EXPLANATORY NOTE

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

This Order amends the provisions of the Togoland under United Kingdom Trusteeship (Plebiscite) Order in Council, 1955, under which the Plebiscite Administrator may declare invalid the result of the voting in any District and may direct that a further opportunity of voting should be given to the voters registered in that District, so as to permit the Administrator to declare invalid the results of the voting in particular Wards of a District.

NIGERIA

1956 No. 836

The Nigeria (Constitution) (Amendment) Order in Council, 1956

Made - - - -	1*st June*, 1956
Laid before Parliament	6*th June*, 1956
Coming into Operation	7*th June*, 1956

At the Court at Buckingham Palace, the 1st day of June, 1956

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by section 10 of the Foreign Jurisdiction Act, 1890(**a**), 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, commencement and interpretation

1.—(1) This Order may be cited as the Nigeria (Constitution) (Amendment) Order in Council, 1956, and shall be construed as one with the Nigeria (Constitution) Orders in Council, 1954 and 1955(**b**).

(2) The Nigeria (Constitution) Orders in Council, 1954 and 1955, and this Order may be cited together as the Nigeria (Constitution) Orders in Council, 1954 to 1956.

(3) This Order shall come into operation on the seventh day of June, 1956 :

Provided that the provisions of sections 3, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 of this Order shall be deemed to have taken effect on the first day of October, 1954.

(4) In this Order " the principal Order " means the Nigeria (Constitution) Order in Council, 1954(**c**), as amended by the Nigeria (Constitution) (Amendment) Order in Council, 1955(**d**).

(**a**) 53 & 54 Vict. c. 37. (**b**) S.I. 1954/1146, 1955/432 (1954 II, p. 2829; 1955 II, p. 3163).
(**c**) S.I. 1954/1146 (1954 II, p. 2829). (**d**) S.I. 1955/432 (1955 II, p 3163).

Amendment of Nigeria (Constitution) Order in Council, 1954

2. Section 29 of the principal Order shall be amended by the insertion after paragraph (*a*) of subsection (1) thereof of the following paragraph—

"(*aa*) those members of the Executive Council of the Western Region who are members of the House of Chiefs;".

3. Section 67 of the principal Order shall be amended by the deletion from subsection (2) thereof of the words "the message to which the Bill or motion relates" and the substitution therefor of the words "the Bill or motion to which the message relates".

4. Section 75 of the principal Order shall be amended—

(*a*) by the deletion from sub-paragraph (ii) of the proviso to paragraph (*a*) thereof of the word "and"; and

(*b*) by the insertion after the words "section 24 of this Order" in that sub-paragraph of the words "and the members of the Western House of Assembly mentioned in paragraph (*aa*) of subsection (1) of section 29 of this Order".

5. Section 141 of the principal Order shall be amended by the deletion of the words "such salary and allowances as may be prescribed by any law enacted by the Federal Legislature" and the substitution therefor of the words "such salary as may be prescribed by any law enacted by the Federal Legislature and such allowances as may be prescribed by or under any such law".

6. Section 142 of the principal Order shall be amended—

(*a*) by the insertion after paragraph (*c*) of subsection (2) thereof of the following paragraph—

"(*cc*) (i) if the office of Chief Justice of the High Court of a Region is vacant, or if the Chief Justice is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the Chief Justice has resumed those functions, as the case may be, those functions shall be performed by such one of the other judges of the High Court as the Governor, acting in his discretion, may appoint for that purpose;

(ii) if the office of a judge of the High Court of a Region, other than the Chief Justice, 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, the Governor, acting in his discretion, may appoint a fit and proper person to act as a judge of the High Court;

(iii) the provisions of paragraph (*c*) of this subsection shall not apply to a person appointed to act as a judge of the High Court of a Region under sub-paragraph (ii) of this paragraph but any person so appointed shall be a person with such qualifications, if any, as may be prescribed by any law enacted by the Legislature of the Region";

(*b*) by the deletion from paragraph (*f*) of subsection (2) thereof of the words "such salary and allowances as may be prescribed by any law enacted by the Legislature of the Region" and the substitution therefor of the words "such salary as may be prescribed by any law enacted by the Legislature of the Region and such allowances as may be prescribed by or under any such law".

7. Section 173 of the principal Order shall be amended—

(*a*) by the deletion of the words "any officer having authority over a department of government of the Federation" in paragraph (*a*) of subsection (2) thereof and the substitution therefor of the words "any other officer in the public service of the Federation"; and

(*b*) by the insertion after subsection (3) thereof of the following subsection—

"(4) (*a*) If it is provided by or under any law or Order to which this subsection applies that any officer in the public service of the Federation shall have power to exercise disciplinary control over other officers in that public service, such power shall be deemed to have been delegated to that officer by the Governor-General in accordance with the provisions of subsection (2) of this section and accordingly the power shall be exercisable by that officer, subject to the provisions of subsection (3) of this section, unless and until it is revoked by the Governor-General.

(*b*) Any provision of any law or Order to which this subsection applies and any instrument made under such law or Order shall, to the extent that it confers power upon any officer in the public service of the Federation to exercise disciplinary control over other officers in that public service, cease to have effect, unless it shall have been sooner repealed or revoked, upon the revocation of the power by the Governor-General.

