cairn at the source of the Manjewa (Ngutu) River;

thence by a straight line to that cairn at the source of the Manjewa (Ngutu) River;

thence generally southerly and downstream by the course of that river to its confluence with the Mang'ombe (Maji ya Chumvi) River;

thence down-stream by the course of that river to its intersection with the generally southern boundary of the railway reserve of the Nairobi-Mombasa main railway line;

thence generally south-easterly by that railway reserve boundary, and excluding all station and other railway reserves, to the north-eastern corner of L.R. No. 4526;

thence by the eastern boundary of L.R. No. 4526 to the north-east corner of Subdivision No. 909, Section VI, Mombasa Mainland North;

thence southerly by part of the eastern boundary of that sub-division to the north-east corner of Subdivision No. 224 of the same section;

thence by the eastern boundary of Subdivision No. 224 to its south-east corner on the high water mark of the northern branch of Mwachi Creek;

thence by the centre channel of that branch and the centre channel of the waters of Mwachi Creek to the waters of Port Reitz;

thence by a line southerly across the waters of Port Reitz to the waters of Bombo Creek;

thence in a generally southerly direction by the centre channel of the waters of Bombo Creek and by the centre of the channel of the Majera River to a point west of the mouth of that river;

thence by a straight line easterly to that mouth;

thence in a generally easterly direction along the high water mark of Bombo Creek to the southerly edge of the main road from Mtongwe to Bombo Creek;

thence by the southerly and the south-easterly edge of that road to a point due west of trigonometrical beacon Kitege;

thence by a straight line due east through that beacon to the generally western boundary of Pungu Midzichenda, Section III of the Coast Land Unit;

thence generally north-easterly, generally south-easterly and south-westerly by parts of the generally western and the generally northern boundaries of Pungu Midzichenda to the north-west corner of Likoni Commonage;

thence generally south-easterly and easterly by the generally south-western and the southern boundaries of that commonage to its south-east corner;

thence generally southerly by part of the generally western boundary of L.R. No. 3855/6 and the generally western boundary of L.R. No. 3855/14 to the most northerly corner of L.R. No. 3855/15;

thence south-easterly by the north-eastern boundary of L.R. No. 3855/15 to its most easterly corner, and continuing by the north-eastern boundary of that portion extended to its intersection with the high water mark of the Indian Ocean;

thence by a straight line due east to the limit of the territorial waters in the Indian Ocean;

thence generally south-westerly by that limit to its intersection with the Kenya–Tanganyika international boundary;

thence generally north-westerly by that international boundary to its intersection with the extension of the straight line between the summits of Kilibasi Hill and Kavuma Hill;

thence by that extended straight line east-north-easterly to the summit of Kavuma Hill, and continuing by that straight line to the summit of Kilibasi Hill;

thence north-easterly by a straight line (being the north-western boundary of South Nyika, Section XVII of the Coast Land Unit) to the south-eastern corner of Mackinnon Road Township;

thence north-westerly and north-easterly by the south-western and north-western boundaries of that township to the point of commencement.

5. The Mombasa District

Commencing at the centre of the mouth of Mtwapa Creek on the Indian Ocean coast line;

thence generally westerly and south-westerly by part of the southern boundary of the Kilifi District to the intersection with the north-eastern boundary of the Kwale District;

thence generally southerly and south-easterly by part of the boundary of the Kwale District to the most northerly corner of L.R. No. 3855/15;

thence south-easterly by the north-eastern boundary of that plot extended to the high water mark of the Indian Ocean;

thence continuing by a straight line due east to its intersection with the limit of the territorial waters;

thence generally north-easterly by that limit to a point due east of the centre of the mouth of Mtwapa Creek;

thence due west by a straight line to the point of commencement.

6. The Taita District

Commencing at a beacon MR on the Kenya–Tanganyika international boundary and on the boundary between the Coast and Rift Valley Regions;

thence generally northerly by that regional boundary to trigonometrical station Ridge, being the tri-junctional point of the Rift Valley, Eastern and Coast Regions;

thence continuing by the boundary between the Eastern and Coast Regions to a point on the Galana or Sabaki River, being the tri-junctional point of the Taita, Tana River and Kilifi Districts, having a U.T.M. grid reference EG. 243608;

thence generally south-westerly by the generally western boundary of the Kilifi District to the north-west corner of the Kwale District;

thence continuing generally south-westerly by the generally western boundary of the Kwale District to its intersection with the Kenya–Tanganyika international boundary;

thence generally north-westerly by that international boundary to the point of commencement.

7. The Marsabit District

Commencing at the summit of Furroli (hill) on the Kenya–Ethiopia international boundary;

thence generally north-westerly and westerly by that international boundary to a point on Lake Rudolf, being the point of intersection of the boundary between the Eastern and Rift Valley Regions due north of the trigonometrical beacon on North Island;

thence generally southerly and south-easterly by part of that regional boundary to Sebei (Seepi) Rock;

thence north-easterly by a straight line to the water-pan Mado Delbeck;

thence continuing by a straight line north-easterly to the water-pan Mado Derdetu;

thence continuing by a straight line north-easterly to the road or track intersection at Arba Jahan with the common boundary between the Eastern and North-Eastern Regions;

thence generally northerly, generally north-easterly and again generally northerly by that regional boundary to its intersection with the Kenya-Ethiopia international boundary;

thence generally westerly by that international boundary to the point of commencement.

8. The Isiolo District

Commencing at the north-west corner of L.R. No. 5181 on the Ngare Ndare River;

thence south-easterly by part of the northern boundary of that farm to the most westerly corner of L.R. No. 2791;

thence north-easterly by the north-western boundary of L.R. No. 2791 to the south-western corner of L.R. No. 2792;

thence northerly, easterly and south-easterly by the western and generally northern boundaries of the latter portion, and continuing south-easterly by the northern boundary of L.R. No. 2794 to the Eastern Marania River;

thence downstream by the course of that river, and the Isiolo River, to the southern boundary of Isiolo Township (L.R. No. 7918);

thence easterly by part of the southern boundary of that township, north-easterly and north-westerly by the eastern boundaries and westerly by part of the northern boundary of that township to its intersection with the Isiolo River;

thence generally northerly by the centre course of that river for a distance of approximately 5½ miles to the old K.A.R. Wagon Camp (geographical co-ordinates approximately 37° 35′ E, 0° 29′ N);

thence north-easterly by a straight line to trigonometrical beacon Shaba (SKP. 230);

thence continuing north-easterly by a straight line to trigonometrical beacon (95/Y/1) on the northern spur of Matalama, about five miles north-east of Ngombe (Yombe or Jgembe) Crater;

thence south-easterly by a straight line to trigonometrical beacon Yakabasati (S.K.T. 2);

thence south-easterly by a straight line to trigonometrical beacon Kinna (109/Y/2);

thence south-easterly by a straight line to the Kithima ya Mugoma spring;

thence southerly by a straight line to a point Isula Kanini on the Murera or Bisanguracha River;

thence generally south-easterly down-stream by the centre course of the Murera or Bisanguracha River to its confluence with the Rojewero or Mackenzie River;

thence down-stream by the centre course of the Rojewero or Mackenzie River to its confluence with the Tana River on the boundary between the Eastern and Coast Regions;

thence generally easterly then northerly by part of that regional boundary to its junction with the boundary between the North-Eastern and Coast Regions at Kore Wells;

thence generally northerly and then north-easterly by the boundary between the Eastern and North-Eastern Regions to the Isiolo-Wajir road bridge crossing the Ewaso Ngiro (Nyiro) River at a point immediately south-west of Habaswein;

thence continuing by the boundary between the Eastern and North-Eastern Regions, north-westerly, north north-easterly and again north-westerly to the intersection of the generally south-eastern boundary of the Marsabit District at the track intersection of Arba Jahan;

thence generally south-westerly by the generally south-eastern boundary of the Marsabit District to Sebei (Seepi) Rock on the boundary between the Eastern and Rift Valley Regions;

thence generally southerly, westerly, again southerly, easterly and again southerly by that regional boundary to the point of commencement.

9. *The Meru District*

Commencing at the north-western corner of L.R. No. 5181 on the Ngare Ndare River;

thence generally easterly, northerly again easterly then south-easterly by part of the boundary with the Isiolo District to its junction with the boundary between the Eastern and Coast Regions at the confluence of the Rojewero or Mackenzie River with the Tana River;

thence generally south-westerly, westerly and again generally south-westerly up-stream by the centre course of the Tana River to its confluence with the Mutonga River;

thence generally north-westerly up-stream by the centre course of that river to its confluence with the Buguti River;

thence generally westerly up-stream by the centre course of that river to its confluence with the Thuchi River;

thence generally south-westerly and westerly by the centre course of that river to its intersection with the Mount Kenya Forest Reserve boundary;

thence north-westerly by a straight line to the summit of Mount Kenya (Batian) on the boundary between the Central and Eastern Regions;

thence generally north-westerly, then north-easterly by that boundary to the point of commencement.

10. *The Embu District*

Commencing at the summit of Mt. Kenya (Batian) on the boundary between the Central and Eastern Regions;

thence generally south-easterly, north-easterly and again south-easterly along the boundary with the Meru District to its junction with the Tana River at the confluence of the Mutonga and Tana Rivers;

thence generally southerly then westerly up-stream by the centre course of the Tana River to its junction with the boundary between the Central and Eastern Regions;

thence generally northerly, easterly, again northerly then north-easterly by that boundary to the point of commencement.

11. *The Kitui District*

Commencing at a point on the boundary between the Eastern and Coast Regions being the confluence of the Rojewero (Mackenzie) and Tana Rivers;

thence generally south-easterly, southerly, westerly, again south-easterly then again westerly along part of the boundary between the Eastern and Coast Regions to the confluence of the Athi and Tsavo Rivers;

thence generally north-westerly up-stream by the centre course of the Athi River to its intersection with the old Machakos-Kitui track;

thence generally north-easterly by the northern boundary of that track to its intersection with the Muita Chana (Siono) River;

thence up-stream by the centre course of that river to its intersection with a cut and beaconed line at a point on a bearing of approximately 176° 40′ at a distance of approximately 16,223 feet from a beacon;

thence by that cut and beaconed line on a bearing of approximately 356° 40′ for a distance of approximately 16,223 feet to the aforesaid beacon;

thence by a straight line on a bearing of approximately 86° 41′ for a distance of approximately 52,767 feet to trigonometrical beacon Thatha (SKP. 221);

thence north-easterly by part of the straight line joining trigonometrical beacons Thatha and Ndalai to its intersection with the Ngomolo River;

thence down-stream by the centre course of the Ngomolo River to its confluence with the Kithioki River;

thence down-stream by the centre course of the Kithioko River to its confluence with the Tana River;

thence down-stream by the centre course of the Tana River to its confluence with the Mutonga River on the generally southern boundary of the Meru District;

thence continuing down-stream by the centre course of the Tana River being the boundary between the Kitui and Meru Districts to the point of commencement.

12. *The Machakos District*

Commencing at the confluence of the Kithioko and Tana Rivers;

thence generally southerly, westerly, south-easterly, south-westerly then again south-easterly along part of the boundary with Kitui District to the confluence of the Athi and Tsavo Rivers which lies on the boundary between the Eastern and Coast Regions;

thence generally south-westerly, north-westerly, and again south-westerly along the boundary between the Eastern and Coast Regions to trigonometrical beacon Ridge which is the tri-junctional point of the Eastern, Coast and Rift Valley Regions;

thence generally north-westerly along the boundary between the Eastern and Rift Valley Regions to its intersection with the generally southern boundary of the Nairobi Area;

thence generally north-easterly along the boundary of the Nairobi Area to the junction with the boundary between the Eastern and Central Regions;

thence generally north-easterly, north-westerly and again north-easterly along that boundary to its intersection with the Tana River;

thence generally easterly down-stream by the centre course of the Tana River to the point of commencement.

