1960 No. 1060

The Somaliland Order in Council, 1960

Made - - - -	*23rd June*, 1960
Laid before Parliament	*24th June*, 1960
Coming into Operation	*Immediately before 26th June*, 1960

At the Court at Buckingham Palace, the 23rd day of June, 1960.

Present,

The Queen's Most Excellent Majesty in Council

Whereas it is intended that the territories known as the Somaliland Protectorate (hereinafter referred to as "Somaliland") shall become an independent country on the 26th day of June, 1960 (hereinafter referred to as "the appointed day"):

And Whereas Her Majesty has, by Proclamation, declared that, as from the beginning of the appointed day, Her protection over Somaliland shall cease and all functions, powers, rights, authority or jurisdiction exercisable by Her immediately before that day in or in relation to Somaliland shall lapse:

And Whereas it is accordingly expedient to make new provision for the Government of Somaliland:

Now, therefore, 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 and commencement

1.—(1) This Order may be cited as the Somaliland Order in Council, 1960.

(2) This Order shall come into operation immediately before the appointed day.

Constitution to have force of law

2. The Constitution set out in the Annex to this Order shall have the force of law in Somaliland.

Revocation

3.—(1) The Somaliland Orders in Council, 1929 to 1955(b), the Somaliland (Constitution) Order in Council, 1960(c), and the Somaliland (Constitution) (Amendment) Order in Council, 1960(d), are revoked.

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

(b) S.R. & O. 1930/222, 223, 1932/489, 1935/438, 1938/1649, 1946/2239 (Rev. VIII, p. 403: 1930, pp. 515, 533; 1932, p. 518; 1935, p. 480; 1938 I, p. 1315; 1946 I, p. 598); S.I. 1950/1645, 1953/1203, 1955/243 (1950 II, p. 866; 1953 II, p. 1953; 1955 II, p. 2464).

(c) S.I. 1960/205.

(d) S.I. 1960/848.

(2) (*a*) The Somaliland Protectorate Order in Council, 1909(a) (which relates to appeals from the High Court of Somaliland to the Judicial Committee of Her Majesty's Privy Council) is revoked.

(*b*) The Eastern African Court of Appeal shall cease to be a Court of Appeal for the Courts of Somaliland and accordingly the Eastern African Court of Appeal Order in Council, 1950(b), as amended(c), is hereby amended by the deletion of any reference therein to Somaliland, and the Appeals to the Court of Appeal Ordinance, 1950(d), and the Appeals to the Court of Appeal (Amendment) Ordinance, 1957(e), of Somaliland are revoked.

(*c*) Any appeal—

(i) to the Judicial Committee of Her Majesty's Privy Council or to the Eastern African Court of Appeal from a judgment of the High Court of Somaliland, or

(ii) to the said Judicial Committee from a judgment of the Eastern African Court of Appeal given in any appeal from a judgment of the High Court of Somaliland,

that is pending or part heard on the coming into operation of this Order shall abate.

(*d*) In the preceding paragraph "judgment" includes decree, order, conviction, sentence and decision.

(3) Save as provided in paragraph (*c*) of the last foregoing subsection, nothing in the foregoing provisions of this section shall prejudice anything done under or by virtue of any of the instruments and laws revoked or amended thereby and in particular the continued operation of any law made thereunder.

W. G. Agnew.

(a) S.R. & O. 1909/201 (Rev. XI, p. 438: 1909, p. 346).
(b) S.I. 1950/1968 (1950 I, p. 551).
(c) S.I. 1953/1202, 1955/1217, 1958/1255 (1953 I, p. 591; 1955 I, p. 708; 1958 I, p. 1003).
(d) Laws of Somaliland, 1950/24.
(e) Laws of Somaliland, 1957/17.

ANNEX

CONSTITUTION OF SOMALILAND

PART I

INTRODUCTORY

Citation and commencement

1. This Constitution may be cited as the Constitution of Somaliland and shall come into operation immediately before the 26th day of June, 1960.

Territory of Somaliland

2.—(1) The territory of Somaliland shall be all that territory which, on the commencement of this Constitution, is comprised in Her Britannic Majesty's Protectorate of Somaliland.

(2) The Council of Ministers hereinafter established for Somaliland may, by order published in the Gazette, define any boundaries of the territory of Somaliland and divide the territory into provinces, districts or sub-districts and may group districts and their sub-districts into provinces, as may be convenient for the purposes of administration, describing the boundaries thereof, and assigning names thereto.

(3) If any question arises whether any place is or is not within Somaliland, or within any province, district or sub-district, and such question does not appear to be determined by any such order or by other evidence, the question shall be referred to the Council of Ministers and a certificate given under the authority of the Council of Ministers shall be conclusive on the question and judicial notice shall be taken thereof.

PART II

THE EXECUTIVE

Council of Ministers

3.—(1) There shall be a Council of Ministers for Somaliland which shall consist of a Prime Minister and three other Ministers.

(2) The Council of Ministers shall be collectively responsible to the Legislative Assembly for the performance of their functions.

Executive authority of Somaliland vested in Council of Ministers

4.—(1) The executive authority of Somaliland shall be vested in the Council of Ministers and may be exercised either by the whole Council or by any Minister duly authorised in that behalf by the Council or, subject to any directions of the Council or such Minister, by subordinate officers acting on behalf of the Council or such Minister.

(2) Without prejudice to the generality of the preceding subsection, the authority thereby vested in the Council of Ministers extends to the conduct of the external relations of Somaliland.

(3) Nothing in the foregoing provisions of this section shall prevent the Legislature of Somaliland from conferring functions on persons or authorities other than the Council of Ministers.

(4) In this Constitution, unless it is otherwise provided or required by the context, references to the functions of the Council of Ministers shall be construed as references to the powers and duties of the Council in exercise of the executive authority of Somaliland and to any other powers and duties conferred or imposed upon the Council by this Constitution or any other law.

