1964 No. 493

AFRICA

The Nyasaland (Constitution) (Amendment) Order 1964

Made - - - -	*26th March* 1964
Laid before Parliament	*3rd April* 1964
Coming into Operation	*4th April* 1964

At the Court at Buckingham Palace, the 26th day of March 1964

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by 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 and commencement.

1.—(1) This Order may be cited as the Nyasaland (Constitution) (Amendment) Order 1964 and this Order, the Nyasaland (Constitution) Order in Council 1963(b) (hereinafter referred to as "the principal Order") and the Nyasaland (Constitution) (No. 2) Order in Council 1963(c) may be cited together as the Nyasaland (Constitution) Orders in Council 1963 and 1964.

(2) This Order shall be construed as one with the principal Order.

(3) This Order shall come into operation on 4th April 1964.

Revocation.

2. The Nyasaland (Electoral Provisions) Order in Council 1964(d) is revoked.

Amendment of section 1 of Order of 1963.

3. Section 1(3) of the principal Order is amended by the deletion of the words "the day upon which the Legislative Assembly first sits following the dissolution of the Assembly after the appointed day" and the substitution of the words "4th April 1964".

Revocation of sections 15 and 16 of Order of 1963.

4. Sections 15 and 16 of the principal Order are revoked.

Amendment of section 24 of Constitution.

5. Section 24 of the Constitution is amended by the deletion of the words "Legislative Assembly" and the substitution of the words "National Assembly".

Amendment of section 25 of Constitution

6. Section 25 of the Constitution is amended by the deletion of subsection (1) and the substitution of the following subsection—

"(1) The National Assembly shall consist of fifty-three members elected to the Assembly in accordance with the provisions of this Part of this Constitution.".

(a) 53 & 54 Vict. c. 37. (b) S.I. 1963/883 (1963 II, p. 1435).
(c) S.I. 1963/2092 (1963 III, p. 4608). (d) S.I. 1964/269 (1964 I, p. 470).

7. Section 27(2) of the Constitution is amended by the insertion, immediately after the words "first sits", of the words "after the National Assembly is first established or". Amendment of section 27 of Constitution.

8. Section 29 of the Constitution is revoked and the following section is substituted. Substitution of section 29 of Constitution.

"Qualifications for membership of National Assembly.

29.—(1) Subject to the provisions of subsection (2) of this section and section 30 of this Constitution, a person shall be qualified to be elected as a member of the National Assembly if, and shall not be so qualified unless, he—

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

(*b*) has attained the age of twenty-one years; and

(*c*) 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 Assembly.

(2) A person shall not be qualified to be elected in a constituency returning members elected by voters registered on the general roll unless he is an African or an Asian and is registered as a voter in some constituency on that roll, and a person shall not be qualified to be elected in a constituency returning members elected by voters registered on the special roll unless he is registered as a voter in some constituency on that roll.

(3) In this section—

"African" means any member of the original tribes or races of Nyasaland, Tanganyika, Northern Rhodesia or Portuguese East Africa, including any person having the blood of any such tribe or race;

"Asian" means a person of Asian descent and includes a person who is partly of Asian and partly of European descent.".

9. Section 30 of the Constitution is revoked and the following section is substituted— Substitution of section 30 of Constitution.

"Disqualifications for election to National Assembly.

30.—(1) No person shall be qualified to be elected as a member of the National Assembly who—

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

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

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

(*d*) is disqualified for election as a member of the Assembly under any law in force relating to offences connected with elections;

(*e*) is under sentence of death imposed on him by any court in Nyasaland or is under a sentence of imprisonment (by whatever name called) imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court; or

(*f*) is detained under a detention order or is subject to a control order or a restriction order.

(2) No person shall be qualified to be elected as a member of the National Assembly who holds, or is acting in, any office the functions of which involve any responsibility for, or in connection with, the conduct of any elections to the Assembly or the compilation or revision of any register of voters for the purposes of such elections.

(3) No person shall be qualified to be elected as a member of the National Assembly if he holds, or is acting in, any public office or he belongs to the armed forces of the Crown.