13. *The Kiambu District*

Commencing at the intersection of the Chania River with the generally western boundary of the Kikuyu Land Unit at the north-eastern corner of the Kikuyu Escarpment Forest Reserve;

thence down-stream by the course of the Chania River to the northernmost corner of L.R. No. 295/3 on the generally south-eastern boundary of the Kikuyu Land Unit;

thence generally south-westerly by part of that land unit boundary to the south-western corner of L.R. No. 113/1 on the Muhuyu River;

thence down-stream by the course of that river to the north-eastern corner of L.R. No. 6913;

thence westerly, south-westerly, generally south-easterly and again south-westerly by the generally eastern boundaries of that portion to its southernmost corner;

thence south-easterly and south-westerly by part of the north-eastern and south-eastern boundaries of the Kamiti Forest Reserve to the south-eastern corner of that reserve on the north-western boundary of L.R. No. 91;

thence south-westerly, south-easterly and again south-westerly by part of that boundary to the Kamiti River;

thence down-stream by the course of that river to its intersection with the boundary between the Central Region and the Nairobi Area;

thence generally westerly and south-westerly by that boundary to its intersection with the boundary of the Rift Valley Region in the vicinity of the southern corner of Dagoretti Forest;

thence generally westerly by the boundary between the Central Region and the Rift Valley Region to the most south-westerly point of the Central Region;

thence generally north-easterly and northerly by the boundary between the Central Region and the Rift Valley Region to a point on that boundary approximately 1½ miles north-west of Kijabe, being the most westerly point of the Kikuyu Escarpment Forest;

thence generally north-easterly, north-westerly, north-easterly, north-westerly, easterly, north-westerly and north-easterly by that forest reserve boundary to its intersection with the Sasamua River, east of the Sasamua dam;

thence down-stream by the course of the Sasamua River to its confluence with the Chania River;

thence down-stream by the course of the Chania River to the point of commencement.

14. *The Thika District*

Commencing at a point on the boundary between the Central and Eastern Regions where the Thaba Thaba River intersects that boundary;

thence generally south-westerly, westerly, south-westerly and south-easterly by that boundary to a point where that boundary meets the most easterly point of the Nairobi Area boundary at the southernmost point of L.R. No. 63;

thence generally north-westerly by the boundary between the Nairobi Area and the Central Region to the north-east corner of L.R. No. 6755;

thence generally north and north-easterly by the Kiambu District boundary to a point where it intersects the Chania River;

thence generally north-easterly by the generally southern boundary of the Kikuyu Land Unit to its intersection with the Thaba Thaba River;

thence down-stream by that river to where it meets the boundary between the Central and Eastern Regions, the point of commencement.

15. *The Fort Hall District*

Commencing at trigonometrical beacon Kinangop in the Aberdare Range;

thence generally north-easterly, generally easterly and generally south-easterly by the watershed dividing the head-waters of the North Mathioya River (east and south of this boundary) and the Gikira and Gura Rivers (west and north of this boundary) to a point due north of the beacon A.69 on the common boundary of the Aberdare Forest Reserve and the Kikuyu Land Unit;

thence due south to that beacon;

thence south-easterly and easterly by part of that common boundary to beacon A.51;

thence by a straight line south-easterly to the cairn named Suru Suru near the source of the Suru Suru River;

thence southerly by a straight line to that source, and down-stream by the course of that river to its intersection with a straight line joining a beacon on its north bank and the cairn near the southern source of the Ruarai River;

thence northerly by that straight line to the latter cairn;

thence easterly by a straight line to that source of the Ruarai River;

thence down-stream by the course of that river to the confluence of the Kiraya River;

thence up-stream by the course of the Kiraya River to the intersection of a cut and beaconed line;

thence south-easterly, north-easterly and again south-easterly to a cairn near the source of the Mugono River;

thence easterly by a straight line to that source;

thence down-stream by the course of the Mugono River and continuing down-stream by the course of the Mugono (Rutune) River to its confluence with the Sagana (Tana) River;

thence down-stream by the course of the Sagana (Tana) River to its intersection with the boundary between the Central and Eastern Regions;

thence generally southerly by that boundary to where the Thaba Thaba River intersects that boundary;

thence following the Thika District boundary in a generally south-westerly direction to its intersection with the Chania River;

thence generally north-westerly by the generally northerly boundary of the Kiambu District to an unnamed tributary about 2¼ miles down-stream from the confluence of the Sasamua River with the Chania River;

thence up-stream by that tributary to its source in the vicinity of Thika-Njabini road reserve;

thence due north to a point on the eastern boundary of that road reserve;

thence generally northerly by that road reserve boundary for a distance of about 4,200 feet to its junction with a track;

thence generally south-easterly and north-easterly by that track to a point due south and in the vicinity of the source of an unnamed tributary of the Kyama River (Kimakia River);

thence northerly to that source;

thence down-stream by that tributary to the Kyama River;

thence generally northerly by the watershed of the Aberdare Range to the point of commencement.

16. *The Nyandarua District*

Commencing at the most northerly corner of L.R. No. 2491/1 which lies on the south-eastern boundary of Rumuruti Forest Reserve and on the boundary between the Central and Rift Valley Regions;

thence generally south-easterly by that boundary to the most northerly corner of L.R. No. 9424/1;

thence south-easterly and easterly by the north-eastern and part of the southern boundaries of L.R. No. 9424/1 to the point of intersection with the Aberdare Forest Reserve boundary;

thence southerly by part of the generally eastern boundary of the Aberdare Forest Reserve for a distance of 3,606·9 feet to a beacon B.2;

thence south-westerly by a straight line to trigonometrical beacon Sattima (SKP. 106) on the summit of Ol Doinyo Lesatima in the Aberdare Royal National Park;

thence generally southerly by the watershed of the Aberdare Range to trigonometrical beacon Kinangop (Ndandarawa);

thence generally southerly and south-westerly by the generally westerly boundaries of the Fort Hall and Kiambu Districts to a point south-east of Kinjabi Hill where that District boundary intersects the boundary between the Central and Rift Valley Regions;

thence generally north-westerly, northerly and north-easterly by that regional boundary to the point of commencement.

17. *The Kirinyaga District*

Commencing at the summit of Mount Kenya (Batian);

thence generally south-easterly, southerly and south-westerly by the boundary of the Central and Eastern Regions to a point where that boundary intersects the Tana River;

thence generally north-westerly by the generally easterly boundary of the Fort Hall District to the confluence of the Sagana (Tana) and Rutune Rivers at a point north-west of Sagana Trading Centre;

thence up-stream by the course of the Sagana River to its source;

thence by a straight line, generally north-easterly, to that line's intersection with the Ragati River approximately half a mile to the east of Kangocho Trading Centre;

thence up-stream by the course of that river and subsequently by its tributary named Gathanji to the latter's source, immediately to the south of Kiangai Trading Centre;

thence generally northerly and easterly by the western and northern boundary of Kiine Location to its intersection with the generally northern boundary of Mwerua Location;

thence generally easterly by that northern boundary of Mwerua Location to its intersection with the Ruamuthambi River;

thence up-stream by the course of that river to the generally southerly boundary of Mount Kenya Forest Reserve;

thence by a straight line in a generally north-easterly direction to the point of commencement.

18. *The Nyeri District*

Commencing at the summit of Mount Kenya (Batian);

thence generally south-westerly and south-easterly by the generally western boundary of the Kirinyaga District to its intersection with the Fort Hall District boundary;

thence continuing generally westerly by the generally northern boundary of the Fort Hall District to its intersection with the generally eastern boundary of the Nyandarua District at Il Kinangop;

thence generally north-westerly and north-easterly by that District boundary to a point where it intersects the boundary between the Central and Eastern Regions;

thence generally easterly, south-easterly, north-easterly and south-easterly by that regional boundary to the point of commencement.

19. *The Turkana District*

Commencing at the point common to the international boundaries of Kenya, Uganda and Sudan in the vicinity of Mount Zulia;

thence north-easterly and easterly by the Kenya-Sudan international boundary to the point common to the international boundaries of Kenya, Sudan and Ethiopia;

thence south-easterly by the Kenya-Ethiopia international boundary to a point in Lake Rudolf where that international boundary is intersected by the boundary between the Rift Valley and Eastern Regions;

thence generally southerly by that regional boundary to a point due north of the summit of Teleki's Volcano at the southern end of Lake Rudolf;

thence by a straight line to that summit;

thence south-easterly by a straight line to the western slopes of Mount Ejuk;

thence along the top of the lava escarpment, which forms the eastern edge of the Suguta Valley, to where that escarpment merges into Mount Losergoi;

thence along the western slope of Mount Losergoi and continuing generally southerly along a line following the generally western slopes of a range of hills on the eastern side of the Suguta Valley to the falls on the Amaya River (geographical co-ordinates approximately 0° 55′ N, 36° 24′ E);

thence generally north-westerly and westerly by part of the generally north-eastern and the northern boundaries of the Churo Temporary Special Reserve to the north-western corner of that reserve on the generally north-eastern boundary of the Kerio Land Unit;

thence north-westerly and south-westerly by that land unit boundary to the point on the Suam River where that land unit boundary joins the Kenya-Uganda international boundary;

thence generally northerly by that international boundary to the point of commencement.

20. *The Samburu District*

Commencing at a point on the shore of Lake Rudolf due north of the summit of Teleki's Volcano on the boundary between the Rift Valley and Eastern Regions;

thence generally north-easterly, easterly, south-easterly and westerly by that boundary to the confluence of the Kirimun and Ewaso Ngiro Rivers at the north-eastern corner of L.R. No. 8036;

thence generally westerly and north-westerly by the generally north-eastern boundaries of L.R. No. 8036 to its most northerly corner;

thence generally north-westerly, south-westerly and generally westerly by the generally northern boundaries of L.R. No. 8052 and continuing westerly by the northern boundary of L.R. No. 8051 to the north-eastern corner of L.R. No. 8050;

thence generally westerly and northerly by the generally northern boundary of the later portion to its most northerly corner on the Amaya River;

thence down-stream by that river to the falls on that river (geographical co-ordinates approximately 0° 55′ N, 36° 24′ E) being the southernmost corner of the Turkana District;

thence generally northerly by the boundary of the Turkana District to the point of commencement.

21. *The West Pokot District*

Commencing at the intersection of the northern boundary of L.R. No. 8026 with the Suam (Turkwell) River on the Kenya-Uganda international boundary;

thence northwards by that international boundary to the point where it is intersected by the Kerio Land Unit boundary;

thence north-easterly and south-easterly by that land unit boundary to the point where it is intersected by the Kerio (Ndo) River;

thence up-stream by the course of the Kerio River to its intersection with a cut line on its western bank;

thence by a series of cut lines south-westerly to the Chesegon River at a point Cheptuigen marked by a beacon;

thence up-stream by that river in a generally south-western direction to its confluence with the Mbagat River;

thence up-stream by that river in a generally westerly direction to an upright rock slab called Mbagat at the junction of the Cheptowi and Mbatowi gullies;

thence following the Cheptowi gully in a generally north-westerly direction to Kararanda (Siandoi);

thence following the Negowa Sigirot gully to its confluence with the Pewok stream;

thence up-stream by the Pewok stream by Tingwan in a generally westerly direction to beacon Corner on the south-eastern boundary of Lelan Forest;

thence following that forest boundary in a generally westerly direction to trigonometrical point Chesugo;

thence by a series of straight lines following that forest boundary through trigonometrical points Kokwa Ara, Kamelogon, Kalelaigelat (75/S/10) and Kapsait (SKP. 5) in a generally south-westerly direction to beacon Kiptaberr on the generally eastern boundary of the Kiptaberr-Kapkanyar Forest Reserve;

thence north-westerly by a straight line to the most northerly corner of the Kapolet Forest Reserve at trigonometrical beacon Kaipos (75/S/5);

thence generally westerly and generally north-westerly by part of the generally western boundary of the Kerio Land Unit to the point of commencement.