(*c*) This subsection applies to any law that by virtue of the provisions of subsections (2) and (3) of section 57 of this Order, has effect as if it were a law enacted by the Federal Legislature and to any Order made under subsection (5) of that section in respect of any such law."

8. Section 178 of the principal Order shall be amended by the deletion of the words "any officer having authority over a department of government of the Region" in paragraph (*a*) of subsection (2) thereof and the substitution therefor of the words "any officer in the public service of the Region".

9. Section 191 of the principal Order shall be amended—

(*a*) by the insertion, after the words "section 185 of this Order," in paragraph (*a*) of subsection (1) thereof of the words "or otherwise"; and

(*b*) by the deletion of the words "or having been so transferred" in paragraph (*b*) of subsection (1) thereof and the substitution therefor of the words "or otherwise, or having been transferred".

10. Section 192 of the principal Order shall be amended by the deletion of paragraph (*c*) of subsection (1) thereof.

11. Section 193 of the principal Order shall be amended by the insertion after the words "as may be prescribed therein or," in paragraph (*b*) of subsection (1) thereof of the words "at his option".

12. Section 194 of the principal Order shall be amended—

(*a*) by the insertion after the words "as may be prescribed therein or," in paragraph (*a*) of subsection (1) thereof of the words "at his option";

(*b*) by the insertion after the words "as may be prescribed therein or," in paragraph (*b*) of subsection (1) thereof of the words "at his option";

(*c*) by the deletion of the words "and has been permitted to retire under regulations made in pursuance of paragraph (*a*) or paragraph (*b*) of this section" from paragraph (*c*) of subsection (1) thereof;

(*d*) by the insertion after the words "an additional allowance or," in paragraph (*c*) of subsection (1) thereof of the words "at his option"; and

(*e*) by the insertion after subsection (3) thereof of the following subsection—

"(4) In paragraphs (*a*) and (*b*) of subsection (1) of this section "an existing African officer" means an existing African officer whether serving in the public service of the Federation or the public service of a Region".

13. Section 195 of the principal Order shall be revoked and the following section shall be substituted therefor—

"Future overseas officers.

195.—(1) A future overseas officer may, after giving notice in writing to the Governor-General or the Governor, as the case may be, retire from the public service of the Federation or the public service of a Region if he has completed ten years' qualifying service of which the three years immediately before his retirement were served—

(*a*) in the public service of the Federation; or

(*b*) in the public service of one or more Regions; or

(*c*) partly in the public service of the Federation and partly in the public service of one or more Regions.

(2) An officer retiring in accordance with this section may be granted the pension, gratuity or other retiring benefits for which he may be eligible under the pensions law applicable to him:

Provided that he shall, if need be, be deemed to have attained the age at which, apart from the provisions of this section, he could be granted a pension under that law on his retirement from the public service.

(3) The notice to be given under subsection (1) of this section shall be six months' notice or such shorter period as the Governor-General or the Governor, as the case may be, may allow.

(4) In this section "qualifying service" means service which may be taken into account under the pensions law applicable to an officer in determining whether he is eligible for a pension or gratuity.

(5) Nothing in this section shall prevent an officer from retiring without having served the three years immediately before his retirement as mentioned in subsection (1) of this section if he is entitled under the pensions law applicable to him to retire at any earlier date."

14. Section 196 of the principal Order shall be amended by the deletion of the words " which shall be exercisable on or before the date of his retirement ".

15. Section 197 of the principal Order shall be amended by the insertion after subsection (3) of the following subsection—

" (4) An option exercisable by an officer in accordance with regulations made under this Part—

(*a*) shall be exercisable on or before the date of the officer's retirement:

Provided that the Governor-General or the Governor, as the case may be, may, if he thinks fit, and subject or not to conditions, extend the period for the exercise of the option;

(*b*) shall be irrevocable after the date of the officer's retirement;

(*c*) shall be exercised by notice in writing to the Governor-General or the Governor, as the case may be; and

(*d*) shall be deemed to have been exercised on the date on which such notice is received."

16. The First Schedule to the principal Order shall be amended—

(*a*) by the deletion of Item 16 in Part I thereof and the substitution therefor of the following item—

" 16. Deportation from Nigeria; compulsory removal of persons from a Region to another Region or the Southern Cameroons or Lagos or from the Southern Cameroons to a Region or Lagos or from Lagos to a Region or the Southern Cameroons "; and

(*b*) by the deletion of Item 16 in Part II thereof and the substitution therefor of the following item—

" 16. Control of the voluntary movement of persons between Regions or between a Region and the Southern Cameroons or Lagos or between the Southern Cameroons and Lagos."

17. The Fourth Schedule to the principal Order shall be amended by the insertion after the words " fifty-five years " in the proviso to paragraph 2 thereof of the words " (or in the case of a judge of the High Court sixty-two years) ".

W. G. Agnew.

EXPLANATORY NOTE

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

This Order makes certain amendments to the provisions of the Nigeria (Constitution) Order in Council, 1954, relating to the composition of the Western House of Assembly, the introduction of bills by message of the Governors of the Western and Eastern Regions of Nigeria, voting in the Western House of Assembly, the judiciary, the public service and the Legislative Lists.