1959 No. 1983

The Somaliland (Constitution) (No. 2) Order in Council, 1959

Made - - - -	*20th November*, 1959
Laid before Parliament	*20th November*, 1959
Coming into Operation	*21st November*, 1959

At the Court at Buckingham Palace, the 20th day of November, 1959

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 Somaliland (Constitution) (No. 2) Order in Council, 1959, and shall be construed as one with the Somaliland (Constitution) Order in Council, 1955(b) (hereinafter called "the principal Order").

(2) The Somaliland (Constitution) Order in Council, 1955, the Somaliland (Constitution) Order in Council, 1959(c), and this Order may be cited together as the Somaliland (Constitution) Orders in Council, 1955 to 1959.

(3) This Order shall be published in the Gazette and shall come into operation on the twenty-first day of November, 1959:

Provided that section 2 shall come into operation immediately after the next dissolution of the Legislative Council after that date.

Amendment of Order of 1955

2.—(1) Section 1 of the principal Order is amended—

(*a*) by the deletion from subsection (4) of paragraph (*a*) and the substitution of the following paragraph:—

"(*a*) is a Local Authority, a member of a Local Authority, an Akil, a Sultan, a Gerad or a member or employee of a Local Government Council;"; and

(*b*) by the insertion after subsection (4) of the following subsection:—

"(4A) For the avoidance of doubt, it is hereby declared that any person whose office or whose seat in the Legislative Council or the Executive Council has become vacant may, if qualified, again be appointed or elected to that office or that Council, as the case may be, from time to time.".

(a) 53 & 54 Vict. c. 37. (b) S.I. 1955/242 (1955 II, p. 2467).
(c) S.I. 1959/104 (Pt. I, p. 991, of this vol.).

(2) Part III of the principal Order is revoked and the following Part is substituted:—

"PART III

The Legislative Council

Legislative Council.

16.—(1) There shall be a Legislative Council for the Protectorate.

(2) The members of the Legislative Council shall be—

(*a*) a Speaker appointed in accordance with Section 17 of this Order;

(*b*) three Ex-officio Members, that is to say, the Chief Secretary of the Protectorate, the Attorney-General of the Protectorate and the Financial Secretary of the Protectorate; and

(*c*) thirty-three Elected Members elected in accordance with any law for the time being in force in the Protectorate.

Speaker and Deputy Speaker.

17.—(1) The Governor shall, by Instrument under the Public Seal, appoint to be Speaker of the Legislative Council a person who is not one of the members of the Council mentioned in paragraph (*b*) or paragraph (*c*) of subsection (2) of section 16 of this Order and who does not hold public office.

(2) The Governor shall forthwith report to Her Majesty through a Secretary of State every appointment made under subsection (1) of this section.

(3) When the Legislative Council first sits after any dissolution, the Council shall as soon as is practicable elect to be Deputy Speaker of the Council one of the members of the Council mentioned in paragraph (*c*) of subsection (2) of section 16 of this Order who is not a member of the Executive Council.

(4) As often as the office of Deputy Speaker falls vacant otherwise than when the Legislative Council first sits after any dissolution, the Council shall as soon as is practicable elect a person to that office in like manner as is provided in subsection (3) of this section.

(5) The Speaker of the Legislative Council shall hold his office during Her Majesty's pleasure:

Provided that he shall in any case vacate his office—

(*a*) at such time as may be provided by the Instrument by which he is appointed; or

(*b*) if he resigns his office by writing under his hand addressed to the Governor; or

(*c*) if he is appointed to a public office.

(6) The office of Deputy Speaker of the Legislative Council shall become vacant—

(*a*) when the Council first sits after any dissolution; or

(*b*) if he resigns his office by writing under his hand addressed to the Council; or

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

(*d*) if he becomes a member of the Executive Council.

(7) In any election of a Deputy Speaker under this section the votes of the members of the Legislative Council shall be given in such manner as not to disclose how any particular member votes.

(8) If the office of Speaker of the Legislative Council is vacant or the Speaker is absent from the Protectorate or is from any other cause prevented from or incapable of discharging the functions of his office, the Governor may, by Instrument under the Public Seal, appoint a person qualified for appointment as Speaker to act as Speaker, and any person so appointed shall continue to act until his appointment is revoked in like manner by the Governor.