22. *The Trans Nzoia District*

Commencing at a point on the Kenya-Uganda international boundary where the Suam River emerges from the crater of Mount Elgon at the northernmost corner of the Kavirondo Land Unit (northern portion);

thence generally north-easterly by that international boundary (down-stream by the course of the Suam River) to the intersection of the generally southern boundary of the West Pokot District;

thence generally easterly by that boundary to its interesection with the generally western boundary of the Elgeyo-Marakwet District;

thence generally south-easterly and southerly by that boundary to a beacon at the N.W. corner of L.R. No. 2225;

thence south-westerly by the western boundary of that portion, north-westerly by the north-eastern boundaries of L.R. Nos. (2223) C.L. and (2221) C.L. and again south-westerly by the north-western boundary of the latter portion to its intersection with the Nzoia River;

thence down-stream by that river to its intersection with the eastern boundary of L.R. No. 1804/R on the boundary between the Rift Valley and Western Regions;

thence generally westerly and north-westerly by that regional boundary to the point of commencement.

23. *The Elgeyo-Marakwet District*

Commencing at the intersection of a cut line with the western bank of the Kerio River being the south-eastern corner of the West Pokot District;

thence up-stream by the course of the latter river to the confluence of the Kureswa (Mogorua) River;

thence up-stream by the course of that river to its source;

thence westerly to the lowest point on the watershed;

thence south-easterly by a straight line to trigonometrical beacon Kyikuahelat (SKP. 103);

thence south-westerly by a straight line to the hill called Borowett (HAA 966186) on the northern boundary of Lembus Forest;

thence by that forest boundary due west to the north-eastern corner of L.R. No. 6259;



thence generally northerly by the generally western boundary of the Kerio Land Unit to the most northerly corner of the Kapolet Forest Reserve, on the generally southern boundary of the West Pokot District;

thence in a generally south-easterly and north-easterly direction by that District boundary to the point of commencement.

24. The Baringo District

Commencing at the confluence of the Kolossia and Kerio Rivers on the boundary between the West Pokot and Turkana Districts;

thence generally south-easterly, easterly and south-easterly again by the generally south-westerly boundary of the Turkana District boundary to the Amaya Falls on the Amaya River;

thence up-stream by the course of that river to the most easterly corner of Churo Temporary Special Reserve (Marigot beacon);

thence generally south-westerly by the generally south-easterly boundary of that reserve to its most southerly point (Hillock beacon), approximately half a mile north of the Mukutan River, and 1¼ miles east of Ol Mukutan;

thence generally south-easterly for a distance of approximately 5 miles by part of the eastern boundary of Njemps Location, and the north-easterly boundary of Ngelesha Reserve to a point approximately 1¼ miles north-west of trigonometrical point 91S9;

thence generally south-westerly by the south-eastern boundary of the Ngelesha Special Reserve to the westernmost point of the Ol Arabel Forest Reserve;

thence generally south-easterly by the generally south-westerly boundary of that forest reserve to its intersection with the Marmanet Forest Reserve;

thence generally south-westerly by that forest reserve boundary to the most southerly point of the Ngelesha Special Reserve;

thence generally south-westerly by the north-western boundary of L.R. No. 2689/R to the Waseges River;

thence up-stream by the course of that river to a point where it intersects the northern boundary of L.R. No. 10762;

thence generally south-westerly by the generally northern boundaries of L.R. No. 10762 and L.R. No. 10753 to the north-west corner of that latter numbered plot;

thence generally southerly by the western boundaries of L.R. Nos. 10753, 8437, 8438, 8439, 2680, 7364 and 1168/R to the south-westerly corner of the last mentioned plot;

thence generally westerly and southerly by the generally northern and western boundaries of L.R. No. 10851 to the south-west corner of that plot;

thence generally south-westerly and north-westerly by the generally western boundary of L.R. No. 9023 and the generally northern boundaries of L.R. Nos. 475/7, 475/6 and 475/5, to the north-west corner of that last numbered plot;

thence north-westerly and westerly by the north-eastern and northern boundaries of L.R. No. 5260;

thence generally north-westerly by the northern boundary of L.R. No. 3843 and the eastern boundary of L.R. No. 3844 to the north-easterly corner of that latter numbered plot;

thence generally westerly by the northern boundaries of L.R. Nos. 3844, 3732/2 and 5672 to where that boundary meets the Molo River;

thence up-stream by the course of that river to the north-easterly corner of L.R. No. 662;

thence generally north-westerly, south-westerly and south-easterly by the boundaries of that aforementioned plot to a point where the generally south-westerly boundary of that plot again meets the Molo River;

thence generally south-westerly by the course of that river to its intersection with the generally north-easterly boundary of L.R. No. 486/1;

thence generally north-westerly and south-westerly by the generally north-easterly and north-westerly boundaries of that latter plot to its junction with the main Nakuru-Eldama Ravine road reserve;

thence generally north-westerly by the generally eastern boundary of that road reserve to the north-west corner of L.R. No. 487/26/4;

thence generally south-westerly by the generally north-westerly boundaries of L.R. Nos. 487/26/4, 487/27, 487/28/4, 487/29 and 9856 to the Bissoi River;

thence generally north-westerly, south-westerly, southerly and south-westerly again by the generally eastern boundary of Mount Londiani Forest Reserve to the most westerly corner of L.R. No. 8905/2;

thence by a straight line generally south-westerly to the south-easterly corner of L.R. No. 9697/1;

thence generally north-westerly by the generally western boundary of Mount Londiani Forest Reserve to beacon D.48;

thence generally westerly by the northern boundaries of L.R. Nos. 7597 and 9675 to the north-west corner of the latter plot;

thence generally north-easterly by a straight line to its intersection with the generally south-easterly boundary of L.R. No. 4143/3/R, approximately 1,250 feet from the south-easterly corner of the aforementioned plot;

thence generally south-westerly and north-westerly by the generally south-easterly and south-westerly boundaries of L.R. No. 4143/3/R to the most westerly corner of that plot;

thence up-stream by the river constituting the eastern boundary of L.R. No. 4141/R to the easterly corner of that plot;

thence generally north-westerly by the north-easterly boundary of L.R. No. 4141/R to its intersection with the most south-easterly corner of L.R. No. 2960/R;

thence generally northerly by the generally western boundary of Maji Mazuri Forest Reserve to the most north-easterly corner of L.R. No. 1147;

thence generally westerly and northerly by part of the southern and the westerly boundary of Lembus Forest (A.D.C.) Reserve to its intersection with the southern boundary of the Elgeyo-Marakwet District;

thence generally easterly and northerly by that District boundary to its junction with the generally easterly boundary of the West Pokot District;

thence generally northerly by the eastern boundary of the West Pokot District to the point of commencement.

25. The Laikipia District

Commencing at the most northerly corner of L.R. No. 8050 on the Amaya River on the boundary with the Samburu District;

thence in a generally easterly and south-easterly direction by that boundary to the confluence of the Kirimun and Ewaso Ngiro Rivers on the boundary between the Rift Valley and Eastern Regions;

thence generally southerly, generally easterly, generally south-westerly, generally north-westerly and generally south-westerly by the boundary of the Rift Valley Region to its intersection with the eastern boundary of L.R. No. 6531/17;

thence northerly by the eastern boundaries of L.R. Nos. 6531/17 and 6531/16 to a beacon at the north-east corner of the latter portion;

thence easterly by the southern boundary of L.R. No. 6518/3 to a beacon at the south-eastern corner of the latter portion;

thence generally north-westerly and north-easterly by the generally eastern boundaries of L.R. Nos. 6518/3, 6518/8, 5614, 5281, 2675/4/R, 10474, 6718, 8440, 3231, 3230, 5670 and 10762 to a beacon at the northernmost corner of L.R. No. 10753 on the generally eastern boundary of the Baringo District;

thence generally northerly and north-westerly by the generally eastern boundaries of the Baringo District to the point of commencement.

26. The Nandi District

Commencing at trigonometrical beacon 88S8. on the boundary between the Western and Rift Valley Regions;

thence easterly by the southerly boundaries of L.R. Nos. 4130, 7824, 4282/R, 9585, 8833 and 4289/R to beacon B232 at the south-westerly corner of L.R. No. 755/1;

thence south-easterly by the south-westerly boundaries of L.R. Nos. 755/1, 755/2/1, 755/2/2 and 6494 to trigonometrical beacon SKP. 8;

thence north-easterly by the south-easterly boundary of L.R. No. 6494 to its junction with the Sosian River;

thence generally westerly up-stream by the centre course of that river to the north-easterly corner of L.R. No. 770/1;

thence generally southerly by the generally easterly boundaries of L.R. Nos. 770/1 and 770/2 to the Ol Dane Sapuk River;

thence westerly by part of the southerly boundary of L.R. No. 4354 to the north-easterly corner of L.R. No. 5739/2;

thence generally south-westerly by the generally south-easterly boundaries of L.R. Nos. 5739/2 and 8714 to the extreme south-easterly corner of the latter portion;

thence generally south-easterly by part of the boundary of the Nandi Land Unit to beacon 103S5;

thence generally south-easterly by the generally north-easterly boundaries of L.R. Nos. 8742 and (8743) C.L. to the north-easterly corner of the latter portion;

thence generally southerly, then generally westerly by part of the generally westerly and southerly boundaries of the Northern Tinderet Forest Reserve to beacon Nr. C4 at the north-easterly corner of L.R. No. 8000;

thence generally southerly and south-westerly by the generally north-westerly boundary of Tinderet Forest Reserve to the most southerly corner of L.R. No. 5499;

thence south-easterly by a straight line to the extreme northerly corner of L.R. No. 4010/4;

thence generally westerly by part of the generally southerly boundary of Tinderet Forest Reserve to the easterly corner of L.R. No. 1454/4;

thence west, south-westerly by the generally southern boundaries of L.R. No. 1454/4 and original L.R. No. 1628 to the south-western corner of the latter portion on the boundary between the Rift Valley and Western Regions;

thence generally northerly, generally westerly and generally north-easterly by that regional boundary to the point of commencement.

27. The Uasin Gishu District

Commencing at a point, being the intersection of the Nzoia River with the easterly boundary of L.R. No. 1804/R, on the boundary between the Rift Valley and Western Regions;

thence generally easterly along part of the boundary with the Trans Nzoia District to its intersection with the Elgeyo-Marakwet District boundary;

thence generally southerly by part of the generally westerly boundary of that District to its junction with the Baringo District boundary;

thence generally southerly by part of that District boundary to the south-easterly corner of L.R. No. 4141/R, on the boundary of the Tinderet Forest Reserve;

thence generally north-westerly by part of that forest reserve boundary to the north-easterly corner of L.R. No. 8925;

thence generally westerly by part of the generally northerly boundary of that plot to its extreme north-westerly corner, being the north-easterly corner of the Tinderet Forest Reserve;

thence generally westerly by part of the generally northerly boundary of that forest reserve to its junction with the Nandi District boundary, at the north-easterly corner of L.R. No. 8000;

thence generally north-westerly, then generally westerly by part of that District boundary, to its junction with the boundary between the Rift Valley and Western Regions;

thence generally northerly, generally easterly then again generally northerly by that regional boundary to the point of commencement.

28. *The Kericho District*

Commencing at Olekele Hill (trigonometrical point Gelegele) on the boundary between the Nyanza and Rift Valley Regions;

thence generally northerly, north-easterly, south-easterly then north-westerly by that boundary to its junction with the Nandi District boundary, at the south-west corner of L.R. No. 1628 (original number);

thence generally easterly and northerly by that District boundary to its junction with the Uasin Gishu District boundary at the extreme north-east corner of L.R. No. 8000;

thence generally easterly by part of that District boundary to the junction with the Baringo District boundary, at the extreme south-easterly corner of L.R. No. 4141/R;

thence generally south-westerly by part of the Baringo District boundary to the extreme south-westerly corner of L.R. No. 4143/3, being the junction of that District boundary with the Nakuru District boundary;

thence generally south-westerly by the generally south-eastern boundary of a track to the extreme northerly corner of L.R. No. 9015, being on the generally westerly boundary of the Mount Londiani Forest Reserve;

thence generally southerly by that forest reserve boundary to its junction with the Londiani Township boundary;

thence generally southerly by that township boundary to its junction with the southern boundary of the main railway line reserve;

thence generally easterly by part of the southern boundary of that railway reserve to the extreme north-easterly corner of L.R. No. 6569/5; being the north-easterly corner of the Western Mau Forest Reserve;

thence generally southerly, then generally westerly by that forest reserve boundary to the extreme northerly corner of L.R. No. 8772;

thence north-westerly by a straight line to the north-easterly corner of L.R. No. 1888;

thence generally south-westerly by the generally north-westerly boundary of the Western Mau Forest Reserve to the most southerly corner of L.R. No. 10785 (beacon BN. 1);

thence south-easterly by a straight line to the north-easterly corner of the Trans Mara Forest Reserve;

thence south-westerly, then generally south south-westerly by the north-westerly and generally south-westerly boundaries of that forest reserve to the Amala River;

thence generally south-westerly then north-westerly by part of the generally northerly boundary of the Masai Land Unit to the point of commencement.