(5) (*a*) Where the execution of any document by a Minister is expressed to be on behalf of the Council any question whether that

Minister was duly authorised by the Council to execute the document shall not be enquired into in any court.

(*b*) The references in this subsection to the execution of a document shall be construed as including references to the making of, or the signification of approval or assent to, any legislative instrument and to the conclusion of any treaty or written agreement.

First Council of Ministers

5. On the commencement of this Constitution those members of the Legislative Assembly who immediately before that commencement were the Unofficial Members of the Executive Council of Somaliland shall become the first members of the Council of Ministers, and, of those members, the person who was the leader of Government business in the Legislative Council of Somaliland immediately before that commencement shall become the first Prime Minister.

Filling of vacancies among Ministers

6.—(1) If the office of Prime Minister falls vacant the Legislative Assembly shall, as soon as practicable, elect a person from among its members to be Prime Minister.

(2) If the office of a Minister other than the Prime Minister falls vacant the Prime Minister shall appoint a person from among the members of the Legislative Assembly to fill the vacancy.

Tenure of office of Ministers

7.—(1) The Prime Minister shall vacate his office—

(*a*) if he ceases to be a member of the Legislative Assembly for any reason other than a dissolution of the Assembly;

(*b*) if he resigns his office by writing under his hand addressed to the Speaker of the Legislative Assembly; or

(*c*) if a motion that the Legislative Assembly should declare a lack of confidence in the Council of Ministers receives in the Assembly the affirmative votes of a majority of all the members of the Assembly.

(2) A Minister other than the Prime Minister shall vacate his office—

(*a*) if he ceases to be a Member of the Legislative Assembly for any reason other than a dissolution of the Assembly;

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

(*c*) if the Prime Minister by writing under his hand directs that he shall cease to hold office.

(3) A Minister (including the Prime Minister) shall vacate his office if he is not a member of the Assembly when the Assembly first meets after any dissolution.

Oath of members of Council of Ministers

8. Before entering on the duties of his office the Prime Minister shall take and subscribe before a Judge of the High Court and every other Minister shall take and subscribe before the Speaker of the Legislative Assembly the oath prescribed in Part I of the First Schedule to this Constitution.

Performance of the functions of the Prime Minister in certain events

9.—(1) Whenever the office of Prime Minister is vacant or the Prime Minister is ill or is absent from Somaliland, the Council of Ministers may appoint one of the other Ministers to perform any of the functions conferred on the Prime Minister by this Constitution; and any Minister so appointed may, during the subsistence of his appointment, perform such of these functions as may be specified in the instrument of appointment.

(2) The Council of Ministers or the Prime Minister may revoke or vary any appointment made under this section, and, in the case of a vacancy in the office of Prime Minister or the absence of the Prime Minister from Somaliland, any such appointment shall in any case cease to have effect when the vacancy is filled or the Prime Minister returns to Somaliland, as the case may be.

Summoning and procedure in Council of Ministers

10.—(1) The Council of Ministers shall not be summoned except by the authority of the Prime Minister:

Provided that if the office of Prime Minister is vacant or the Prime Minister is ill or is absent from Somaliland and there is no other Minister specially authorised to summon the Council, the Council may be summoned by any other Minister.

(2) (*a*) The Prime Minister shall, so far as practicable, attend and preside at all meetings of the Council of Ministers.

(*b*) If the Prime Minister is absent from any meeting of the Council such one of the other Ministers as the Prime Minister may appoint shall preside; and if no Minister is so appointed such Minister as the Council may decide shall preside.

(*c*) The reference in the preceding paragraph to circumstances in which the Prime Minister is absent from a meeting of the Council includes a reference to circumstances in which the office of Prime Minister is vacant.

(3) Subject to the next following subsection, the Council of Ministers shall not be disqualified for the transaction of business by reason of any vacancy in the membership thereof and the validity of any business transacted in the Council shall not be affected by reason only of the fact that some person, who was not entitled to do so, took part in those proceedings.

(4) No business except that of adjournment shall be transacted in the Council of Ministers if less than three members thereof are present.

(5) Any decision shall be regarded as a decision of the Council of Ministers if a majority of the votes of the Members of the Council present and voting are cast in favour thereof, and if the votes are equally divided the Prime Minister may give a casting vote in addition to his original vote.

(6) Whenever the Prime Minister desires to obtain the advice of any person in Somaliland concerning the government thereof, he may summon such person in writing to the Council of Ministers.

Assignment of responsibility to members of Council of Ministers

11.—(1) The Prime Minister may by directions in writing assign to any Minister responsibility for dealing with any business on behalf of the Council of Ministers, including responsibility for any department of government.

(2) Nothing in this section shall empower the Prime Minister to confer on any Minister authority to exercise any power or discharge any duty that is conferred or imposed by this Constitution or any other law on any person or authority other than that Minister.

Permanent Secretaries

12.—(1) Where responsibility for any department of government has been assigned to any Minister 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.

(2) A person may be a Permanent Secretary in respect of more than one department of government, whether responsibility for the departments concerned has or has not been assigned to one Minister.

Assistant Ministers

13.—(1) The Prime Minister, with the consent of the Council of Ministers, may appoint Assistant Ministers from among the members of the Legislative Assembly to assist Ministers in the performance of their functions, but the total number of Assistant Ministers shall not at any time exceed three.

(2) An Assistant Minister may be appointed to assist more than one Minister.

(3) The provisions of subsections (2) and (3) of section 7 of this Constitution shall apply to Assistant Ministers as they apply to Ministers.

Leave of absence

14. The Prime Minister may grant leave of absence from his duties to any Minister or Assistant Minister.

Secretary to Council of Ministers

15.—(1) There shall be a Secretary to the Council of Ministers; appointments to that office shall be made by the Prime Minister and, subject thereto, the office shall be a public office.