(9) The Governor may grant the Speaker leave of absence from his duties.

(10) There shall be paid to the Speaker or any person acting as Speaker such salary and allowances as may be prescribed by the Governor, by Order under his hand.

(11) The salaries and allowances payable under subsection (10) of this section shall be a charge on the revenues of the Protectorate, and shall be paid by the Accountant-General of the Protectorate upon receipt of warrants in that behalf under the hand of the Governor.

Qualifications for Elected Membership.

18. Subject to the provisions of section 19 of this Order, any person who—

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

(*b*) is of the age of twenty-eight years or upwards; and

(*c*) has resided in the Protectorate for a period of at least two years immediately before the date of his nomination for election or is domiciled in the Protectorate and is resident there at that date; and

(*d*) possesses such other qualifications as may be prescribed by any law for the time being in force in the Protectorate,

shall be qualified to be elected as an Elected Member of the Legislative Council and no other person shall be so qualified.

Disqualifications for Elected Membership.

19.—(1) No person shall be qualified to be elected as an Elected Member of the Legislative Council who—

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

(*b*) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of Her Majesty's dominions; or

(*c*) is a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government of the Protectorate for or on account of the public service and has not, within one month before the date of election, published in the Gazette a notice setting out the nature of such contract and his interest therein; or

(*d*) is under a sentence of death imposed upon him by a court in any part of Her Majesty's dominions or a sentence of imprisonment (by whatever name called) substituted for such a sentence of death, or has, within the five years immediately preceding the date of his nomination for election, completed the serving of any such sentence of imprisonment and has not received a free pardon;

(*e*) is under a sentence of imprisonment (by whatever name called) imposed upon him by a court in any part of Her Majesty's dominions for an offence involving dishonesty or substituted for some other sentence imposed upon him by such a court for such an offence, or has, within the five years immediately preceding the date of his nomination for election, completed the serving of any such sentence and has not received a free pardon; or

(*f*) is under a sentence of imprisonment (by whatever name called) exceeding twelve months imposed upon him by a court in any part of Her Majesty's dominions for an offence not involving dishonesty or substituted for some other sentence imposed upon him by such a court for such an offence; or

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

(*h*) holds or is acting in any office of emolument under the Crown; or

(*i*) is otherwise disqualified under any law for the time being in force in the Protectorate:

Provided that if the Governor is satisfied that it is just to do so, he may, by Order under his hand, exempt any person from disqualification under the provisions of paragraph (*d*), paragraph (*e*) or paragraph (*f*) of this subsection.

(2) For the purposes of paragraphs (*d*), (*e*) and (*f*) of subsection (1) of this section—

(*a*) where a person is serving two or more sentences of imprisonment that are required to be served consecutively he shall, throughout the whole time during which he so serves, be regarded as serving a sentence exceeding twelve months if (but not unless) any one of those sentences exceed that term;

(*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;

(*c*) a person shall be regarded as being under a sentence notwithstanding that the execution of the sentence has been suspended.

Tenure of office of Elected Members.

20.—(1) The seat in the Legislative Council of an Elected Member shall become vacant—

(*a*) upon the dissolution of the Council; or

(*b*) if he resigns his seat in the Council by writing under his hand addressed to the Speaker; or

(*c*) if he is absent from two consecutive meetings of the Council and the Speaker does not, before the end of the second of those meetings, excuse his absence by writing under his hand; or

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

(*e*) if he ceases to possess any qualification prescribed for the purposes of paragraph (*d*) of section 18 of this Order; or

(*f*) if he becomes a party to any contract with the Government of the Protectorate for or on account of the public service, or if any firm in which he is a partner or any company of which he is a director or manager becomes a party to any such contract, or if he becomes a partner in a firm or a director or manager of a company which is a party to any such contract:

Provided that, if it appears to them just to do so, the Legislative Council may exempt any member from vacating his seat under the provisions of this paragraph if that member, before becoming a party to any such contract as aforesaid or before, or as soon as practicable after, becoming otherwise interested in any such contract (whether as partner in a firm or director or manager of a company), discloses to the Legislative Council the nature of such contract and his interest therein; or

(*g*) if any circumstances arise that, if he were not a member of the Council, would cause him to be disqualified for election as such under paragraph (*a*), (*b*), (*g*), (*h*) or (*i*) of subsection (1) of section 19 of this Order.

