1963 No. 175

RHODESIA AND NYASALAND FEDERATION

The Nyasaland (Constitution) (Amendment) Order in Council 1963

Made - - - -	28*th January* 1963
Laid before Parliament	31*st January* 1963
Coming into Operation	1*st February* 1963

At the Court at Buckingham Palace, the 28th day of January 1963

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 in Council 1963 and shall be construed as one with the Nyasaland (Constitution) Order in Council 1961(b) (which Order is hereinafter referred to as " the principal Order ").

(2) The principal Order and this Order may be cited together as the Nyasaland (Constitution) Orders in Council 1961 and 1963.

(3) This Order shall come into operation on 1st February 1963.

Amendment of section 2 of Order of 1961.

2. Section 2 of the principal Order is amended by the insertion, immediately after subsection (4), of the following subsection:—

" (4A) Where any power is conferred by this Order to make any proclamation, order or regulation or to give any direction, that power shall be construed as including a power, exercisable in like manner, to amend or revoke any such proclamation, order, regulation or direction.".

Insertion of section 3A in Order of 1961.

3. The principal Order is amended by the insertion, immediately after section 3, of the following section—

" Establishment of office of Deputy Governor.

3A.—(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 shall hold office during Her Majesty's pleasure.

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

(a) 53 & 54 Vict. c. 37.

(b) S.I. 1961/1189 (1961 II, p. 2218).

Replacement of section 4 of Order of 1961.

4. Section 4 of the principal Order is revoked and the following section is substituted—

"Succession to Government.

4.—(1) Whenever the office of Governor is vacant or the Governor is absent from Nyasaland or is for any other cause prevented from or incapable of discharging 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 Nyasaland or is for any reason unable to discharge the functions of his office, 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, discharge the functions of the office of Governor and administer the government of Nyasaland accordingly.

(2) Before assuming the administration of the government of Nyasaland, the Deputy Governor or any such person as aforesaid shall make the oaths or affirmations of allegiance and for the due execution of the office of Governor in the forms set out in the Second Schedule to this Order.

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

(4) The Governor, or, if the Deputy Governor has entered upon the discharge of the functions of the Governor under subsection (1) of this section, the Deputy Governor may, if he has occasion to be absent from Nyasaland for a period which in his opinion will be of short duration, direct by notice published in the Gazette that, notwithstanding his absence from Nyasaland, he will continue to administer the government of Nyasaland.

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

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

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

(*c*) when the Deputy Governor has entered upon the discharge of the functions of the office of Governor under subsection (1) of this section he shall not be regarded as absent from Nyasaland so long as any direction given by the Deputy Governor 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.".

Replacement of section 5 of Order of 1961.

5. Section 5 of the principal Order is revoked and the following section is substituted:—

"Discharge of Governor's functions by Deputy Governor.

5.—(1) The Governor may, by writing under his hand, authorize the Deputy Governor to exercise for and on behalf of the Governor, subject to such exceptions and conditions as the Governor may from time to time 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 of the Deputy Governor under subsection (1) of this section otherwise than as Her Majesty may from time to time think proper to direct and the Deputy Governor shall conform to and observe such instructions relating to the discharge by him of any of the functions of the office of Governor as the Governor may from time to time address to him for his guidance.

(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 sub-section (1) of this section the reference to any functions of the office of Governor does not include a reference to—

(*a*) the functions conferred upon the Governor by this section;

(*b*) any functions conferred upon the Governor by any Act of Parliament or by any Order of Her Majesty in Council or other instruments made under any Act of Parliament other than this Order, the Emergency Powers Order in Council 1939(a) or any Order amending or replacing those Orders.".

Insertion of section 5A in Order of 1961.

6. The principal Order is amended by the insertion, immediately after section 5, of the following section—

"Personal staff and expenditure of Governor.

5A.—(1) The personal staff of the Governor shall consist of the office of legal adviser to the Governor and such other offices as the Governor, acting after consultation with the Prime Minister, may, by order published in the Gazette prescribe.

(2) The Governor, acting after consultation with the Prime Minister, may, by order published in the Gazette prescribe the sums payable in respect of the expenditure attaching to the office of the Governor (including the sums payable in respect of the salaries and allowances of the members of the Governor's personal staff) and any sum so prescribed shall be a charge on the revenues of Nyasaland.".