(2) The Secretary to the Council of Ministers shall be responsible in accordance with such instructions as may be given to him by the Prime Minister for arranging the business and keeping the minutes of meetings of the Council of Ministers and for communicating the decisions of the Council to the appropriate person or authority and shall perform such other functions as the Prime Minister may from time to time direct.

PART III

THE LEGISLATURE

Legislative authority of Somaliland

16. The legislative authority of Somaliland shall be vested in a Legislature consisting of the Council of Ministers and a Legislative Assembly.

The Legislative Assembly

Establishment of Legislative Assembly

17. There shall be a Legislative Assembly for Somaliland which shall consist of a Speaker and thirty-three members who, subject to the provisions of this Constitution, shall be elected in accordance with the provisions of any law in that behalf for the time being in force in Somaliland.

First Legislative Assembly

18.—(1) On the commencement of this Constitution the person who immediately before that commencement was the Speaker of the Legislative Council of Somaliland shall become the first Speaker of the Legislative Assembly and the persons who immediately before that commencement were elected members of the Legislative Council shall become members of the Legislative Assembly and shall be deemed to have been elected thereto under this Constitution.

(2) A person shall become a member of the Legislative Assembly by virtue of the preceding subsection notwithstanding that he is not a citizen of Somaliland or that he is a citizen or national of any other country and acquired that citizenship or nationality by his own voluntary and formal act, but any such person shall vacate his seat in the Legislative Assembly at the expiration of a period of twelve months beginning on the commencement of this Constitution if he is not then a citizen of Somaliland or if he has not then ceased to be a national or citizen of that other country.

Speaker and Deputy Speaker

19.—(1) When the Legislative Assembly first meets after any general election and before it proceeds to the despatch of any other business it shall elect a person who is not a member of the Legislative Assembly and does not hold a paid public office to be the Speaker of the Assembly; and, if the office of Speaker falls vacant for any reason other than a dissolution of the Assembly, the Assembly shall, as soon as practicable, elect a person as aforesaid to that office.

(2) The Speaker of the Legislative Assembly shall vacate his office—

(*a*) if he announces the resignation of his office to the Legislative Assembly, or if, by writing under his hand addressed to the Clerk of the Assembly he resigns that office;

(*b*) on a dissolution of the Legislative Assembly; or

(*c*) if he is nominated with his consent as a candidate for election as a member of the Legislative Assembly or he is appointed to a paid public office.

(3) On the commencement of this Constitution the member of the Legislative Assembly who immediately before that commencement was the Deputy Speaker of the Legislative Council of Somaliland shall become the first Deputy Speaker of the Legislative Assembly. If the office of Deputy Speaker falls vacant the Legislative Assembly shall, as soon as practicable, elect a member of the Assembly who is not a Minister or an Assistant Minister to that office.

(4) The Deputy Speaker of the Legislative Assembly shall vacate his office—

(*a*) if he resigns that office by writing under his hand addressed to the Speaker or, if the Speaker is absent from Somaliland or if the office of Speaker is vacant, by writing under his hand addressed to the Clerk of the Legislative Assembly;

(*b*) if he ceases to be a member of the Legislative Assembly; or

(*c*) if he becomes a Minister or an Assistant Minister.

(5) In any election of a Speaker or Deputy Speaker voting shall be by secret ballot.

(6) The Speaker shall be paid such salary and allowances as the Council of Ministers may prescribe:

Provided that the salary of the Speaker shall not be reduced during his continuance in office.

(7) The salaries and allowances payable under the preceding subsection shall be a charge upon and shall be paid out of the revenues of Somaliland.

(8) For the purposes of subsections (1) and (2) of this section the Speaker shall not be considered to hold a paid public office by reason only that he is in receipt of emoluments as a member of the Commission established by section 46 of this Constitution.

Qualifications for membership

20. Subject to the provisions of the next following section, any male person who—

(*a*) is a citizen of Somaliland;

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

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

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

shall be qualified to be elected as a member of the Legislative Assembly and no other person shall be so qualified.

Disqualifications for membership

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

(*a*) is a citizen or national of any country other than Somaliland and acquired that citizenship or nationality by his own voluntary and formal act;

(*b*) is an undischarged bankrupt having been adjudged or otherwise declared bankrupt under any law in force in Somaliland;

(*c*) is disqualified for membership of the Assembly by any law enacted by the Legislature of Somaliland by reason of his having any such interest in any such Government contract as may be prescribed by any such law;

(*d*) is under sentence of death imposed on him by a Court in Somaliland or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed upon him by such a Court or substituted by competent authority for some other sentence imposed upon him by such Court, or is under such sentence of imprisonment the execution of which has been suspended;

(*e*) is, under any law in force in Somaliland, adjudged or otherwise declared to be of unsound mind or detained as a criminal lunatic;

(*f*) holds or is acting in any paid public office; or

(*g*) is otherwise disqualified under any law for the time being in force in Somaliland.

(2) For the purposes of paragraph (*d*) of the preceding subsection—

(*a*) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms; and

(*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.

Tenure of office of members

22.—(1) A member of the Legislative Assembly shall vacate his seat—

(*a*) upon the dissolution of the Legislative Assembly;

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

(*c*) if he is absent from two consecutive meetings of the Legislative Assembly for any reason other than incapacitating illness and the Speaker does not, before the end of the second of those meetings, excuse his absence by writing under his hand;

(*d*) if he ceases to be a citizen of Somaliland;

(*e*) if he ceases to possess any qualification prescribed for the purposes of paragraph (*d*) of section 20 of this Constitution;

(*f*) subject to the provisions of any law enacted by the Legislature of Somaliland, if he acquires any such interest in any such Government contract as may be prescribed by any such law; or

(*g*) if any circumstances arise that, if he were not a member of the Assembly, would cause him to be disqualified for election as such under paragraphs (*a*), (*b*), (*e*), (*f*) or (*g*) of subsection (1) of the last foregoing section.

