STATUTORY INSTRUMENTS

1963 No. 1048

JUDICIAL COMMITTEE

The Kenya (Procedure in Appeals to Privy Council) (Amendment No. 2) Order in Council 1963

Made - - - -	30*th May* 1963
Laid before Parliament	30*th May* 1963
Coming into Operation	1*st June* 1963

At the Court at Buckingham Palace, the 30th day of May 1963

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in the exercise of the powers in that behalf by section 1 of the Judicial Committee Act 1844(a), by the Foreign Jurisdiction Act 1890(b) or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, construction and commencement.

1.—(1) This Order may be cited as the Kenya (Procedure in Appeals to Privy Council) (Amendment No. 2) Order in Council 1963 and shall be construed as one with the Kenya (Procedure in Appeals to Privy Council) Order in Council 1962(c) (hereinafter referred to as "the principal Order").

(2) Section 1(2) of the Kenya (Procedure in Appeals to Privy Council) (Amendment) Order 1963(d) is revoked.

(3) The principal Order, the Kenya (Procedure in Appeals to Privy Council) (Amendment) Order 1963 and this Order may be cited together as the Kenya (Procedure in Appeals to Privy Council) Orders in Council 1962 to 1963.

(4) This Order shall come into operation on the day appointed under section 1(2) of the Kenya Order in Council 1963(e) for the coming into operation of that Order (hereinafter referred to as "the appointed day"):

Provided that if the appointed day is earlier than 31st May 1963 this Order shall come into operation on 31st May 1963.

Replacement of section 2(1) of principal Order.

2. Section 2(1) of the principal Order is revoked and the following subsection is substituted therefor:—

"(1) In this Order, unless the context otherwise requires—

"appeal" means an appeal to Her Majesty in Council from a judgment;

(a) 7 & 8 Vict. c. 69.
(b) 53 & 54 Vict. c. 37.
(c) S.I. 1962/2600 (1962 III, p. 3491).
(d) S.I. 1963/612 (1963 I, p. 736).
(e) S.I. 1963/791 (1963 I, p. 953).

" the Constitution " means the Constitution of Kenya set out in Schedule 2 of the Kenya Order in Council 1963 ;

" Court " in relation to any judgment means the court that gave that judgment ;

" the Court of Appeal for Kenya ", " the Supreme Court " and " the Court of Appeal for Eastern Africa " have the same respective meanings as in the Constitution ;

" judgment " means a decision given by the Court of Appeal for Kenya, the Supreme Court, the Court of Appeal for Eastern Africa or any other court on which jurisdiction is conferred under section 166 of the Constitution, being a decision from which, under section 170 or section 171 of the Constitution, an appeal lies direct to Her Majesty in Council either as of right or by leave of the court that gave the decision ;

" record " means the aggregate of papers relating to an appeal (including pleadings, proceedings, evidence and judgments) proper to be laid before Her Majesty in Council on the hearing of an appeal ;

" Registrar " means the Registrar of the Court or other proper officer having custody of the records of the Court.".

Transitional provisions.

3.—(1) In respect of any decision given before the appointed day by the Supreme Court established by the Kenya (Constitution) Order in Council 1958(a) (hereinafter referred to as " the former Supreme Court ") or the Court of Appeal for Eastern Africa, an appeal may be commenced, continued and concluded or continued and concluded, as the case may be, in accordance with the provisions of the principal Order (as amended by this Order) and, in the case of a decision given by the former Supreme Court, may be so commenced, continued and concluded or continued and concluded as nearly as may be as if it were a decision given by the Supreme Court established by the Constitution of Kenya set out in Schedule 2 of the Kenya Order in Council 1963 (hereinafter referred to as " the new Supreme Court ").

(2) The provisions of section 20 of the principal Order (as amended by this Order) shall apply for the enforcement of any Order that Her Majesty in Council may see fit to make on any such appeal and for the enforcement of any Order on an appeal from the former Supreme Court or the Court of Appeal for Eastern Africa made by Her Majesty before the appointed day but not enforced before that day and, in relation to an Order made by Her Majesty on an appeal from the former Supreme Court, shall so apply as if it were an Order made on an appeal from the new Supreme Court.

W. G. Agnew.

EXPLANATORY NOTE

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

This Order makes certain amendments to the Kenya (Procedure in Appeals to Privy Council) Order in Council 1962 that are consequential upon the introduction of the new Constitution for Kenya that is established by the Kenya Order in Council 1963.

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