29. *The Nakuru District*

Commencing at the junction of the Laikipia District boundary with the boundary between the Rift Valey and Central Regions;

thence generally south-easterly along that regional boundary to the most southerly corner of L.R. No. 373;

thence generally north-westerly along part of the generally north-easterly boundary of the Masai Land Unit to the southernmost corner of L.R. No. 1771;

thence continuing along a further part of that land unit boundary in a generally westerly direction to the north-eastern corner of the Trans Mara Forest Reserve;

thence generally north-westerly, easterly and northerly by a part of the Kericho District boundary to the extreme south-westerly corner of L.R. No. 4143/3, being the junction with the boundary between the Kericho and Baringo Districts;

thence generally south-easterly and north-easterly by part of the Baringo District boundary to its junction with the Laikipia District boundary;

thence generally southerly by part of the Nanyuki District boundary to the point of commencement.

30. *The Narok District*

Commencing at the junction of the boundary between the Nyanza and Rift Valey Regions with the Kenya-Tanganyika international boundary at beacon No. 17;

thence generally north-westerly then generally north-easterly by that regional boundary to its junction with the Kericho District boundary;

thence generally south-easterly, north-easterly, north-westerly and again north-easterly by a part of that District boundary to its junction with the Nakuru District boundary;

thence generally south-easterly by part of that boundary to beacon Quarantine 2, on the north side of the Kijabe-Narok road, being the south-westerly corner of L.R. No. 8396, north of Ol Doinyo Nyukie (Suswa);

thence southerly by a straight line to trigonometrical beacon Nyukie on the summit of Ol Doinyo Nyukie (Suswa);

thence by a straight line south-westerly to Mosiro Hill;

thence southerly by the top line of Nguruman Escarpment to Ol Doinyo Lengdrale;

thence due south to the northern boundary of L.R. No. 3867 (the Lake Natron concession);

thence westerly and southerly by part of the northern and the western boundaries of L.R. No. 3867 to the south-western corner of the latter portion on the meridian 36° East and the Kenya-Tanganyika international boundary;

thence north-westerly by that international boundary to the point of commencement.

31. *The Kajiado District*

Commencing at beacon MR beng at the juction of the boundary between the Rift Valley and Coast Regions with the Kenya-Tanganyika international boundary;

thence generally northerly and north-westerly by that international boundary to its junction with the Narok District boundary;

thence generally north-easterly along part of that District boundary to its junction with the Nakuru District boundary;

thence generally south-easterly by part of that District boundary to its junction with the boundary between the Rift Valley and Central Regions;

thence generally southerly, then westerly along part of that regional boundary to its junction with the Nairobi Area boundary;

thence generally south-easterly along part of the generally south-westerly boundary of the Nairobi Area to its junction with the boundary between the Rift Valley and Eastern Regions;

thence generally south-easterly by part of that regional boundary to its junction with the boundary between the Eastern and Coast Regions;

thence generally southerly then generally westerly along the boundary between Rift Valley and Coast Regions to the point of commencement.

32. *The Central Nyanza District*

Commencing at a point on the Kenya-Uganda internatioal boundary, at the junction of the boundary between the Western and Nyanza Regions;

thence generally north-easterly, easterly, south-easterly and easterly to that boundary's junction with that of the Rift Valley Region at Nyangori Mission, in the close vicinity of Kiboswa Market;

thence generally easterly, south-easterly, north-easterly, south-easterly, southerly, north-westerly and southerly by the boundary of the Nyanza and Rift Valley Regions to Sondu Trading Centre;

thence down-stream by the course of the Sondu River to its mouth, in Kavirondo Gulf, Lake Victoria;

thence by a straight line due north-west for a distance of five statute miles;

thence by a straight line westerly to a point midway between the most southern point of Ndu (Ndere) Island and the most northern point of the shore between Homa Point and Kendu;

thence by a straight line south-westerly to a point midway between Homa Point and the nearest point on the shore of Uyoma;

thence by a straight line south-westerly to a point midway between Uyoma Point and White Rock Point;

thence westerly and northerly by the centre line of the Rusinga Channel to its intersection with a line due east of the most northerly point of Uari Island;

thence by the latter straight line due west to its intersection with the Kenya-Uganda international boundary;

thence in a generally north-easterly and north-westerly direction by that international boundary to the point of commencement.

33. *The South Nyanza District*

Commencing at the confluence of the Nyatutu and Sondu (Miriu) Rivers;

thence by a straight line in a generally south-westerly direction for approximately 1½ miles to a Survey of Kenya pillar on the summit of Kiomaberi-Chaberre Hill;

thence by a straight line in a generally south-westerly direction for approximately 2½ miles to a concrete beacon on the saddle between two hills known as Ruri and Kiomala;

thence by a straight line in a generally south-westerly direction for approximately 2½ miles to a concrete beacon near Nyamhambo (Karota) Market;

thence by a straight line in a south-westerly direction for approximately 3 miles to a concrete beacon at a place known as Nyasore (Kimone);

thence by a straight line in a generally westerly direction for approximately 2 miles to a concrete beacon in an area known as Seremhe (Karoka);

thence by a straight line in a generally south-westerly direction for approximately 2½ miles to a concrete beacon in an area known as Nyasore (Nyambulo);

thence by a straight line in a generally south-westerly direction for approximately 3 miles to a concrete beacon near a minor road north of Sikonge Hill;

thence by a straight line in a generally south-westerly direction for approximately 3½ miles to a concrete beacon on a small rock outcrop between Ongongo Hill and Ranyenya (Irenyi) Hill;

thence by a straight line in a generally south-westerly direction for approximately one mile to a concrete beacon on Ongongo Hill;

thence by a straight line in a generally south-westerly direction for approximately 3½ miles to a concrete beacon on Kanga Hill;

thence by a straight line in a generally south-westerly direction for approximately 2 miles to a concrete beacon in Mogumo Market;

thence by a straight line in a generally westerly direction for approximately 1½ miles to a concrete beacon situated on a rock outcrop near Nyamasege stream;

thence by a straight line in a generally south-westerly direction for approximately 2½ miles to a concrete beacon near the main Kisii-Homa Bay road;

thence by a straight line in a generally southerly direction for approximately 2½ miles to a concrete beacon on Nyamanja Hill near Kamenji School;

thence by a straight line in a generally southerly direction for approximately 2½ miles to a concrete beacon by the Digoma River;

thence by a straight line in a generally south-westerly direction for approximately 2 miles to a concrete beacon on the main Kisii-Tanganyika road;

thence by a straight line in a generally southerly direction for approximately 3 miles to a concrete beacon south of Riosiri Market;

thence by a straight line in a generally southerly direction for approximately 2½ miles to a concrete beacon situated in Nyamarambe Market;

thence by a straight line in a generally southerly direction for approximately 6½ miles to a concrete beacon situated south of Nyabera School;

thence by a straight line in a generally southerly direction for approximately half a mile to a cone beacon;

thence by a straight line in a generally southerly direction for approximately 4 miles to a concrete beacon on the bank of the Rongai (Sari) River;

thence up-stream by that river to its intersection with the boundary between the Nyanza and Rift Valley Regions at the north-eastern corner of L.R. No. 8059;

thence generally south-westerly and south-easterly by that regional boundary to its intersection with the Kenya-Tanganyika international boundary;

thence generally north-westerly by that international boundary to its intersection with the Kenya-Uganda internatioal boundary;

thence generally northerly by that international boundary to its intersection with the southern boundary of the Central Nyanza District;

thence generally easterly by the Central Nyanza District boundary to the point where it intersects the boundary between the Rift Valley and Nyanza Regions on the Sondo River;

thence generally southerly by that boundary to the point of commencement.

34. *The Kisii District*

Commencing at the confluence of the Nyatutu and Sondu (Miriu) Rivers;

thence generally southerly and south-westerly by the boundary between the Nyanza and Rift Valley Regions to a concrete beacon on the bank of the Rongai (Sari) River on the boundary between the Kavirondo and Masai Land Units;

thence generally northerly and north-easterly by the South Nyanza District boundary to the point of commencement.

35. *The Bungoma District*

Commencing at a point on the Kenya-Uganda international boundary in the vicinity of Hot Springs where the Suam River emerges from the crater of Mount Elgon;

thence generally south-easterly and easterly by the boundary between the Western and Rift Valley Regions to that boundary's intersection with the Nzoia River;

thence down-stream by that river to its confluence with the Msamba, approximately 2½ miles due west of Nzoia Market;

thence up-stream by the course of that river for a distance of approximately 4 miles to its source;

thence north-westerly by a straight line for a distance of approximately one mile to the Khalaba River;

thence down-stream by the course of that river for a distance of approximately 2½ miles to its confluence with its tributary, the Sikendeloba River;

thence generally westerly by the course of that river, and continuing along the alignment of that river for a distance of approximately one mile to the Bungoma-Mumias road (C.590), at a point approximately half a mile south of Kabula Market;

thence north-westerly for a distance of approximately one mile to the source of the Kabula River;

thence down-stream by the course of that river to its confluence with the Sio River;

thence down-stream by the course of that river for a distance of approximately 2½ miles;

thence generally northerly to a point on the Bungoma-Busia (C.5048) road, a quarter of a mile south-west of Nalianda Market;

thence generally north-westerly for approximately half a mile to the source of a tributary of the Walatsi River;

thence down-stream in a generally westerly direction by the course of that unnamed tributary for a distance of approximately 2½ miles to its confluence with another tributary of the Walatsi River;

thence generally north-westerly and north-easterly by the generally western boundaries of South Myanga and North Myanga sub-locations to a point on the Bungoma-Lukolis (C.5049) road where the Mosokota River passes under this road by means of a bridge;

thence generally north-westerly and northerly by the generally western boundary of North Myanga sub-location to a bridge on the Tororo-Bungoma railway line;

thence generally northerly by a track to the most north-easterly corner of Lupida sub-location;

thence generally easterly by the southern boundary of Kocholia sub-location for a distance of approximately a quarter of a mile to the most south-westerly corner of West Sibot sub-location;

thence generally north-easterly by the generally western boundary of that sub-location to a point on the Malakisi River approximately one mile north-west of Bitobo School;

thence up-stream by the course of that river in a generally north-easterly direction to its confluence with a tributary named Kisawiyi;

thence generally north-westerly to the highest point on a hill known as Mwaliye, approximately one mile west of Malakisi Trading Centre,

thence generally north-easterly to the north-westerly corner of this trading centre;

thence generally north-westerly, northerly and easterly to a point on the Malakisi River approximately half a mile south of its confluence with the tributary known as the Kamunyongale;

thence up-stream by the course of the Malakisi River to a bridge where that river passes under the Kimilili-Wamono road;

thence generally north-easterly, up-stream by the course of the Malakisi River to where that river intersects the generally north-easterly boundary of South Wamono location;

thence generally north-westerly by that sub-locational boundary to a point on the main road passing north of Wamono Market;

thence generally north-westerly, up-stream by the course of a tributary of the Tisi River, to the Kenya-Uganda international boundary at the point where that tributary meets the Tisi River;

thence generally north-easterly by the Kenya-Uganda international boundary to the point of commencement.