(2) (*a*) Subject to the provisions of the next following paragraph, if any circumstances arise that would cause any member of the Legislative Assembly, if he were not such a member, to be disqualified for election as such under paragraph (*d*) of subsection (1) of the last foregoing section, that member shall thereupon cease to exercise any of his functions as such and his seat in the Assembly shall become vacant at the expiration of a period of thirty days thereafter:

Provided that the Speaker may, at the request of the member, from time to time extend that period 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 approval, signified by resolution, of the Assembly.

(*b*) If at any time before the member vacates his seat he is granted a free pardon or his conviction is set aside or his sentence is reduced to a term of imprisonment of twelve months or less or a punishment other than imprisonment is substituted, his seat shall not become vacant under the preceding paragraph and he may resume the exercise of his functions as a member.

Determination of questions as to membership of Legislative Assembly

23. Any question whether—

(*a*) a person has become the Speaker or a member of the Legislative Assembly;

(*b*) any member of the Assembly should, under subsection (2) of the preceding section, cease to exercise his functions as a member; or

(*c*) the office of Speaker or the seat in the Assembly of a member has become vacant,

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

Speaker to report vacancies

24. Whenever it appears to the Speaker that the seat of a member of the Legislative Assembly has become vacant for any reason other than a dissolution of the Assembly he shall by writing under his hand report such vacancy to the Council of Ministers.

Filling of vacancies

25. Whenever the seat of a member of the Legislative Council becomes vacant the vacancy shall be filled by election in accordance with the provisions of this Constitution.

Penalty for sitting or voting in Assembly when unqualified

26.—(1) Any person who sits or votes in the Legislative Assembly knowing or having reasonable grounds for knowing that he is not entitled to do so shall be liable to a penalty not exceeding four hundred shillings for every day on which he so sits or votes.

(2) Any such penalty shall be recoverable by civil action in the High Court at the suit of the principal law officer (by whatever name called) of the Government of Somaliland.

Clerk to Legislative Assembly

27.—(1) There shall be a Clerk to the Legislative Assembly; appointments to that office shall be made by the Speaker and, subject thereto, the office shall be a public office.

(2) The Clerk of the Legislative Assembly shall be responsible for keeping the minutes of the Legislative Assembly and shall perform such other functions as may be prescribed by the Standing Orders of the Legislative Assembly.

Legislation and legislative procedure

Exercise of legislative power

28.—(1) The power of the Legislature to make laws shall be exercised by Bills passed by the Legislative Assembly and assented to by the Council of Ministers.

(2) When a Bill has been passed by the Legislative Assembly it shall, subject to the provisions of section 52 of this Constitution, be presented to the Council of Ministers and the Council of Ministers may assent or refuse to assent thereto.

(3) The assent of the Council of Ministers to a Bill shall be signified by a Minister signing the Bill on behalf of the Council, and on such assent being so signified the Bill shall become law.

(4) All laws shall be styled "Laws" and shall be published in the Gazette.

(5) A law shall come into operation on the date of its publication in the Gazette or, if it is provided either in such law or in some other law that it shall come into operation on some other date, on that date.

Standing Orders

29.—(1) Subject to the provisions of this Constitution, the Legislative Assembly may make Standing Orders for the regulation and orderly conduct of its own proceedings and the dispatch of business, and for the passing, intituling and numbering of Bills, and for the presentation thereof to the Council of Ministers for assent.

(2) The Standing Orders of the Legislative Council of Somaliland in force immediately before the commencement of this Constitution shall, with such adaptations as may be necessary to bring them into conformity with this Constitution, be the first Standing Orders of the Legislative Assembly as if they had been made under the preceding subsection.

Presiding in Assembly

30.—(1) The Speaker or in his absence the Deputy Speaker, or if they are both absent such member of the Legislative Assembly (not being a Minister or an Assistant Minister) elected by the Assembly for the sitting, shall preside at any sitting of the Legislative Assembly:

Provided that the Speaker may nominate any member (not being a Minister or an Assistant Minister) to preside as Chairman of a Committee of the whole Assembly.

(2) References in this section to circumstances in which the Speaker or the Deputy Speaker is absent include references to circumstances in which the office of Speaker or Deputy Speaker is vacant.

Assembly may transact business notwithstanding vacancies

31. Subject to the next following section, the Legislative Assembly shall not be disqualified for the transaction of business by reason of any vacancy in the membership thereof and any proceedings therein shall be valid notwithstanding that some person who was not entitled so to do sat or voted in the Assembly or otherwise took part in the proceedings.

Quorum

32.—(1) If objection is taken by any member of the Legislative Assembly present that fewer than twelve members of the Assembly are present besides the Speaker or member presiding and, after such interval as may be prescribed in the Standing Orders of the Legislative Assembly, the Speaker or member presiding ascertains that the number of members present is still less than twelve, he shall thereupon adjourn the Council.

(2) If at any sitting of the Legislative Assembly it appears to the Speaker or member presiding that there are fewer than twelve members of the Assembly present besides the Speaker or member presiding when the votes of the members on any question proposed for decision are counted, the vote on that question shall be invalid, that question shall stand over to the next sitting of the Assembly and the attention of the Speaker or member presiding shall be deemed to have been drawn to the presence of fewer than twelve members for the purposes of the last foregoing subsection.

Voting

33.—(1) Save as otherwise provided in this Constitution, all questions proposed for decision in the Legislative Assembly shall be determined by a majority of the votes of the members present and voting.

(2) The Speaker, or any member presiding in his absence, shall not have an original vote, but if on any question the votes are equally divided he shall give a casting vote.