(2) (*a*) Subject to the provisions of this subsection, if any circumstances arise that, but for the proviso to subsection (1) of section 19 of this Order, would cause any Elected Member of the Legislative Council, if he were not such a member, to be disqualified for election as such under paragraph (*d*), (*e*) or (*f*) of that subsection, that member shall thereupon be suspended from the exercise of his functions as such for a period of thirty days thereafter:

Provided that the Speaker may, at the request of the member, from time to time extend the suspension for further periods of thirty days to enable the member to pursue any appeal against conviction or sentence, so, however, that extensions of time exceeding in the aggregate three hundred and thirty days shall not be given without the approval, signified by resolution, of the Council.

(*b*) The seat in the Legislative Council of an Elected Member who has been suspended from the exercise of his functions as such under paragraph (*a*) of this subsection shall become vacant at the expiration of the period of his suspension:

Provided that—

(i) if any circumstances arise (other than by reason of his having completed the serving of any such sentence of imprisonment as is referred to in paragraph (*f*) of subsection (1) of section 19 of this Order) in which, if he were not an Elected Member, he would no longer be disqualified for election as such under paragraph (*d*), (*e*) or (*f*) of that subsection; or

(ii) if the Governor, being satisfied that it is just so to do, by Order under his hand so directs,

the seat of that member shall not become vacant under this subsection and he may thereupon resume the exercise of his functions as a member of the Council.

Determination of questions as to membership of Legislative Council.

21.—(1) Any question whether—

(*a*) any person has become a member (other than an Elected Member) of the Legislative Council; or

(*b*) the seat in the Council of any member (other than an Elected Member) has become vacant,

shall be referred to, and determined by, the Governor.

(2) Any question whether—

(*a*) any person has become an Elected Member of the Legislative Council; or

(*b*) any Elected Member of the Council has, under subsection (2) of section 20 of this Order, been suspended from the exercise of his functions; or

(*c*) the seat in the Council of an Elected Member has become vacant,

shall be determined by the High Court of the Protectorate in accordance with the provisions of any law for the time being in force in the Protectorate and, subject to the provisions of any such law, in accordance with any directions given by the Chief Justice of the Protectorate.

Laws as to elections, etc.

22. Provision may be made by or in pursuance of any law enacted under this Order for the Governor to declare certain areas of the Protectorate to be electoral districts for the purpose of returning Elected Members to the Legislative Council, and for the election of Elected Members of the Legislative Council to represent such districts, including (without prejudice to the generality of the foregoing power) the following matters, that is to say:—

(*a*) the qualifications and disqualifications of electors;

(*b*) the registration of electors;

(*c*) the qualifications and disqualifications of candidates for election for the purposes of sections 18 and 19 of this Order;

(*d*) the ascertainment of the qualifications of candidates for election and of electors;

(*e*) the division of electoral districts for any purpose connected with elections;

(*f*) the nomination of candidates for election;

(*g*) the holding of elections; and

(*h*) the definition and trial of offences relating to elections and the imposition of penalties therefor."

Transitional provisions

3. Any law enacted under section 27A of the principal Order (or having effect as if it had been made under that section) and in force immediately before the commencement of this Order shall apply in relation to the Legislative Council established by Part III of the principal Order, as set out in section 2 of this Order, and for that purpose may be amended at any time after the commencement of this Order as if that Part were in operation; and at any time after the commencement of this Order all such measures may be taken, in accordance with the provisions of any such law, as may be necessary or expedient to allow elections to the Legislative Council to take place as soon as may be after that Part comes in operation, including (without prejudice to the generality of the foregoing) the issue of writs for the purposes of such elections.

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 Somaliland (Constitution) Order in Council, 1955, as amended, relating to the Legislative Council of the Somaliland Protectorate.