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

7. Part III of the principal Order is revoked and the following Part is substituted— Replacement of Part III of Order of 1961.

"PART III

THE EXECUTIVE

Cabinet. **6.**—(1) There shall be a Cabinet of Ministers for Nyasaland which shall consist of a Prime Minister and not more than nine other Ministers.

(2) Subject to the provisions of this Order, the Cabinet shall be charged with the general direction and control of the Government of Nyasaland, and shall be collectively responsible therefor to the Legislative Assembly.

Appointment of Ministers. **7.**—(1) The Governor, in his discretion, shall appoint as Prime Minister the elected member of the Legislative Assembly who appears to him to be best able to command the support of the majority of the members of the Assembly.

(2) The Ministers other than the Prime Minister shall be appointed by the Governor, acting in accordance with the advice of the Prime Minister, from among the elected members of the Legislative Assembly:

Provided that—

(*a*) the Financial Secretary, whose office shall be a public office, shall be a Minister;

(*b*) until the date appointed under subsection (4) of this section not more than two, and thereafter not more than three, of the Ministers, other than the Prime Minister, may be persons who are not elected members of the Assembly but who are qualified for election as such in accordance with sections 27 (1), 27 (2) and 28 of this Order.

(3) References in this section to persons who are elected members of the Legislative Assembly shall include during any period that the Assembly is dissolved references to persons who immediately before that dissolution were members of the Assembly.

(4) Paragraph (*a*) of the proviso to subsection (2) of this section shall cease to have effect on such date as may be appointed by the Governor, acting after consultation with the Prime Minister.

Tenure of office of Ministers. **8.**—(1) The Governor may, in his discretion, remove the Prime Minister from office—

(*a*) if a vote of no confidence in the Government of Nyasaland is passed by the Legislative Assembly; or

(*b*) if at any time between the holding of a general election and the first sitting of the Assembly thereafter the Governor considers that in consequence of changes in the membership of the Assembly resulting from that election, the Prime Minister will not be able to command the support of a majority of the members of the Assembly:

Provided that the Governor shall not remove the Prime Minister from office when a vote of no confidence has been passed by the Assembly unless three days have elapsed and the Governor has decided not to dissolve the Assembly under section 51 of this Order.

(2) The office of the Prime Minister or any other Minister shall become vacant—

(*a*) in the case of a Minister who is an elected member of the Legislative Assembly—

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

(ii) if, at the first sitting of the Assembly after any dissolution of the Assembly, he is not a member of the Assembly;

(*b*) in the case of a Minister who is not an elected member of the Assembly, if circumstances arise (other than a dissolution of the Assembly) that, if he were such a member, would cause him to vacate his seat in the Assembly; or

(*c*) if he resigns his office by writing under his hand addressed to the Governor.

(3) 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;

(*b*) if the Prime Minister resigns from office within three days after the passage by the Legislative Assembly of a resolution of no confidence in the Government or is removed from office under subsection (1) of this section;

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

(4) Nothing in subsection (2) or (3) of this section shall apply in relation to the office of Minister held by the Financial Secretary.

Performance of functions of Prime Minister during absence or illness.

9.—(1) Whenever the Prime Minister is absent from Nyasaland or is by reason of illness unable to perform the functions conferred on him by this Order, the Governor may authorize some other Minister to perform those functions (other than the functions conferred by this section) and that Minister may perform those functions until his authority is revoked by the Governor.

(2) The powers of the Governor under subsection (1) of this section shall be exercised by him in accordance with the advice of the Prime Minister:

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

Exercise of Governor's functions.

10.—(1) In the exercise of his functions under this Order or any other law, the Governor shall, subject to the provisions of this section, 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 Order 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 upon him by any other law that is expressed to be exercisable by him in his discretion or that he is otherwise authorized by such law to exercise without obtaining the advice of the Cabinet; or

(*c*) any function under any law relating to a matter that is not within the executive authority of Nyasaland.

(3) Where the Governor has obtained the advice of the Cabinet or a Minister for the purpose of subsection (1) of this section, he may act otherwise than in accordance with that advice if in his judgment it is necessary or expedient so to act, but if he so acts he shall at the first convenient opportunity report the matter to a Secretary of State with the reasons for his action.