Introduction of Bills, etc. in Legislative Assembly

34.—(1) Subject to the following provisions of this section and to the Standing Orders of the Legislative Assembly, any member may introduce any Bill or propose any motion for debate in or may present any petition to the Legislative Assembly and the same shall be disposed of according to the Standing Orders of the Legislative Assembly.

(2) Except with the consent of the Council of Ministers the Legislative Assembly shall not—

(*a*) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding in the Assembly, makes provision for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other funds of Somaliland, or for altering any such charge otherwise than by reducing it or for compounding or remitting any debt due to Somaliland ;

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding in the Assembly, is that provision should be made for any of the purposes aforesaid ; or

(*c*) receive any petition which, in the opinion of the person presiding in the Assembly, requests that provision be made for any of the purposes aforesaid.

(3) The conduct of a Judge of the High Court or a judge or magistrate of a subordinate Court shall not be discussed in the Legislative Assembly except on a substantive motion of which notice has been given by not less than ten members of the Assembly.

Privileges of Assembly

35. The privileges, immunities and powers of the Legislative Assembly and of its members shall be determined and regulated by law.

Oath of members of Assembly

36. No member of the Legislative Assembly shall be permitted to take part in the proceedings of the Assembly (other than proceedings necessary for the purposes of this section) until he has made and subscribed before the Assembly an oath in the form set out in Part II of the First Schedule to this Constitution:

Provided that the election of a Speaker and Deputy Speaker of the Legislative Assembly may take place before the members of the Assembly have made such oath.

Sessions of the Assembly

37.—(1) Subject to the provisions of the next following subsection, the sessions of the Legislative Assembly shall be held in such place and begin at such time as the Prime Minister shall appoint by notice published in the Gazette:

Provided that, if the office of Prime Minister is vacant and it appears to the Speaker that the Council of Ministers is for any reason unable to appoint a Minister under section 9 of this Constitution to perform the function conferred upon the Prime Minister by this subsection, the Speaker may summon the Legislative Assembly by notice published in the Gazette for the purpose of electing a person to be Prime Minister.

(2) The first session of the Legislative Assembly shall begin within one month after the commencement of this Constitution, and thereafter sessions of the Assembly shall be held from time to time, but so that a period of twelve months shall not intervene between the last sitting of the Assembly in any one session and the date appointed for its first sitting in the next session, whether or not a dissolution of the Assembly occurs between such sessions.

Prorogation and dissolution

38.—(1) The Prime Minister may at any time prorogue or dissolve the Legislative Assembly by notice published in the Gazette.

(2) Unless sooner dissolved, the Legislative Assembly shall continue for three years beginning, in the case of the first Legislative Assembly, on the commencement of this Constitution or, in the case of any subsequent Legislative Assembly, on the date when it first meets after any general election, and shall then stand dissolved.

(3) A general election of members to the Legislative Assembly shall be held at such time within three months after every dissolution of the Legislative Assembly as the Prime Minister shall appoint by notice published in the Gazette.

PART IV

THE JUDICATURE

The High Court

39.—(1) There shall be for Somaliland a High Court which shall consist of such number of Judges as may from time to time be appointed by the Council of Ministers:

Provided that the office of any Judge of the High Court shall not be abolished without his consent during his continuance in office.

(2) The High Court shall be a Court of record and shall have unlimited original jurisdiction in civil and criminal matters and such appellate and revisional jurisdiction as may be prescribed by any law.

(3) The High Court shall be deemed to be duly constituted notwithstanding any vacancy in the office of any Judge of the Court.

(4) Provisions relating to the qualifications for appointment, order of precedence, duties and powers of Judges may be prescribed by law.

(5) Subject to the provisions of any law, the High Court may make rules of Court for regulating the practice and procedure of the High Court in exercise of the jurisdiction conferred upon it by this Constitution or any other law and for regulating the practice of the legal profession in any Court.

(6) The Council of Ministers may from time to time, as in the opinion of the Council occasion may require, appoint persons to act as Judges of the High Court.

(7) A person appointed under the preceding subsection to act as a Judge of the High Court shall, subject to subsections (2) and (3) of the next following section, hold office as an acting Judge for such period as may be specified in his instrument of appointment.

(8) The Judges of the High Court shall be paid such salaries and allowances as the Council of Ministers may prescribe:

Provided that the salary of any Judge shall not be reduced during his continuance in office.

(9) The salaries and allowances payable under the preceding subsection shall be a charge upon and shall be paid out of the revenues of Somaliland.

Tenure of office of Judges

40.—(1) Subject to the following provisions of this section each substantive holder of the office of Judge of the High Court shall hold office until he attains the age of sixty-two years:

Provided that the Council of Ministers may permit a Judge who has attained that age to continue in office for a further period not exceeding one year.

(2) A Judge of the High Court may at any time resign his office by writing under his hand addressed to the Council of Ministers.

(3) (*a*) A Judge of the High Court shall not be removed from office except in accordance with the following provisions of this subsection.

(*b*) If the Council of Ministers considers that a Judge ought to be removed from office for misbehaviour or for inability to discharge the functions of his office the Council of Ministers shall appoint a tribunal in accordance with paragraph (*c*) of this subsection and refer the question of removing that Judge for misbehaviour or inability, as the case may be, to the tribunal; and the Council of Ministers may, if the tribunal so recommends, remove the Judge from office.

(*c*) The said tribunal shall consist of not less than two persons being persons who hold or have held high judicial office in Somaliland or any other country.

(4) (*a*) If the question of removing a Judge of the High Court from office has been referred to a tribunal under the preceding subsection the Council of Ministers may suspend the Judge from performing the functions of his office.

(*b*) Any such provision may at any time be revoked by the Council of Ministers and shall in any case cease to have effect if the tribunal recommends that the Judge should not be removed from office.