36. *The Kakamega District*

Commencing at a point on the boundary between the Western and Rift Valley Regions at a point on the Little Nzoia River, constituting the north-west corner of L.R. No. 9504;

thence generally northerly, easterly, southerly, westerly and southerly again by that regional boundary to its junction with the boundary of the Nyanza Region at Nyangori Mission, in the close vicinity of Kiboswa Market;

thence generally westerly and north-westerly by the boundary between the Western and Nyanza Regions to a point where that boundary intersects the Busia District boundary at the most northerly point of Murumba sub-location on the Lunao River;

thence generally northerly and north-easterly by that District boundary to a point where it is intersected by the Bungoma District boundary;

thence generally north-easterly by that District boundary to the south-east corner of L.R. No. 8986 on the boundary between the Western and Rift Valley Regions;

thence generally easterly and southerly by that regional boundary to the point of commencement.

37. *The Busia District*

Commencing at a point on the Kenya-Uganda international boundary where the Tisi River crosses that boundary;

thence generally south-easterly, south-westerly and south-easterly again by the Bungoma District boundary to a point on the Sio River approximately 2½ miles down-stream from that river's confluence with the tributary known as the Kabula River;

thence down-stream by the course of the Sio River to a point approximately one mile to the north of Munami Market, where the tributary known as the Namberekea River joins the Sio River;

thence south-westerly to Munami Market;

thence generally south-westerly for a distance of approximately one mile to a point on the Namayakala River;

thence down-stream by the course of that river to its confluence with the Nang'eni River;

thence up-stream by the course of that river to its source, and thence extended along the same alignment to a point on the Bungoma-Butula (C.528/2) road, approximately 1½ miles north-east of Buhuyi;

thence south-westerly by that road to Buhuyi;

thence generally south-westerly for a distance of approximately one mile to the source of an unnamed tributary of the Lunao River;

thence down-stream by that unnamed tributary, to its confluence with the Lunao River;

thence down-stream by the course of that river for a distance of approximately 3 miles to its intersection with the boundary between the Nyanza and Western Regions at the north-west corner of Murumba sub-location;

thence generally westerly and south-westerly by that regional boundary to its intersection with the Kenya-Uganda international boundary;

thence generally north-easterly by that international boundary to the point of commencement.

38. *The Mandera District*

Commencing in the extreme north-eastern corner of Kenya at boundary pillar No. 1 of the Kenya-Somalia international boundary;

thence south-westerly and southerly by that international boundary to its intersection with a cut line at a point east of El Kura (Wells) and approximately 5 miles north of boundary pillar No. 11;

thence generally westerly and north-westerly by that cut line, running to the south of El Kura, to Dedach Murti (watering place) on the eastern extremity of the Adabli Goochi flood plains;

thence generally north-westerly by the north-eastern limits of the Adabli Goochi flood plains to the confluence of the Lagh Kutulo in the vicinity of Megad;

thence generally north-westerly by the centre line of the Lagh Kutulo to its intersection with a cut line running north-westerly from Abdurrahman's Well;

thence north-westerly by that cut line to the summit of Bur Maiyo;

thence continuing north-westerly by a cut line (known as the Gurreh line) to the intersection of a cut line at a point approximately 5 miles north-east of Hara Wale (water pan);

thence northerly by a cut line for a distance of approximately 600 yards to the intersection of a cut line running north-westerly;

thence by that cut line between the two hills Buri and Kubi Kalkalcha (Belobli) to its intersection with the Moyale-Derkali road on the southern slopes of the Kufole Hills;

thence by a cut line, due north, to the intersection of that line with the Kenya-Ethiopia international boundary at a point north of the Gamada Hills;

thence generally north-easterly and easterly by that international boundary to boundary pillar No. 1 of the Kenya-Somalia international boundary, on the south bank of the Daua River, being the point of commencement.

39. *The Wajir District*

Commencing at the road bridge over the Ewaso Ngiro (Nyiro) River immediately south-west of Habaswein on the Isiolo-Wajir road;

thence generally south-easterly and easterly by the centre line of that river, entering the Lorian Swamp and leaving by the centre line of the Lag Dera;

thence continuing south-easterly, easterly and north-easterly by the centre line of the Lag Dera and the Datka Eribka to its intersection with the Kenya-Somalia international boundary at a point approximately 3½ miles north of boundary pillar No. 19 on the north side of the Garissa-Kismayu road;

thence due north by that international boundary to its intersection with a cut line at a point east of El Kura (Wells) which cut line forms part of the generally south-western boundary of the Mandera District;

thence generally north-westerly and northerly by that District boundary to its intersection with the Kenya-Ethiopia international boundary at a point north of the Gamada Hills;

thence south-westerly and westerly by that international boundary to its intersection with the boundary between the North-Eastern and Eastern Regions;

thence generally southerly by that Regional boundary to the point of commencement.

40. *The Garissa District*

Commencing at the road bridge over the Ewaso Ngiro (Nyiro) immediately south-west of Habaswein, on the Isiolo-Wajir road;

thence generally south-easterly and easterly by the south-western and southern boundaries of the Wajir District to the intersection of the Lag Dera and the Datka Eribka with the Kenya-Somalia international boundary at a point approximately 3½ miles north of boundary pillar No. 19 on the north side of the Garissa-Kismayu road;

thence due south, south-easterly and again southerly by that international boundary to boundary pillar No. 29, being on the boundary between the North-Eastern and Eastern Regions;

thence generally westerly and northerly by that regional boundary to the point of commencement.

SCHEDULE 2

Sections 27, 29, 84 and 217.

QUALIFICATIONS AND DISQUALIFICATIONS FOR REGISTRATION AS A VOTER IN ELECTIONS

PART I

SENATE

1. Subject to the provisions of paragraph 2 of this Schedule, a person shall be qualified to be registered as a voter in elections to the Senate if, and shall not be so qualified unless, at the date of his application to be registered, 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 to be registered, named as the rateable owner or rateable occupier 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 to be registered, 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 to be registered, 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

(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 Senate—

(*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 Kenya; 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 the Central Legislature on the grounds of his having been convicted of an offence connected with elections or on the grounds of his having been reported guilty of such an offence by the court trying an election petition.

3. Any question whether a person is qualified to be registered as a voter in elections to the Senate shall be determined in such manner as may be prescribed by the Central Legislature.

4. Where any person is qualified to be registered in more than one place as a voter in elections to the Senate he shall be so registered only in the first of those places in which he applies to be so registered, and the Central Legislature may provide for the punishment of any person who, being already registered in one place as a voter in elections to the Senate or having applied to be so registered there and not having had that application finally rejected, applies to to be registered in another place as such a voter.

5. In this Schedule references to a local government authority area are references to the area of jurisdiction of any local government authority.

6. The Central Legislature 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 the Central Legislature, 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.

PART II

HOUSE OF REPRESENTATIVES

1. Subject to the provisions of paragraph 2 of this Schedule, a person shall be qualified to be registered as a voter in elections to the House of Representatives if, and shall not be so qualified unless, at the date of his application to be registered, 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 date, 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 House of Representatives—

(*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 Kenya ; 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 the Central Legislature on the grounds of his having been convicted of an offence connected with elections or on the grounds of his having been reported guilty of such an offence by the court trying an election petition.

3. Any question whether a person is qualified to be registered as a voter in elections to the House of Representatives shall be determined in such manner as may be prescribed by the Central Legislature.

4. Where any person is qualified to be registered in more than one place as a voter in elections to the House of Representatives, he shall be so registered only in the first of those places in which he applies to be so registered, and the Central Legislature may provide for the punishment of any person who, being already registered in one place as a voter in elections to the House of Representatives 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. The Central Legislature 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 the Central Legislature, 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.

PART III

REGIONAL ASSEMBLIES

1. Subject to the provisions of paragraph 2 of this Schedule, a person shall be qualified to be registered as a voter in elections to a Regional Assembly if, and shall not be so qualified unless, at the date of his application to be registered, 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 to be registered, named as the rateable owner or rateable occupier 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 to be registered, 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 to be registered, 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

(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 Kenya; 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 a law made by the Regional Assembly on the grounds of his having been convicted of an offence connected with elections or on the grounds of his having been reported guilty of such an offence by the court trying an election petition.

3. Any question whether a person is qualified to be registered as a voter in elections to a Regional Assembly shall be determined in such manner as may be prescribed by a law made by the Regional Assembly.

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 to be so registered, and a law made by the Regional Assembly 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 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 area are references to the area of jurisdiction of any local government authority.

6. A law made by the Regional Assembly 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 a law made by the Regional Assembly, 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.

PART IV

LOCAL GOVERNMENT AUTHORITIES

1. Subject to the provisions of paragraphs 2 and 3 of this Schedule, a person shall be qualified to be registered as a voter in elections to local government authorities if, and shall not be so qualified unless, at the date of his application to be registered, 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 to be registered, named as the rateable owner or rateable occupier 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 to be registered, paid to a local government authority having jurisdiction at the date of such payment oyer 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 to be registered, 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

(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 Kenya ; 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 a law made by the Regional Assembly of the Region in which the place in which he applies to be registered is situated on the grounds of his having been convicted of an offence connected with elections or on the grounds of his having been reported guilty of such an offence by the court trying an election petition.

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(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 a law made by the Regional Assembly of the Region in which the place in which he applies to be registered is situated.

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*) A law made by the Regional Assembly of a Region may provide for the determination, where any electoral area for a local government authority within that Region 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.

6. In this Schedule references to a local government authority area are references to the area of jurisdiction of any local government authority.

7. A law made by the Regional Assembly of a Region 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 law made by the Regional Assembly, the decision shall not, as regards registration under this Schedule in that Region, have effect for the purposes of paragraph 2 or, as the

(a) Revised Laws of Kenya 1962, c. 486.

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.

Section 30.

SCHEDULE 3

ELECTION OF SPECIALLY ELECTED MEMBERS OF HOUSE OF REPRESENTATIVES

1.—(1) In this Schedule—

"bye-election" means an election to fill a vacancy among the Specially Elected Members occurring otherwise than upon a dissolution of the Central Legislature;

"general election" means an election to fill a vacancy among the Specially Elected Members occurring upon a dissolution of the Central Legislature; and

"the Speaker" means the Speaker of the House of Representatives.

(2) At any time when the office of Speaker is vacant or the holder of that office is unable by reason of absence or illness to exercise the functions vested in him by this Schedule those functions may be exercised by the Deputy Speaker of the House of Representatives.

2. Subject to the provisions of this Schedule, the House of Representatives may make rules for the election of its Specially Elected Members.

3. Elections of Specially Elected Members shall be conducted by the Speaker and, subject to the provisions of this Schedule and of any rules made under paragraph 2 thereof, shall be conducted in such manner as he may direct.

4.—(1) The Speaker shall cause elections of Specially Elected Members to be held—

(*a*) in the case of a general election, as soon as practicable after the holding of a general election of the Elected Members of the House of Representatives and before that House first meets after that general election; and

(*b*) in the case of a bye-election, as soon as practicable after a vacancy has occurred among the Specially Elected Members.

(2) A meeting of the Elected Members of the House of Representatives that is held for the purpose of a general election shall be summoned by the Speaker.

(3) No other business than the holding of a general election may be transacted at any meeting of the House summoned under sub-paragraph (2) of this paragraph and such a meeting shall not be regarded as a meeting of the House for the purposes of any other provision of this Constitution:

Provided that nothing in this sub-paragraph shall be construed as precluding a law made by the Central Legislature in pursuance of section 54 (5) of this Constitution from providing for the powers, privileges and immunities of the House or the members thereof in connection with such a meeting.

5. When there is more than one vacancy among the Specially Elected Members to be filled at any time otherwise than at a general election a separate bye-election shall be held to fill each such vacancy.

6. In the case of a general election, each Elected Member shall be entitled to cast such number of votes as exceeds by one—

(*a*) where the total number of Specially Elected Members is an even number, one-half of the total number of Specially Elected Members; and

(*b*) where the total number of Specially Elected Members is an uneven number, the whole number next greater than one-half of the total number of Specially Elected Members,

but no Elected Member may cast more than one vote for any one candidate for election as a Specially Elected Member.