(4) Where the Governor is required by this Order to act in accordance with the advice of or after consultation with any person or authority the question whether he has in any matter so acted shall not be called in question in any court of law.

Governor to be kept informed of Cabinet affairs.

11.—(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.

Governor's special responsibilities.

12. The Governor, in his discretion, shall be responsible for the conduct (subject to the provisions of this Order and any other law) of any business of the Government of Nyasaland, including the administration of any department of Government, with respect to the following matters—

(*a*) public order and public safety;

(*b*) the use and operational control of the Nyasaland Police Force:

Provided that the Governor, in his discretion, may, by directions in writing, assign to the Prime Minister or to any Minister designated by the Prime Minister such responsibility with respect to the conduct (subject as aforesaid) of such business as he may think fit, upon such conditions as he may think fit.

Assignment of responsibilities to Ministers.

13.—(1) 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 the conduct (subject to the provisions of this Order and any other law) of any business of the Government of Nyasaland, including responsibility for the administration of any department of Government:

Provided that the Financial Secretary shall, so long as he is a Minister, be responsible for submitting questions to the Cabinet relating to financial matters, conducting Government business in the Legislative Assembly relating to financial matters and for the administration of the departments of Government dealing with those matters.

(2) In this section "financial matters" means the financial and economic policy of the Government, the appropriation of public money, taxation and the administration of public funds.

Proceedings in Cabinet.

14.—(1) There shall preside at all meetings of the Cabinet the Prime Minister or such other Minister as the Prime Minister may appoint in that behalf.

(2) No business shall be transacted at any meeting of the Cabinet if there are less than four Ministers present at the meeting and any Minister present has objected to the transaction of business on that account.

Parliamentary Secretaries.

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

Provided that, if occasion arises for making appointments while the Assembly is dissolved, a person who was a member of the Assembly 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 Legislative Assembly of a resolution of no confidence in the Government of Nyasaland or is removed from office under subsection (1) of section 8 of this Order;

(*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 the Assembly otherwise than by reason of a dissolution of the Assembly; or

(*e*) if, at the first sitting of the Assembly after a general election, the holder of the office is not a member of the Assembly.

Oaths to be taken by Ministers, etc.

16. A Minister or a Parliamentary Secretary shall not enter upon the duties of his office unless he has made the oaths or affirmations of allegiance and for the due execution of his office in the forms set out in the Second Schedule to this Order.

Permanent Secretaries.

17. 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, the department shall be under the supervision of a Permanent Secretary, whose office shall be a public office.

Director of Public Prosecutions.

18.—(1) There shall be a Director of Public Prosecutions, whose office shall be a public office.

(2) The Director of Public Prosecutions 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.

(3) The powers of the Director of Public Prosecutions under subsection (2) 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.

(4) The powers conferred on the Director of Public Prosecutions by paragraphs (*b*) and (*c*) of subsection (2) 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.

(5) 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 having jurisdiction in Nyasaland or to 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 Director of Public Prosecutions by paragraph (*c*) of subsection (2) 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.

(6) In the exercise of the powers conferred on him by this section, the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority:

Provided that where the exercise of any such power in any case may, in the judgment of the Director, involve general considerations of public policy the Director shall, before deciding whether to exercise that power, bring the case to the notice of the Attorney-General and shall have regard to any views expressed by the Attorney-General relating to those considerations.".

Replacement of section 20 of Order of 1961.

8. Section 20 of the principal Order is revoked and the following section is substituted:—

"Legislative Assembly.

20. There shall be a Legislative Assembly for Nyasaland which shall consist of a Speaker, twenty-eight elected members and, so long as he is a Minister, the Financial Secretary.".

Replacement of section 22 of Order of 1961.

9. Section 22 of the principal Order is revoked and the following section is substituted—

"Deputy Speaker.

22.—(1) When the Legislative Assembly first meets after the first day of February 1963 and thereafter whenever the Assembly first meets after any general election the Assembly shall elect a member of the Assembly, who is not a Minister or a Parliamentary Secretary, to be Deputy Speaker of the Assembly and if the office of Deputy Speaker becomes vacant at any time before the next dissolution of the Assembly, the Assembly shall, as soon as is practicable, elect a person to that office.

(2) A person shall vacate the office of Deputy Speaker of the Legislative Assembly—

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

(*b*) when the Assembly first meets after any general election;

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

(*d*) if he is removed from office by resolution of the Assembly supported by the votes of two-thirds of all the members of the Assembly.".