Subordinate Courts

41. There shall be for Somaliland such Courts subordinate to the High Court and possessing such jurisdiction and powers as may be prescribed by any law.

Application of certain Indian enactments and the law of England

42.—(1) The criminal and civil jurisdiction of the Courts of Somaliland shall, so far as circumstances permit, be exercised in conformity with the enactments set out in the Second Schedule to this Constitution and subject thereto and so far as the same do not extend or apply shall be exercised in conformity with the substance of the common law, the doctrines of equity and the statutes of general application in force in England on the 16th day of March, 1900, and with the powers vested in and according to the procedure and practice observed by and before the Courts of Justice and Justices of the Peace in

England according to their respective jurisdiction and authorities at that date, save in so far as the said enactments and the said common law, doctrines of equity and statutes of general application, and the said powers, procedure and practice have been, or hereafter may be, modified, amended or replaced by any written law made for Somaliland :

Provided always that the said common law, doctrine of equity and statutes of general application shall be in force in Somaliland so far only as the circumstances of Somaliland and its inhabitants permit and subject to such qualifications as local circumstances render necessary.

(2) For the purpose of facilitating the application of the enactments set out in the Second Schedule to this Constitution—

(*a*) a Court may construe any such enactment with such alterations not affecting the substance as may be necessary or proper in order to adapt the same to the matter before the Court ;

(*b*) the Council of Ministers may by order direct by what authority any jurisdiction, powers or duties incident to the operation of any such enactment and for the exercise or performance of which no convenient provision has been otherwise made shall be exercised or performed ;

(*c*) any order of the Council of Ministers made in pursuance of this subsection shall be published in the Gazette and shall have effect as from a date to be specified in the order.

Courts to be guided by Somali customary law in certain cases

43. In all cases, civil and criminal, to which only Somalis are parties, every Court shall—

(*a*) be guided by Somali customary law (including Somali customary law which is based upon Islamic law) so far as it is applicable and is not repugnant to justice, equity and good conscience or is inconsistent with any written law in force in Somaliland or any regulation or rule made thereunder ; and

(*b*) decide all such cases according to substantial justice, without excessive regard to technicalities of procedure and without undue delay.

PART V

THE PUBLIC SERVICE

Constitution of offices

44. Subject to the provisions of this Constitution and of any law for the time being in force in Somaliland, the Council of Ministers may constitute offices for Somaliland and may abolish such offices.

Appointment, etc. of public officers

45.—(1) Save as otherwise provided by this Constitution or by any law for the time being in force in Somaliland, power to appoint persons to public offices and to dismiss and to exercise disciplinary control over public officers shall vest in the Council of Ministers.

(2) The Council of Ministers may delegate (in such manner and on such conditions as the Council may think fit) to any Minister or to any public officer any of the powers conferred upon the Council by the preceding subsection.

(3) (*a*) Whenever a substantive holder of any public office constituted by or under this Constitution is on leave of absence pending relinquishment of his office, it shall be lawful for another person to be appointed substantively to the same office.

(*b*) Where two or more persons are holding the same office by reason of an appointment made under this subsection, then, for the purpose of the exercise of any functions conferred upon the holder of that office, the person last appointed to the office shall be deemed to be the sole holder of the office.

Public Service Commission

46.—(1) There shall be for Somaliland a Public Service Commission (in this Part referred to as " the Commission ") which, subject to the provisions of the next following subsection, shall consist of such persons as may be prescribed by law.

(2) No member of the Legislative Assembly shall be appointed as a member of the Commission, and if any member of the Commission becomes a member of the Legislative Assembly, his appointment as a member of the Commission shall thereupon be terminated.

Functions of Public Service Commission

47.—(1) The Council of Ministers may, either generally or specially, and in whatever manner the Council thinks fit, refer to the Commission for advice any matter relating to the appointment, promotion, transfer, dismissal or disciplinary control of public officers or any other matter which, in the opinion of the Council, affects the public service.

(2) It shall be the duty of the Commission to advise the Council of Ministers on any question referred to it under this section, but the Council of Ministers shall not be obliged to act in accordance with the advice given by the Commission.

Preservation of pensions, etc.

48.—(1) All pensions, gratuities or other like allowances which have been or which may be granted to any persons who have been, and have ceased to be, in the public service of the Protectorate of Somaliland at any time before the commencement of this Constitution, or to the widows, children, dependents or personal representatives of such persons, shall be governed by the law under which they were granted or, if granted after the commencement of this Constitution, by the law in force at that commencement, or, in either case, by any law made thereafter which is not less favourable.

(2) All pensions, gratuities and other like allowances which may be granted to persons who are public officers on the commencement of this Constitution, or to the widows, children, dependents or personal representatives of such persons, shall be governed by the law in force at that commencement or by any law made thereafter which is not less favourable.

(3) Any pension, gratuity or other like allowance which may be granted to any person who may be appointed to be a public officer after the commencement of this Constitution, or to the widow, children, dependents or personal representatives of any such person, shall be governed by the law in force on the date on which such person is so appointed or by any law made thereafter which is not less favourable.

PART VI

MISCELLANEOUS PROVISIONS AND AMENDMENT AND INTERPRETATION OF THE CONSTITUTION

Citizenship

49. The acquisition and loss of citizenship of Somaliland shall be regulated by law.

Taxes not to be levied except under authority of law

50. No tax shall be levied or collected except under the authority of a law.

Powers of pardon, etc.

51. The Council of Ministers may—

(*a*) grant to any person concerned in or convicted of any offence against the law of Somaliland a pardon, either free or subject to conditions;

(*b*) grant to any person a respite, either indefinite or for a specified period, of the execution of any sentence passed on that person for such an offence;

(*c*) substitute a less severe form of punishment for that imposed by any such sentence; or

(*d*) remit the whole or any part of any such sentence or of any penalty or forfeiture otherwise due to the Government of Somaliland on account of such an offence.