(4) For the purposes of this section a person shall not be regarded as belonging to the armed forces of the Crown by reason only that he is in receipt of reduced pay or half pay in respect of service in such forces.".

Revocation of sections 31 and 32 of Constitution.

10. Sections 31 and 32 of the Constitution are revoked.

Substitution of section 33 of Constitution.

11. Section 33 of the Constitution is revoked and the following section is substituted—

"Method of election of members of National Assembly.

33.—(1) For the purposes of the election of members of the National Assembly there shall be two classes of voters, that is to say, voters qualified and registered on the general roll and voters qualified and registered on the special roll.

(2) Nyasaland shall—

(*a*) be divided into fifty constituencies returning members elected by voters registered on the general roll; and

(*b*) be divided into three constituencies returning members elected by voters registered on the special roll,

in such manner as may be prescribed by regulations made under section 34 of this Constitution.

(3) Each of the constituencies into which Nyasaland is divided by this section shall return one member to the National Assembly.

(4) Every person who is registered in any constituency as a voter in elections of members to the National Assembly shall, unless he is disqualified by provision made under section 34 of this Constitution 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 or on the grounds of his being in lawful custody at the date of the election, be entitled so to vote in that constituency in accordance with the provisions made in that behalf under that section; and no other person may so vote.".

12. Section 34 of the Constitution is revoked and the following section is substituted— Substitution of section 34 of Constitution.

"Electoral law.

34. Subject to the provisions of this Constitution the Governor, acting in his discretion, may by regulation make provision for the election of members to the National Assembly including (without prejudice to the generality of the foregoing power) the following matters, that is to say—

(*a*) the qualifications for registration as a voter on the general roll;

(*b*) the qualifications for registration as a voter on the special roll;

(*c*) the registration of voters;

(*d*) the manner in which Nyasaland shall be divided into the constituencies established by section 33 of this Constitution;

(*e*) the holding of elections;

(*f*) the definition and trial of offences relating to elections and the imposition of penalties therefor, including disqualification for registration as a voter or for voting at elections of any person concerned in any such offence.".

13. Section 35 of the Constitution is amended— Amendment of section 35 of Constitution.

(*a*) by the deletion of paragraph (*b*) of subsection (2);

(*b*) by the deletion from paragraph (*d*) of subsection (2) of the figures "30(4)" and the substitution of the figures "30(3)".

14. Section 53(3) of the Constitution is amended by the deletion from paragraph (*a*) of the proviso of the words "but are qualified to be elected as such". Amendment of section 53 of Constitution.

15. Section 54(2) of the Constitution is amended by the deletion of paragraph (*b*). Amendment of section 54 of Constitution.

16. Section 96(3) of the Constitution is amended by the insertion at the end of the words "or a chief or sub-chief". Amendment of section 96 of Constitution.

17. The Schedule to the Constitution is revoked. Revocation of Schedule to Constitution.

18. References in the principal Order (including the Constitution) to the Legislative Assembly shall be construed as references to the National Assembly. Construction of references to Legislative Assembly.

19.—(1) Any person who holds the office of a Minister immediately before the commencement of this Order and who was appointed as such from among the members of the Legislative Assembly shall not cease to hold office as a Minister upon the commencement of this Order by reason only that the Legislative Assembly has ceased to exist, but, unless his office sooner becomes vacant under section 54(1)(*b*) or 54(3) of the Constitution, he shall vacate that office if he is not a member of the National Assembly at the first sitting of the National Assembly after the commencement of this Order. Transitional.

(2) Any regulations made or having effect as if made under the Nyasaland (Electoral Provisions) Order in Council 1964 and in force immediately before the commencement of this Order shall, so far as they relate to a matter for which provision may be made under section 34 of the Constitution (as set out in section 12 of this Order) and are consistent with this Order, continue in force after the commencement of this Order as if they had been made in pursuance of the said section 34 and may be amended or revoked accordingly.

W. G. Agnew.

EXPLANATORY NOTE

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

The purpose of this Order is to amend the Nyasaland (Constitution) Order in Council 1963 to establish a National Assembly in place of the existing Legislative Assembly and to provide for elections to the new Assembly.