Revocation of sections 23 and 24 of Order of 1961.

10. Sections 23 and 24 of the principal Order are revoked.

Replacement of section 26 of Order of 1961.

11. Section 26 of the principal Order is revoked and the following section is substituted—

"Right of attendance of Ministers.

26. A Minister who is not a member of the Legislative Assembly may attend and take part in the proceedings of the Assembly and any of its committees, but he shall not be entitled to vote in the Assembly or any such committee.".

Amendment of section 27 of Order of 1961.

12. Section 27 (2) (*c*) of the principal Order is revoked and the following is substituted—

"(*c*) he has been a member of the Legislative Assembly or of the Legislative Council of Nyasaland."

Amendment of section 28 of Order of 1961.

13. Section 28 (1) of the principal Order is amended by the deletion of the words "or appointed".

Amendment of section 29 of Order of 1961.

14. Section 29 of the principal Order is amended—

(*a*) by the deletion of section 29 (1), 29 (2) and 29 (3) (*c*);

(*b*) by the deletion from subsection (3) of the words "or a nominated member", where they occur in the first line;

(*c*) by the deletion of section 29 (3) (*b*) and the substitution of the following—

"(*b*) if he resigns his seat by writing under his hand addressed to the Speaker;" and

(*d*) by the deletion from section 29 (3) (*d*) of the words "being an elected member."

Amendment of section 30 of Order of 1961.

15. Section 30 (1) of the principal Order is amended by the deletion of the words "an official member, an elected member or a nominated member" and the substitution of the words "an elected member".

Revocation of section 31 of Order of 1961.

16. Section 31 of the principal Order is revoked.

Amendment of section 32 of Order of 1961.

17. Section 32 of the principal Order is amended by the deletion of subsection (2).

Replacement of section 39 of Order of 1961.

18. Section 39 of the principal Order is revoked and the following section is substituted:—

"Presiding in Legislative Assembly.

39. There shall preside at any sitting of the Legislative Assembly—

(*a*) the Speaker;

(*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 Assembly (not being a Minister or a Parliamentary Secretary) as the Assembly may elect for that sitting."

Insertion of section 46A in Order of 1961.

19. The principal Order is amended by the insertion, immediately after section 46, of the following section—

"Introduction of bills by message of Governor.

46A.—(1) The Governor, in his discretion, may—

(*a*) send by message to the Speaker of the Legislative Assembly the draft of any bill or motion that it appears to the Governor should be introduced or moved in the Assembly;

(*b*) in the same or a later message require that the bill or motion be introduced not later than a date specified in such message.

(2) If a request of the Governor under paragraph (*b*) of subsection (1) of this section is not complied with, the bill or motion shall be deemed for all purposes to have been introduced or moved in the Legislative Assembly on the date specified in the message."

Replacement of section 51 of Order of 1961.

20. Section 51 of the principal Order is revoked and the following section is substituted—

"Prorogation and dissolution of Legislative Assembly.

51.—(1) The Governor may at any time prorogue the Legislative Assembly.

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

Provided that—

(*a*) if the Prime Minister recommends a dissolution and the Governor considers that the Government of Nyasaland can be carried on without a dissolution and that a dissolution would not be in the interests of Nyasaland, the Governor, in his discretion, may refuse to dissolve the Assembly;

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

(*c*) if the office of Prime Minister is vacant and the Governor 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 Assembly, the Governor, in his discretion, may dissolve the Assembly.

(3) The Legislative Assembly, unless sooner disolved, shall continue for five years from the date of its first sitting after any dissolution and shall then stand dissolved.".

Amendment of section 63 of Order of 1961.

21. Section 63 of the principal Order is amended by the deletion from subsection (1) (*b*) of the words "so constituted" and the substitution of the words "constituted under this section or by or under section 5A of this Order".

22. The principal Order is amended by the insertion, immediately after section 65, of the following sections :— Insertion of sections 65A and 65B in Order of 1961.

"Appointment, etc., of Director of Public Prosecutions.

65A.—(1) Power to appoint persons to hold or to act in the office of Director of Public Prosecutions shall vest in the Governor, acting after consultation with the Prime Minister and the Public Service Commission.