Amendment of the Constitution

52.—(1) The Legislature of Somaliland may by law amend or repeal any of the provisions of this Constitution (including this section):

Provided that no Bill for the amendment or repeal of any such provision shall be presented to the Council of Ministers for assent unless, at the last occasion during its consideration by the Legislative Assembly on which the Assembly voted on the question of passing the Bill, the votes of not less than two-thirds of all the members of the Assembly were cast in favour thereof.

(2) A certificate under the hand of the Speaker endorsed on a Bill that the provisions of the proviso to the last foregoing subsection have been complied with in relation to that Bill shall be conclusive evidence of such compliance.

Interpretation

53.—(1) In this Constitution, unless it is otherwise provided or required by the context—

"the Council of Ministers", "the Legislative Assembly", "the Legislature" and "the High Court" mean respectively the Council of Ministers, the Legislative Assembly, the Legislature and the High Court established by this Constitution;

"the Gazette" means the Government Gazette of Somaliland;

"Government contract" means any contract made with the Government of Somaliland, or a department of that Government, or an officer of that Government contracting as such;

"meeting" means, in relation to the Legislative Assembly, any sitting or sittings of the Assembly commencing when the Assembly first meets after being summoned at any time and terminating when the Council is adjourned *sine die* or at the conclusion of a session;

"member" in relation to the Legislative Assembly does not include the Speaker;

"month" means calendar month;

"public office" means any office in the service of the Government of Somaliland in a civil capacity and includes the office of a judge or magistrate but does not include the office of a member of the Council of Ministers, Assistant Minister, Speaker, Deputy Speaker or member of the Legislative Assembly;

"public officer" means the holder of any public office and includes any person appointed to act in any such office;

"the public service of the Protectorate of Somaliland" means the service of Her Britannic Majesty in a civil capacity in respect of the Government of the Protectorate and includes service in the office of a judge or magistrate;

"session" means, in relation to the Legislative Assembly, the sittings of the Assembly commencing when the Assembly first meets after the commencement of this Constitution or after its prorogation or dissolution at any time, and terminating when the Assembly is prorogued or is dissolved without having been prorogued;

"sitting" means, in relation to the Legislative Assembly, a period during which the Assembly is sitting continuously without adjournment and includes any period during which the Assembly is in committee;

"the Speaker" and "the Deputy Speaker" mean respectively the Speaker and the Deputy Speaker of the Legislative Assembly.

(2) (*a*) For the purposes of sections 19 and 21 of this Constitution a person who is on leave of absence pending relinquishment of a public office shall not be considered to be the holder of that office and a person shall not be considered to hold a paid public office by reason only that he—

(i) is in receipt of emoluments as 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; or

(ii) is in receipt of a pension or other like allowance in respect of service in a public office.

(*b*) If it shall be declared by any law for the time being in force in Somaliland that an office shall not be considered to be a paid public office for the purposes of sections 19 and 21 of this Constitution or either of them those sections or that section shall have effect accordingly.

(3) References in this Constitution to the commencement of this Constitution shall be construed as references to the coming into operation of this Constitution.

(4) In this Constitution, unless the contrary intention appears—

(*a*) words importing the masculine gender shall include females; and

(*b*) words in the singular shall include the plural and words in the plural shall include the singular.

(5) Where this Constitution confers a power to make appointments to any public office the power shall, unless a contrary intention appears, be construed as including power to make appointments on promotion and transfer to that office and to appoint a person to perform the functions of that office during any period during which it is vacant or the holder thereof is unable for any cause to perform those functions.

(6) Where this Constitution confers a power or imposes a duty, the power may be exercised and the duty shall be performed from time to time as occasion requires.

(7) Where this Constitution confers a power or imposes a duty on the holder of an office, then, unless a contrary intention appears, the power may be exercised and the duty shall be performed by the holder of the office for the time being or, to the extent of his authority, by any person who is for the time being authorised to perform the functions of that office.

(8) Where this Constitution confers a power to make orders or rules or to issue any notice or to give any directions, the power shall be construed as including a power, exercisable in like manner, to revoke or amend any such orders, rules, notice or directions.

(9) Where a person is required by this Constitution to make an oath he shall be permitted, if he so desires, to comply with that requirement by making an affirmation.

(10) For the purposes of this Constitution the resignation of a member of any body or the holder of any office that is required to be addressed to any person shall have effect from the time that it is received by that person :

Provided that a resignation (other than the resignation of the Deputy Speaker) that is required to be addressed to the Speaker shall, if the office of Speaker is vacant or the Speaker is absent from Somaliland, have effect from the time that it is received by the Deputy Speaker on behalf of the Speaker.

(11) For the avoidance of doubt it is declared that any person who has vacated his seat in any body, or has vacated any office, established by this Constitution may, if qualified, again be appointed or elected as a member of that body or to that office, as the case may be.

PART VII

TRANSITIONAL PROVISIONS

Existing laws

54.—(1) Without prejudice to the repeal or revocation of any existing law with effect from the commencement of this Constitution, the existing law shall continue to be the law of Somaliland as from the commencement of this Constitution except in so far as it is thereafter amended, modified, repealed or revoked by competent authority but shall be construed with such adaptations and modifications as may be necessary to bring it into conformity with the provisions of this Constitution.

(2) The Council of Ministers may by order published in the Gazette, at any time within twelve months after the commencement of this Constitution, make such amendments and modifications of the existing law as appear to the Council of Ministers to be necessary or expedient for bringing the existing law into conformity with this Constitution or otherwise for giving effect or enabling effect to be given to this Constitution ; and the existing law shall have effect accordingly from such time as may be specified in the order, not being earlier than the commencement of this Constitution.