7. In the case of a bye-election, each Elected Member shall be entitled to cast one vote.

8. When the votes have been cast, whether at a general election or at a bye-election, a list shall be prepared showing the persons for whom votes have been cast in order according to the number of votes received by each of them, the person or persons who received the highest number of votes being placed first and those who received any lower number of votes being placed in descending order.

9. In the case of a general election, and subject to the provisions of paragraphs 11 and 13 of this Schedule, those persons shall be deemed to have been elected as Specially Elected Members who stand in the first and each succeeding place on the list until the number of persons to be elected as Specially Elected Members has been completed.

10. In the case of a bye-election, and subject to the provisions of paragraph 12 of this Schedule, the person who stands in the first place on the list shall be deemed to have been elected.

11. Where, by reason of an equality of votes between them, the number of candidates in any place on the list who would otherwise be deemed to have been elected under paragraph 9 of this Schedule exceeds the number of persons remaining to be elected as Specially Elected Members after the persons in the preceding places have been elected, none of the candidates in that place or in any succeeding place shall be deemed to have been elected and a further election shall be held to fill the vacancies still remaining among the Specially Elected Members; and the provisions of this Schedule shall apply in relation to that further election as if it were a general election where the total number of Specially Elected Members was equal to the number of vacancies still remaining to be filled.

12. Where, in a bye-election, two or more candidates equally receive the highest number of votes, no candidate shall be deemed to have been elected and a further bye-election shall be held, in accordance with the provisions of this Schedule, at which only those candidates who received the highest number of votes in the original bye-election may again stand as candidates.

13. Where the number of persons to be elected at a general election is not completed by reason of the fact that votes were cast for a smaller number of candidates than the number of persons to be so elected, a further election shall be held to fill the vacancies still remaining among the Specially Elected Members; and the provisions of this Schedule shall apply in relation to that further election as if it were a general election where the total number of Specially Elected Members was equal to the number of vacancies still remaining to be filled.

Sections 58, 63, 93 and 97.

SCHEDULE 4

MATTERS TO WHICH EXECUTIVE AUTHORITY OF REGIONS EXTENDS

PART I

MATTERS THAT ARE WITHIN EXCLUSIVE LEGISLATIVE COMPETENCE OF REGIONAL ASSEMBLIES

Item

1. The following matters in relation to agriculture, that is to say:—
   (*a*) the branding of livestock (but not the prescription of brands or the registration of brands);
   (*b*) institutions for agricultural and veterinary education at levels below diploma level;

(*c*) farm planning services;

(*d*) farmers' training centres; and

(*e*) livestock improvement and animal husbandry, except services providing staff-training in relation to artificial insemination or providing semen for artificial insemination and except the National Sahiwal Stud.

2. Archives (other than records of the Government of Kenya).

3. Auction sales.

4. Barbers and hairdressers.

5. Community development (but not the Kabete Training School).

6. Disorderly houses.

7. Primary, intermediate and secondary education (including technical and trade schools) but not the following schools or institutions, that is to say:—

(*a*) the Alliance High School at Kikuyu;

(*b*) the Holy Ghost College at Mangu;

(*c*) the African Girls' High School at Kikuyu;

(*d*) the Loreto Convent at Limuru;

(*e*) the Highlands School at Eldoret;

(*f*) the Limuru Girls' School;

(*g*) the Maseno Secondary School; and

(*h*) any school for handicapped or disabled persons that, at any time after the coming into operation of this Constitution, may, with the consent of the President of the Regional Assembly of a Region, be established in that Region by or under a law made by the Central Legislature.

8. Fire-prevention and fire-fighting.

9. Marine and Lake Victoria fishery services (but not the Fish Culture Farm at Sagana, the Trout Hatchery on the Sagana River or trout fisheries).

10. Funeral services, including burials and cremations.

11. Hotels, lodging-houses, public restaurants, eating-houses, beer halls and other similar places of public resort.

12. Housing.

13. Itinerant traders, contractors and craftsmen.

14. The licensing of traders.

15. The machinery of Regional government (including the public relations of a Region, the collection of statistics for the purposes of Regional government and the protection of the official secrets of a Region but not the borrowing of moneys outside Kenya for the purposes of Regional government).

16. Markets and fairs.

17. The following matters in relation to medical institutions and facilities, that is to say:—

(*a*) hospitals other than—

(i) the Port Reitz Chest Hospital at Mombasa;

(ii) the Leprosarium at Itesio; and

(iii) any other specialist institution that may, at any time after the coming into operation of this Constitution, be established by or under a law made by the Central Legislature;

(*b*) clinics other than—

(i) clinics forming part of any of the institutions specified in paragraphs (i) to (iii) (inclusive) of paragraph (*a*) of this item ; or

(ii) any specialist clinic that may, at any time after the coming into operation of this Constitution, be established by or under a law made by the Central Legislature ;

(*c*) health services other than port health services or health services forming part of any of the institutions specified in paragraphs (i) to (iii) (inclusive) of paragraph (*a*) of this item or of such a clinic as is specified in paragraph (*b*) of this item ;

(*d*) dispensaries other than dispensaries forming part of any of the institutions specified in paragraphs (i) to (iii) (inclusive) of paragraph (*a*) of this item or of such a clinic as is specified in paragraph (*b*) of this item ;

(*e*) ambulance services other than ambulance services forming part of any of the institutions specified in paragraphs (i) to (iii) (inclusive) of paragraph (*a*) of this item or of such a clinic as is specified in paragraph (*b*) of this item ; and

(*f*) medical research and training institutions other than institutions forming part of any of the institutions specified in paragraphs (i) to (iii) (inclusive) of paragraph (*a*) of this item or of such a clinic as is specified in paragraph (*b*) of this item and other than the National Reference Health Centre at Karuri or the establishments at Mombasa and Kisumu of the Division of Insect-Borne Diseases.

18. Common minerals.

19. Noxious and dangerous trades.

20. The suppression of nuisances.

21. Pawnbrokers, second-hand dealers and money-lenders (but not banking).

22. Places of public entertainment or recreation.

23. Pounds.

24. Prevention of cruelty to animals.

25. Public lavatories.

26. Refuse and effluent disposal.

27. Sewers and drains.

28. Wash-houses and laundries.

29. The protection and control of nomadic peoples and (without prejudice to the generality of the foregoing) the matters provided for by the Outlying Districts Ordinance(a) and the Special Districts (Administration) Ordinance(b).

30. Any other matter which, under any provision of this Constitution (other than section 93, Chapter VI, section 138 (1) or any provision of Schedule 5 thereof), may be provided for by a law made by a Regional Assembly.

(a) Revised Laws of Kenya 1962, c. 104. (b) Revised Laws of Kenya 1962, c. 105.

PART II

MATTERS THAT ARE WITHIN THE CONCURRENT LEGISLATIVE COMPETENCE OF THE CENTRAL LEGISLATURE AND REGIONAL ASSEMBLIES

Item

1. The following matters in relation to agriculture, that is to say:—
   (*a*) the manufacture and distribution of insecticides, pesticides, fertilisers and animal foodstuffs;
   (*b*) services for the improvement of the quality of, and facilities for the drying, cleaning and storage of, hides and skins;
   (*c*) facilities for the inspection, grading and storage of agricultural produce (other than livestock or meat at slaughter-houses that are established by or under a law made by the Central Legislature);
   (*d*) the marketing of agricultural produce; and
   (*e*) the preservation, fertility, development and use of land.
2. Antiquities and museums.
3. Civil aerodromes.
4. Cold storage works and meat depots.
5. The registration and management of co-operative societies and associations comprising such societies.
6. Economic development (but not light, heat, power, water or transport).
7. Land settlement.
8. Libraries.
9. Public health (other than the prevention and control of animal and plant diseases).
10. The maintaining and securing of public safety and public order (but not immigration, emigration, deportation, extradition or fugitive offenders).
11. The relief of distress and aid to the indigent.
12. Slaughter-houses.
13. The training of teachers.
14. The regulation of voluntary agencies established for charitable, social, cultural or similar purposes.

PART III

OTHER MATTERS

Item

1. Adulteration of foodstuffs.
2. Children and young persons (including youth services and the prevention of cruelty to children but not including employment or the treatment of offenders).
3. Explosives.
4. Extra-mural penal employment.
5. Private street works.
6. Probation services.
7. Registration of births, deaths and marriages.
8. Rent control.
9. Scrap metals.
10. Town and country planning.
11. Weights and measures.

Section 111.

SCHEDULE 5

SPECIAL PROVISIONS RELATING TO LEGISLATIVE POWERS AND EXECUTIVE AUTHORITY

Agriculture

1. *Advisory services to farmers*

A Regional Assembly may and the Central Legislature may not make laws with respect to the provision by the Region of advisory services to farmers and the executive authority of a Region shall extend to the implementation of such laws to the exclusion of the executive authority of the Government of Kenya:

Provided that nothing in this paragraph shall be construed as precluding the Central Legislature from making laws with respect to the provision of such services by the Government of Kenya or as affecting the exclusive executive authority of the Government of Kenya with respect to the implementation of such laws.

2. *Agricultural Commodity Boards*

(1) Where, for the purpose of restricting the production of any agricultural commodity in Kenya, provision is made by or under a law made by the Central Legislature for the determination of a national maximum in relation to that commodity (whether in terms of the amount of that commodity that is actually produced or in terms of the area of land given over to its production or in terms of the amount of that commodity for which a minimum price or a fixed price is guaranteed or in terms of the size or capacity of the plant used in processing that commodity or in any other way whatever), the function of dividing that maximum by allocating quotas to producers shall be performed by a Commodity Board established for that commodity in accordance with the provisions of this paragraph.

(2) Each Board established for the purposes of this paragraph shall be composed in such manner as may for the time being be prescribed by or under a law made by the Central Legislature:

Provided that—

(*a*) the prescribed composition of each Board shall make provision for at least one member representing each Region unless, in the case of any Region, the President of the Regional Assembly notifies the Minister for the time being responsible for the commodity concerned that his Region will not be so represented;

(*b*) the qualifications and disqualifications for appointment, the mode of appointment and the tenure of office of the member or members representing any Region shall be determined by or under a law made by the Regional Assembly of that Region so, however, that if the commodity concerned is produced within that Region the member or members representing the Region shall be persons (hereinafter called "Regional producer representatives") who, in the opinion of the President of the Regional Assembly, represent producers of that commodity;

(*c*) the prescribed composition of each Board shall make provision to ensure that if the Regional producer representatives do not constitute a majority of all the members of the Board, there shall be such further members who, in the opinion of the Minister for the time being responsible for the commodity concerned, represent the producers of that commodity, as, together with the Regional producer representatives, will constitute such a majority; and

(*d*) the procedure of each Board shall be such as may be prescribed by or under a law made by the Central Legislature and, subject thereto, as the Board itself determines; and, subject to its rules of procedure,

a Board may act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings so, however, that any decision of the Board shall require the concurrence of a majority of all the members thereof.

(3) A Board may carry out its functions under this paragraph by allocating a quota to a Region instead of to individual producers within the Region, and where the Board so proceeds the quota so allocated to the Region shall itself be divided among the individual producers in the Region in such manner as may for the time being be prescribed by or under a law made by the Regional Assembly of that Region.

(4) In this paragraph "agricultural commodity" includes dairy produce, meat and any other form of animal produce and any kind of crop.

3. *Agricultural credit*

Where provision is made by or under a law made by the Central Legislature charging any board, committee, council or other like body with responsibility for matters relating to the provision of agricultural credit, that body shall contain at least one member representing each Region who shall be appointed by the President of the Regional Assembly of that Region, the number of members who are to be so appointed to represent the Regions being the same in the case of all Regions.

4. *Agricultural and veterinary education*

(1) The Central Legislature may and a Regional Assembly may not make laws with respect to the following matters relating to agricultural and veterinary education, that is to say:—

(*a*) educational standards at any level of education;

(*b*) public examinations at any level of education;

(*c*) the Egerton Agricultural College;

(*d*) the Siriba College; and

(*e*) any other institution providing agricultural or veterinary education (including the training of teachers of agricultural or veterinary science) at a level of or above diploma level,

and the executive authority of the Government of Kenya shall extend to those matters to the exclusion of the executive authority of any Region.