(2) A person shall not be qualified for appointment to hold or to act in the office of Director of Public Prosecutions unless he is qualified to be appointed as a judge of the High Court.

(3) There shall be charged on the revenues of Nyasaland and paid thereout to the Director of Public Prosecutions such salary and such allowances as may be prescribed by any law for the time being in force in Nyasaland.

(4) The salary of the Director of Public Prosecutions and his conditions of service shall not be altered to his disadvantage during his continuance in office.

(5) Until the first day of February 1964 a person may be appointed to hold the office of Director of Public Prosecutions for a fixed period and any person may be appointed for such a period notwithstanding that he has attained the age of fifty-five years.

"Tenure of office of Director of Public Prosecutions.

65B—(1) Subject to the provisions of this section, the Director of Public Prosecutions shall vacate his office when he attains the age of fifty-five years, or, in the case of a person appointed for a fixed period, at the expiration of that period.

(2) The Director of Public Prosecutions 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 shall not be so removed except in accordance with the provisions of this section.

(3) The Director of Public Prosecutions 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 (4) 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.

(4) If the Prime Minister or the Public Service Commission represents to the Governor that the question of removing the Director of Public Prosecutions ought to be investigated, then—

(*a*) the Governor, in his discretion, shall appoint a tribunal which shall consist of a chairman and not less than two other members, being persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil or criminal matters in some part of Her Majesty's dominions or a court having jurisdiction in appeals from such a court; and

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

(5) If the question of removing the Director of Public Prosecutions has been referred to a tribunal under this section, the Governor, in his discretion, may suspend the Director of Public Prosecutions from performing the functions of his office and any such suspension may at any time be revoked by the Governor, in his discretion, and shall in any case cease to have effect if the tribunal recommends to the Governor that the person should not be removed.".

Insertion of section 86A in Order of 1961.

23. The principal Order is amended by the insertion, immediately after section 86, of the following section:—

"Withdrawal from public funds.

86A. No money shall be withdrawn from the public funds of Nyasaland except upon the authority of a warrant under the hand of the Governor."

Substitution of "Legislative Assembly" for "Legislative Council" and "Cabinet" for "Executive Council".

24. The principal Order is amended—

(*a*) by the deletion of the expressions "Legislative Council" and "the Council" wherever they occur in Parts I, IV (except section 27 (2) (*c*)), V (except section 37 (2)), VI and VII, and the substitution of the expressions "Legislative Assembly" and "the Assembly" respectively;

(*b*) by the deletion of the words "Executive Council" wherever they occur in section 34 and the substitution of the word "Cabinet".

Transitional provisions relating to Legislative Assembly.

25.—(1) The persons who, immediately before the coming into operation of this Order, hold the offices of Speaker or elected member of the Legislative Council established by the principal Order shall continue in office as if they had been appointed or elected, as the case may be, as Speaker or elected member of the Legislative Assembly established by the principal Order as amended by this Order.

(2) The Standing Orders of the Legislative Council, as in force immediately before the coming into operation of this Order, shall, except as may be provided under section 37 (1) of the principal Order, continue to be the Standing Orders of the Legislative Assembly and shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Order.

Adaptation of existing laws.

26.—(1) The Governor may, by order published in the Gazette, at any time within twelve months after the coming into operation of this Order, provide that any existing law shall be read and construed with such adaptations and modifications as appear to the Governor 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 any existing law shall have effect accordingly from such date as may be specified in the order, not being a date earlier than the coming into operation of this Order.

(2) In this section " existing law " means a law in force immediately before the coming into operation of this Order that was enacted by the legislature of Nyasaland and includes any instrument in force as aforesaid and made in exercise of a power conferred by a law of the legislature of Nyasaland.

(3) An order made under this section may be revoked or amended by a further order so made, or, in relation to any law or instrument affected thereby, by the authority having power to repeal, revoke or amend that law or instrument.

W. G. Agnew.

EXPLANATORY NOTE

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

This Order amends the Nyasaland (Constitution) Order in Council 1961 in order to establish for Nyasaland a Cabinet consisting of a Prime Minister and Ministers in place of the Executive Council, and to establish a Legislative Assembly consisting of a Speaker, elected members and an ex officio member in place of the Legislative Council. Provision is also made for a Deputy Governor and a Director of Public Prosecutions.