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

(4) In this section " the existing law " means the written and unwritten law of Somaliland as it exists immediately before the commencement of this Constitution.

Existing officers

55.—(1) Subject to the next following subsection, any person who, immediately before the commencement of this Constitution, held or was acting in any office in the public service of the Protectorate of Somaliland (other than the office of Governor and Commander-in-Chief) shall, unless he resigns or retires or accepts appointment to some other office, continue as from that commencement to hold or to act in the like public office as if he were appointed thereto under this Constitution.

(2) The offices of Chief Secretary and Financial Secretary are abolished.

(3) Any person who, immediately before the commencement of this Constitution, held an office in the public service of the Protectorate of Somaliland and who does not continue as from that commencement to hold a public office shall be entitled to the leave for which, under the terms of service applicable to him immediately before that commencement, he is then eligible.

(4) In respect of any period during which a person is on leave under the provisions of the preceding subsection he shall be regarded as holding office in the service of the Government of Somaliland on the same terms of service (including terms relating to any pension, gratuity or other like allowance) as were applicable to him immediately before the commencement of this Constitution.

Legal proceedings

56.—(1) Any proceedings pending or part-heard immediately before the commencement of this Constitution before the High Court of the Protectorate of Somaliland or any subordinate Court of the Protectorate may, as from that commencement, be carried on before the High Court or the like subordinate Court, as the case may be, established by or under this Constitution as if they had been commenced in that Court.

(2) In any such proceedings as aforesaid to which Her Britannic Majesty in right of the Government of the Protectorate of Somaliland or that Government or any person or authority on behalf of that Government is a party, the Council of Ministers or such person or authority on behalf of the Council as the Council may direct shall be substituted as a party.

(3) Subject to the preceding subsection, any such proceedings as aforesaid may, for the purposes of being carried on after the commencement of this Constitution, be amended by order of any Judge or magistrate of the Court concerned in such manner as appears necessary or proper in consequence of the provisions of this Constitution.

Succession to property

57. Any property (including any rights arising from contract or otherwise) that immediately before the commencement of this Constitution is vested in Her Britannic Majesty, or in some person or authority on behalf of Her Britannic Majesty, for the purposes of the Government of the Protectorate of Somaliland or is vested in that Government or in some person or authority on behalf of that Government shall, on the commencement of this Constitution, vest in the Council of Ministers, or in such person or authority on behalf of the Council of Ministers as the Council may, by order published in the Gazette, direct.

Succession to liabilities

58. Any liability or obligation, whether arising from contract or otherwise, incurred by Her Britannic Majesty, or some person or authority on behalf of Her Britannic Majesty, for the purposes of the Government of the Protectorate of Somaliland or by that Government or by some person or authority on behalf of that Government and subsisting immediately before the commencement of this Constitution shall, on that commencement, be a liability or obligation of the Council of Ministers or of such person or authority on behalf of the Council of Ministers as the Council may, by order published in the Gazette, direct.

W. G. Agnew.

THE FIRST SCHEDULE

(Sections 8 and 36)

PART I

OATH OR AFFIRMATION TO BE TAKEN BY A MINISTER

1. I, ..., do swear in the name of God the Compassionate and Merciful that I will well and truly serve the State of Somaliland in the office of Prime Minister (or Minister, as the case may be) and that, except with the authority of the Council of Ministers, I will not directly or indirectly reveal the business or proceedings of the Council of Ministers or the nature or contents of any document communicated to me as a member of the Council or any matter coming to my knowledge in my capacity as a member of the Council.

2. In the case of an affirmation the words " solemnly and sincerely affirm and declare " shall be substituted for the words " swear in the name of God the Compassionate and Merciful ".

PART II

OATH OR AFFIRMATION TO BE TAKEN BY A MEMBER OF THE LEGISLATIVE ASSEMBLY

1. I, ..., do swear in the name of God the Compassionate and Merciful that I will be faithful and bear true allegiance to the State of Somaliland, and as a member of the Legislative Assembly of Somaliland will do everything in my power to promote the interests of the State and act for the well-being of the inhabitants thereof.

2. In the case of an affirmation the words " solemnly and sincerely affirm and declare " shall be substituted for the words " swear in the name of God the Compassionate and Merciful ".

THE SECOND SCHEDULE

(Section 42)

INDIAN ENACTMENTS APPLIED

The Indian Penal Code (Act XLV of 1860).

The Indian Succession Act (Act X of 1865).

" The Indian Post Office Act, 1898 " (Act VI of 1898).

The Indian Divorce Act (Act IV of 1869), except so much as relates to divorce and nullity of marriage.

" The Bombay Civil Courts Act, 1869 " (Act XIV of 1869) except sections 6, 15, 23, 31, 33, 34, 38 to 43 (both inclusive), the last clause of section 19 and the last two clauses of section 22.

" The Indian Evidence Act, 1872 " (Act I of 1872).

" The Indian Contract Act, 1872 " (Act IX of 1872).

" The Indian Oaths Act, 1873 " (Act X of 1873).

The Indian Mutiny Act (Act IX of 1875).

" The Indian Limitation Act, 1908 " (Act IX of 1908).

" The Transfer of Property Act, 1882 " (Act IV of 1882).

The Code of Civil Procedure (Act V of 1908).

" The Land Acquisition Act, 1894 " (Act of 1894).

" The Prevention of Cruelty to Animals Act, 1890 " (Act XI of 1890).

" The Indian Stamp Act, 1899 " (Act II of 1899).

EXPLANATORY NOTE

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

This Order makes new provision for the government of Somaliland. It vests executive authority in a Council of Ministers consisting of a Prime Minister and three other Ministers and collectively responsible to a Legislative Assembly. The Legislative Assembly consists of a Speaker and thirty-three elected members. The Order also makes provision with respect to the Courts of Somaliland and the law to be applied by them and the Public Service of Somaliland.