(2) The governing body of any institution that is referred to in sub-paragraph (*c*), sub-paragraph (*d*) or sub-paragraph (*e*) of sub-paragraph (1) of this paragraph shall be composed in such manner as may for the time being be prescribed by or under a law made by the Central Legislature so, however, that it shall contain at least one member representing each Region who shall be appointed by the President of the Regional Assembly of that Region, the number of members who are to be so appointed to represent the Regions being the same in the case of all Regions.

(3) Until such time as it is declared by or under a law made by the Central Legislature that there exists in each Region an institution which provides (or institutions which between them provide) agricultural and veterinary education at all levels up to (but not of or above) diploma level; Part I of Schedule 4 of this Constitution shall have effect as if item 1 (*b*) thereof (which relates to institutions for agricultural and veterinary education at levels below diploma level) were omitted therefrom.

5. *Agricultural and veterinary research*

(1) A Regional Assembly may and the Central Legislature may not make laws with respect to the establishment by the Region of institutions for agricultural and veterinary research and the management of institutions so established, and the executive authority of a Region shall extend to the

implementation of such laws to the exclusion of the executive authority of the Government of Kenya:

Provided that nothing in this paragraph shall be construed as precluding the Central Legislature from making laws with respect to the establishment by the Government of Kenya of such institutions and the management of institutions so established or as affecting the exclusive executive authority of the Government of Kenya with respect to the implementation of such laws and any such institution that was established before the coming into operation of this Constitution shall be deemed to have been established by the Government of Kenya under this proviso.

(2) The Central Legislature may and a Regional Assembly may not make laws with respect to the co-ordination of agricultural and veterinary research conducted in the institutions of two or more Regions or of one or more Regions and the Government of Kenya, and the executive authority of the Government of Kenya shall extend to such co-ordination to the exclusion of the executive authority of any Region.

6. *Animal disease control*

(1) Subject to the provisions of this paragraph—

(*a*) the Central Legislature may and a Regional Assembly may not make laws with respect to the prevention and control of animal diseases, including the control of the importation into Kenya and the exportation from Kenya of livestock and meat and the control of the movement of livestock and meat within Kenya; and

(*b*) the executive authority of the Government of Kenya shall extend to the matters specified in sub-paragraph (*a*) of this sub-paragraph to the exclusion of the executive authority of any Region.

(2) A Regional Assembly may make laws with respect to measures for the prevention and control of animal diseases other than notifiable diseases, and the executive authority of a Region shall, to the exclusion of the executive authority of the Government of Kenya, extend to such measures and to measures against East Coast Fever:

Provided that this sub-paragraph shall not apply in relation to measures—

(*a*) by way of the control of the importation, exportation or movement within Kenya of livestock or meat; or

(*b*) by way of the inspection and grading of livestock or meat at slaughter-houses that are established by or under a law made by the Central Legislature; or

(*c*) for the control of the tsetse fly and for the prevention and control of trypanosomiasis.

(3) The Regional Assembly of any Region may and the Central Legislature may not make laws with respect to the control of any movement of livestock or meat that takes place wholly within the Region, and the executive authority of a Region shall extend to the control of such movement to the exclusion of the executive authority of the Government of Kenya:

Provided that this sub-paragraph shall not have effect at any time when there is in force a declaration by or under a law made by the Central Legislature that a notifiable disease is present within the Region.

(4) A law made by the Regional Assembly of any Region may prohibit or regulate or may provide for the prohibition or regulation of the entry of livestock or meat into the Region whether from some other part of Kenya or direct from a country or territory outside Kenya:

Provided that this sub-paragraph shall not apply in relation to the transit of livestock through a Region on a route that is for the time being declared by or under a law made by the Central Legislature to be a national stock route or through a port or airport that is so declared to be a national port or a national airport for the purposes of this sub-paragraph.

(5) In this paragraph "notifiable disease" means—

(*a*) East Coast Fever; and

(*b*) any other disease that is for the time being declared by or under a law made by the Central Legislature to be a disease whose presence must, because of its national importance, be notified to such officer or authority as may be specified by or under any such law.

7. *Co-operative societies*

The executive authority of the Government of Kenya shall extend to the registration and management of co-operative societies and associations comprising such societies.

8. *Hides and skins improvement*

The executive authority of the Government of Kenya shall extend to services for the improvement of the quality of, and facilities for the drying, cleaning and storage of, hides and skins.

9. *Insecticides, pesticides, fertilisers and animal foodstuffs*

The executive authority of the Government of Kenya shall extend to the manufacture and distribution of insecticides, pesticides, fertilisers and animal foodstuffs.

10. *Inspection, grading and storage of agricultural produce*

The executive authority of the Government of Kenya shall extend to facilities for the inspection, grading and storage of agricultural produce (other than hides and skins).

11. *Land preservation, etc.*

The executive authority of the Government of Kenya shall extend to the preservation, fertility, development and use of land.

12. *Land Settlement*

(1) The executive authority of the Government of Kenya shall extend to land settlement.

(2) For the purpose of ensuring consultation and co-operation between the Government of Kenya and the Regions in the planning and carrying out of land settlement schemes and in all matters relating thereto there shall be a Central Settlement Committee which shall consist of the following persons, that is to say:—

(*a*) the Minister for the time being responsible for land settlement, as Chairman;

(*b*) if any other Minister is for the time being responsible for agriculture, that Minister; and

(*c*) such person representing each Region as is for the time being designated in that behalf by the President of the Regional Assembly of that Region.

(3) The permanent secretary of the department of the Government of Kenya that is for the time being responsible for land settlement shall carry out the duties of Secretary to the Committee, and there shall also attend the Committee in an advisory capacity the following other officers, that is to say:—

(*a*) an officer in the public service of the Government of Kenya whose duties are concerned with land settlement and who is for the time being designated in that behalf by the Chairman;

(*b*) an officer in the public service of the Government of Kenya whose duties are concerned with agriculture and who is for the time being designated in that behalf by the Minister referred to in sub-paragraph (2) (*b*) of this paragraph (or, if there is no such Minister, by the Chairman); and

(*c*) an officer in the public service of each Region whose duties are concerned with agriculture and who is for the time being designated in that behalf by the President of the Regional Assembly of that Region,

but the Secretary to the Committee and the other officers shall not be regarded as members of the Committee or be entitled to vote on any question before the Committee.

(4) The Chairman may summon a meeting of the Committee whenever he considers it necessary so to do and shall summon the Committee to meet within 14 days of his receiving a request in that behalf from any member of the Committee.

(5) It shall be the particular duty of the Committee to consider land settlement schemes initiated by any Region and to assist that Region and the Government of Kenya in concerting measures for the implementation of such schemes.

(6) Before any officer in the public service of the Government of Kenya is posted to serve in any Region for the purpose of supervising the implementation of land settlement schemes, the Chairman of the Committee shall consult the member of the Committee representing that Region under sub-paragraph (2) (*c*) of this paragraph.

13. *Marketing of agricultural produce*

The executive authority of the Government of Kenya shall extend to the marketing of agricultural produce.

14. *Central Agricultural Board*

(1) There shall be a Central Agricultural Board which shall be established in such manner as may for the time being be prescribed by or under a law made by the Central Legislature so, however, that it shall contain at least one member representing each Region who shall be appointed by the President of the Regional Assembly of that Region, the number of members who are to be so appointed to represent the Regions being the same in the case of all Regions.

(2) It shall be the responsibility of the Board to advise the Government of Kenya and the Regions on questions relating to agriculture that are of concern to Kenya as a whole and the Board shall have such other functions as may be conferred on it by any law.

Education

15. *General*

(1) The Central Legislature may and a Regional Assembly may not make laws with respect to the following matters, that is to say:—

(*a*) educational standards at any level of education;

(*b*) public examinations at any level of education; and

(*c*) secondary technical schools that provide boarding facilities for pupils,

and the executive authority of the Government of Kenya shall extend to those matters to the exclusion of the executive authority of any Region.

(2) Without prejudice to the provisions of sub-paragraph (1) of this paragraph, the executive authority of the Government of Kenya shall extend to the training of teachers.

(3) This paragraph shall not apply to agricultural or veterinary education.

16. *Scholarships from Regional funds for higher education*

The Regional Assembly of any Region may make laws with respect to the grant out of any public funds of that Region or the funds of any local government authority within the Region of scholarships and bursaries for the purpose of higher education, notwithstanding that higher education is not a matter specified in Schedule 4 of this Constitution, and the executive authority of the Region shall extend to the execution of any such law.

Miscellaneous

17. *Antiquities and museums*

(1) The executive authority of the Government of Kenya shall extend to antiquities and museums.

(2) The Government of Kenya shall not remove the contents of any museum or any antiquity from the Region in which that museum is established or that antiquity is ordinarily situated without the consent of the Regional Assembly of that Region.

18. *Civil Aerodromes*

(1) The power of the Central Legislature to make laws with respect to the following matters in relation to civil aerodromes, that is to say:—

(*a*) the standards (whether in respect of safety, efficiency or otherwise) to be attained in the construction and maintenance thereof or of any buildings or installations thereon or connected therewith; and

(*b*) the standards (whether in respect of safety, efficiency or otherwise) to be attained in the provision and operation of services thereon or connected therewith,

shall be to the exclusion of the power of any Regional Assembly so to do.

(2) The executive authority of the Government of Kenya shall extend to civil aerodromes.

19. *Cold storage works, etc.*

The executive authority of the Government of Kenya shall extend to cold storage works and meat depots.

20. *Economic development*

The executive authority of the Government of Kenya shall extend to economic development.

21. *Forests*

(1) The Regional Assembly of a Region may and the Central Legislature may not make laws with respect to Regional Forests, that is to say, all forests within the Region other than forests for the time being designated under sub-paragraph (2) of this paragraph as Central Forests, and the executive authority of the Region shall extend to the establishment, management and operation of Regional Forests to the exclusion of the executive authority of the Government of Kenya.

(2) The Minister may, subject to the provisions of sub-paragraph (7) of this paragraph, designate any forest as a Central Forest.

(3) The Central Legislature may and a Regional Assembly may not make laws with respect to Central Forests and the executive authority of the Government of Kenya shall extend to the establishment, management and operation of Central Forests to the exclusion of the executive authority of any Region.

(4) Provision may be made by or under a law made by a Regional Assembly for the dedication to the Government of Kenya of any area that is or is part of a Regional Forest and, while any such dedication is in force, the dedicated area shall, except for the purposes of section 137 (1) of this Constitution (which relates to royalties on forest produce), be deemed to be a Central Forest:

Provided that no dedication shall have effect without the consent of the Minister.

(5) There shall be a National Forest Authority which shall consist of the following members, that is to say:—

(*a*) a Chairman, who shall be a person who is for the time being designated in that behalf by the Chief Justice from among persons who hold one of the specified qualifications and have held one or other of those qualifications for a total period of seven years:

Provided that so long as there is a Chairman of the Agricultural Appeals Tribunal established by section 193 of the Agriculture Ordinance(a), as that section was in force immediately before the

(a) Revised Laws of Kenya 1962, c. 318.

coming into operation of this Constitution, he shall be the Chairman of the National Forest Authority;

(*b*) one member representing each Region, who shall be a person who is for the time being designated in that behalf by the President of the Regional Assembly of that Region; and

(*c*) seven other members, being persons who are for the time being designated in that behalf by the Minister.

(6) The procedure of the National Forest Authority shall be such as may be prescribed by or under a law made by the Central Legislature and, subject thereto, as the Authority itself determines; and, subject to its rules of procedure, the Authority may act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

Provided that any decision of the Authority shall require the concurrence of a majority of all its members.

(7) Before exercising his powers under sub-paragraph (2) of this paragraph to designate a forest as a Central Forest or to revoke or amend any such designation, the Minister shall consult the National Forest Authority.

(8) Whenever the National Forest Authority considers it expedient that any particular task involved in the establishment, management or operation of a Central Forest should be carried out by officers in the public service of the Region in which that Forest (or the part of that Forest that is concerned) is situated rather than by officers in the public service of the Government of Kenya, it may give a direction to that effect and, if the Region is able and willing at its own expense to make available to carry out the task officers in its public service who are both competent and adequate in number for that purpose, the Government of Kenya shall comply with that direction.

(9) Where officers in the public service of a Region are made available to carry out a task on behalf of the Government of Kenya under sub-paragraph (8) of this paragraph, they shall be subject to the direction of the Government of Kenya in the carrying out of that task.

(10) In addition to the functions conferred on it by sub-paragraphs (7) and (8) of this paragraph, it shall be the general responsibility of the National Forest Authority to advise the Government of Kenya and the Regions on matters relating to forests.

(11) In this paragraph—

(*a*) "the Minister" means the Minister for the time being responsible for forests; and

(*b*) "the specified qualifications" means the professional qualifications specified by the Advocates Ordinance(a) (or by or under any law amending or replacing that Ordinance) one of which must be held by any person before he may apply under that Ordinance (or under any such law) to be admitted as an advocate in Kenya.

22. *Health*

(1) The Central Legislature may and a Regional Assembly may not make laws with respect to the following matters, that is to say:—

(*a*) the standards to be attained in relation to the provision and operation of services by or in connection with any hospital, clinic, health service, dispensary, ambulance service or other like institution; and

(*b*) the inspection of any such institution for the purpose of securing compliance with any such standards,

and the executive authority of the Government of Kenya shall extend to those matters to the exclusion of the executive authority of any Region.

(a) Revised Laws of Kenya 1962, c. 16.

(2) Without prejudice to the provisions of sub-paragraph (1) of this paragraph, the executive authority of the Government of Kenya shall extend to public health.

(3) This paragraph shall not apply in relation to animal or plant diseases or to institutions solely concerned therewith.

23. *Libraries*

The executive authority of the Government of Kenya shall extend to libraries.

24. *Public safety and public order*

The executive authority of the Government of Kenya shall extend to the maintaining and securing of public safety and public order.

25. *Roads, bridges and ferries*

(1) A Regional Assembly may and the Central Legislature may not make laws with respect to roads, bridges and ferries other than roads that are for the time being declared by the Minister for the time being responsible for roads to be national or international trunk roads and other than bridges and ferries on roads that are for the time being so declared and the executive authority of a Region shall extend to roads, bridges and ferries (other than roads for the time being so declared and bridges and ferries on such roads) to the exclusion of the executive authority of the Government of Kenya.

(2) There shall be a Central Road Authority which shall be established in such manner as may for the time being be prescribed by or under a law made by the Central Legislature so, however, that it shall contain at least one member representing each Region who shall be appointed by the President of the Regional Assembly of that Region, the number of members who are to be so appointed to represent the Regions being the same in the case of all Regions.

(3) Before exercising his powers under sub-paragraph (1) of this paragraph to declare that a road is a national or international trunk road or to revoke or amend any such declaration, the Minister for the time being responsible for roads shall consult the Central Road Authority.

(4) The provisions of this paragraph shall not apply in relation to private street works.

26. *Slaughter-houses*

The executive authority of the Government of Kenya shall extend to slaughter-houses.

27. *Voluntary agencies*

The executive authority of the Government of Kenya shall extend to the regulation of voluntary agencies established for charitable, social, cultural or similar purposes.

SCHEDULE 6

Section 85.

ELECTION OF SPECIALLY ELECTED MEMBERS OF A REGIONAL ASSEMBLY

1. In this Schedule—

"bye-election" means an election to fill a vacancy among the Specially Elected Members occurring otherwise than upon a dissolution of the Regional Assembly; and

"general election" means an election to fill a vacancy among the Specially Elected Members occurring upon a dissolution of the Regional Assembly.

2. Subject to the provisions of this Schedule, the Regional Assembly may make rules for the election of its Specially Elected Members.

3. Elections of Specially Elected Members shall be conducted by the President of the Regional Assembly and, subject to the provisions of this Schedule and of any rules made under paragraph 2 thereof, shall be conducted in such manner as he may direct.

4.—(1) The President of the Regional Assembly shall cause elections of Specially Elected Members to be held—

(*a*) in the case of a general election, as soon as practicable after the holding of a general election of the Elected Members of the Regional Assembly and before the Regional Assembly first meets after that general election ; and

(*b*) in the case of a bye-election, as soon as practicable after a vacancy has occurred among the Specially Elected Members.

(2) A meeting of the Elected Members of the Regional Assembly that is held for the purpose of a general election shall be summoned by the President of the Regional Assembly.

(3) No other business than the holding of a general election may be transacted at any meeting of the Regional Assembly summoned under sub-paragraph (2) of this paragraph and such a meeting shall not be regarded as a meeting of the Regional Assembly for the purposes of any other provision of this Constitution:

Provided that nothing in this sub-paragraph shall be construed as precluding a law made by the Regional Assembly in pursuance of section 103(3) of this Constitution from providing for the powers, privileges and immunities of the Regional Assembly or the members thereof in connection with such a meeting.

5. When there is more than one vacancy among the Specially Elected Members to be filled at any time otherwise than at a general election a separate bye-election shall be held to fill each such vacancy.

6. In the case of a general election, each Elected Member shall be entitled to cast such number of votes as exceeds by one—

(*a*) where the total number of Specially Elected Members is an even number, one-half of the total number of Specially Elected Members ; and

(*b*) where the total number of Specially Elected Members is an uneven number, the whole number next greater than one-half of the total number of Specially Elected Members,

but no Elected Member may cast more than one vote for any one candidate for election as a Specially Elected Member.

7. In the case of a bye-election, each Elected Member shall be entitled to cast one vote.

8. When the votes have been cast, whether at a general election or at a bye-election, a list shall be prepared showing the persons for whom votes have been cast in order according to the number of votes received by each of them, the person or persons who received the highest number of votes being placed first and those who received any lower number of votes being placed in descending order.

9. In the case of a general election, and subject to the provisions of paragraphs 11 and 13 of this Schedule, those persons shall be deemed to have been elected as Specially Elected Members who stand in the first and each succeeding place on the list until the number of persons to be elected as Specially Elected Members has been completed.

10. In the case of a bye-election, and subject to the provisions of paragraph 12 of this Schedule, the person who stands in the first place on the list shall be deemed to have been elected.

11. Where, by reason of an equality of votes between them, the number of candidates in any place on the list who would otherwise be deemed to have been elected under paragraph 9 of this Schedule exceeds the

number of persons remaining to be elected as Specially Elected Members after the persons in the preceding places have been elected, none of the candidates in that place or in any succeeding place shall be deemed to have been elected and a further election shall be held to fill the vacancies still remaining among the Specially Elected Members; and the provisions of this Schedule shall apply in relation to that further election as if it were a general election where the total number of Specially Elected Members was equal to the number of vacancies still remaining to be filled.

12. Where, in a bye-election, two or more candidates equally receive the highest number of votes, no candidate shall be deemed to have been elected and a further bye-election shall be held, in accordance with the provisions of this Schedule, at which only those candidates who received the highest number of votes in the original bye-election may again stand as candidates.

13. Where the number of persons to be elected at a general election is not completed by reason of the fact that votes were cast for a smaller number of candidates than the number of persons to be so elected, a further election shall be held to fill the vacancies still remaining among the Specially Elected Members; and the provisions of this Schedule shall apply in relation to that further election as if it were a general election where the total number of Specially Elected Members was equal to the number of vacancies still remaining to be filled.

SCHEDULE 7

Section 104.

Election of Committees of Regional Assemblies

1.—(1) In this Schedule—

"bye-election" means an election to fill a vacancy on a committee occurring otherwise than—

(*a*) under section 104(8)(*c*) of this Constitution; or

(*b*) when that committee is first constituted or is otherwise re-constituted at any time; and

"general election" means an election to fill the vacancies on a committee occurring—

(*a*) under section 104(8)(*c*) of this Constitution; or

(*b*) when that committee is first constituted or is otherwise re-constituted at any time.

(2) References in this Schedule to the total number of members of a committee of a Regional Assembly shall be construed as if the President of the Regional Assembly were not a member of the committee.

2. Subject to the provisions of this Schedule, a Regional Assembly may make rules for the election of members of committees thereof.

3. Elections to committees of a Regional Assembly shall be conducted by the President of the Regional Assembly and, subject to the provisions of this Schedule and of any rules made under paragraph 2 thereof, shall be conducted in such manner as he may direct.

4. The President of a Regional Assembly shall cause elections to committees to be held—

(*a*) in the case of a general election, as soon as practicable during or after the first meeting of the Regional Assembly following a general election of its Specially Elected Members or, as the case may be, as soon as practicable after the Regional Assembly has resolved to constitute or re-constitute a committee; and

(*b*) in the case of a bye-election, as soon as practicable after a vacancy has occurred on any committee.

5. A general election shall be held separately for each committee of a Regional Assembly that is to be constituted or re-constituted at any time, and when there is more than one vacancy on a committee to be filled at any time otherwise than at a general election a separate bye-election shall be held to fill each such vacancy.

6. In the case of a general election to a committee, each member of a Regional Assembly shall be entitled to cast such number of votes as exceeds by one—

(*a*) where the total number of members of the committee is an even number, one-half of the total number of members of the committee; and

(*b*) where the total number of members of the committee is an uneven number, the whole number next greater than one-half of the total number of members of the committee,

but no member may cast more than one vote for any one candidate for election to a committee.

7. In the case of a bye-election to a committee, each member of a Regional Assembly shall be entitled to cast one vote.

8. When the votes have been cast, whether at a general election or at a bye-election, a list shall be prepared showing the persons for whom votes have been cast in order according to the number of votes received by each of them, the person or persons who received the highest number of votes being placed first and those who received any lower number of votes being placed in descending order.

9. In the case of a general election to a committee, and subject to the provisions of paragraphs 11 and 13 of this Schedule, those persons shall be deemed to have been elected to the committee who stand in the first and each succeeding place on the list until the number of persons to be elected to the committee has been completed.

10. In the case of a bye-election to a committee, and subject to the provisions of paragraph 12 of this Schedule, the person who stands in the first place on the list shall be deemed to have been elected.

11. Where, by reason of an equality of votes between them, the number of candidates in any place on the list who would otherwise be deemed to have been elected under paragraph 9 of this Schedule exceeds the number of persons remaining to be elected as members of the committee after the persons in the preceding places have been elected, none of the candidates in that place or in any succeeding place shall be deemed to have been elected and a further election shall be held to fill the vacancies still remaining on the committee; and the provisions of this Schedule shall apply in relation to that further election as if it were a general election to a committee whose total number of members was equal to the number of vacancies still remaining to be filled.

12. Where, in a bye-election, two or more candidates equally receive the highest number of votes, no candidate shall be deemed to have been elected and a further bye-election shall be held, in accordance with the provisions of this Schedule, at which only those candidates who received the highest number of votes in the original bye-election may again stand as candidates.

13. Where the number of persons to be elected at a general election is not completed by reason of the fact that votes were cast for a smaller number of candidates than the number of persons to be so elected, a further election shall be held to fill the vacancies still remaining in the committee; and the provisions of this Schedule shall apply in relation to that further election as if it were a general election to a committee whose total number of members was equal to the number of vacancies still remaining to be filled.

EXPLANATORY NOTE

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

This Order makes fresh constitutional provision for Kenya, conferring internal self-government. Under the Constitution established by the Order there will be a Central Legislature consisting of Her Majesty and a National Assembly. The National Assembly will comprise a Senate and a House of Representatives. The Constitution divides Kenya into seven Regions and the Nairobi Area and establishes a Regional Assembly for each Region. The Constitution defines the respective legislative powers of the Central Legislature and of the Regional Assemblies and the respective executive authority of the Government of Kenya and of the Regions. Responsibility for defence, external affairs and internal security is reserved to the Governor. The Constitution regulates the financial relationship between the Government of Kenya and the Regions and also contains provisions dealing with the Police, the Judicature, the respective public services of the Government of Kenya and the Regions, Land (including the establishment of a Central Land Board) and Local Government.