TANGANYIKA TERRITORY

1953 No. 1208

The Tanganyika (Legislative Council) (Amendment) Order in Council, 1953

Made - - - -	1*st August*, 1953
Laid before Parliament	4*th August*, 1953
Coming into Operation	*On a day to be appointed in accordance with Clause* 1 (3).*

At the Court at Buckingham Palace, the 1st day of August, 1953

Present,

The Queen's Most Excellent Majesty in Council

Whereas by the Tanganyika (Legislative Council) Orders in Council, 1926 to 1949(a), provision is made for the constitution of a Legislative Council in and for Tanganyika:

And whereas it is expedient to make other provision in certain respects than in the said Orders is contained in regard to the constitution of the said Legislative Council:

Now, therefore, Her Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890(b), 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:—

Short titles, Construction and Commencement

1.—(1) This Order may be cited as the Tanganyika (Legislative Council) (Amendment) Order in Council, 1953, and shall be construed as one with the Tanganyika (Legislative Council) Orders in Council, 1926 to 1949(a).

(2) This Order and the Tanganyika (Legislative Council) Orders in Council, 1926 to 1949(a), may be cited together as the Tanganyika (Legislative Council) Orders in Council, 1926 to 1953.

(3) This Order shall be published in the Gazette, and shall come into operation on a day to be appointed by the Governor by Proclamation in the Gazette, which day shall not be earlier than the day after the day on which this Order shall have been laid before both Houses of Parliament.*

Revocation and Replacement of Clauses of Principal Order

2. Clauses V, VIIF, VIII, X, XXIX, XXX, XXXI, XXXII, XXXVI, XXXVII and XXXVIII of the Tanganyika (Legislative Council) Order in Council, 1926(c) (hereinafter referred to as "the Principal Order"),

(a) S.R. & O. 1926/991; Rev. VIII, p. 278; 1926, p. 576: S.R. & O. 1945/1371; Rev. VIII, p. 278; 1945 I, p. 410: S.I. 1948/105; Rev. VIII, p. 278; 1948 I, p. 1354: S.I. 1949/2191; 1949 I, p. 1888.

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

(c) S.R. & O. 1926/991; Rev. VIII, p. 278; 1926, p. 576.

* Date appointed, 1.11.53.

as amended(a), are hereby revoked, without prejudice to anything lawfully done thereunder, and the following Clauses are hereby substituted therefor:—

"Constitution of the Council.

V. The Council shall consist of—

(i) the Speaker;

(ii) fifteen Official Members; and

(iii) not more than fourteen Unofficial Members."

"The Speaker.

V.A. (1) The Speaker shall be a person who is not an Official or Unofficial Member of the Council and shall be appointed by the Governor by Instrument under the Public Seal.

(2) The Speaker shall hold office during Her Majesty's pleasure and, subject thereto, for such period as may be specified in the Instrument by which he is appointed,

Provided that—

(i) the Speaker may, by writing under his hand addressed to the Governor, at any time resign his office, and

(ii) any appointment under this Clause may at any time be revoked by the Governor by Instrument under the Public Seal,

and upon receipt of such resignation by the Governor or upon revocation of such appointment by the Governor, as the case may be, the office of Speaker shall become vacant.

(3) A person shall, if qualified, be eligible for re-appointment to the office of Speaker from time to time."

"Deputy Speaker.

V.B. (1) The Council shall—

(*a*) at its first sitting in every session; and

(*b*) at its first sitting after the occurrence of a vacancy in the office of Deputy Speaker,

or as soon thereafter as may be convenient, elect as Deputy Speaker of the Council one of its Members who is not a Member of the Executive Council.

(2) A person shall, if qualified, be eligible for re-election to the office of Deputy Speaker from time to time.

(3) The Deputy Speaker shall, unless he earlier vacates his office under the provisions of this Order, hold office until some other person is elected as Deputy Speaker under paragraph (*a*) of sub-clause (1) of this Clause.

(4) (*a*) A person shall vacate the office of Deputy-Speaker—

(i) upon ceasing to be a Member of the Council; or

(ii) upon becoming a Member of the Executive Council.

(*b*) The Deputy Speaker may by writing under his hand addressed to the Speaker or, in the absence of the Speaker or if there shall be no Speaker, to the Clerk of the Council, resign his office; and upon receipt of such resignation by the Speaker or by the Clerk of the Council, as the case may be, the office of Deputy Speaker shall become vacant.

(a) *See* Rev. VII, p. 278, and also S.I. 1949/2191; 1949 I, p. 1888.

(5) In any election of a Deputy Speaker under this Clause the votes of the Members of the Council shall be given by ballot in such a manner as not to disclose how any particular Member shall vote."

"Governor's right to address Council.

VII.F. The Governor may address the Council at any time while it is in session after giving previous notice to the Speaker or other person presiding."

"Extraordinary Members.

VIII. Whenever upon any occasion the Governor is of the opinion that the Council should have the assistance of any person touching any matter, he may, by Instrument under the Public Seal, appoint such person to be, for such occasion, an Extraordinary Member of the Council, but no such Extraordinary Member shall have the right to vote in the Council."

"Oath to be taken by Members of Council.

X.—(1) Except for the purpose of enabling this Clause to be complied with, no Member of the Council shall sit or vote therein until he shall have taken and subscribed before the Council the following oath:—

"I, *A.B.* do sincerely promise and swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her heirs and successors according to law.

So help me God."

Provided that if, between the time when a person becomes a Member of the Council and the time when the Council next meets thereafter, a meeting takes place of any Committee of the Council of which such person is a member, such person may, in order to enable him to attend the meeting and take part in the proceedings of the committee, take and subscribe the said oath before a judge of the Supreme Court of the Territory; and the taking and subscribing of the oath in such manner shall suffice for all purposes of this Clause. In any such case the judge shall forthwith report to the Council through the Speaker or, as occasion may require, through the Deputy Speaker that the person in question has taken and subscribed the said oath before him.

(2) For the purposes of subclause (1) of this Clause, every person authorised by any law in force in the Territory to make an affirmation instead of taking an oath in legal proceedings may, instead of taking the oath in that subclause mentioned, make an affirmation in like terms."

"Speaker, Deputy Speaker, or elected Member to preside in Council.

XXIX. The Speaker or in his absence the Deputy Speaker, or in the absence of both the Speaker and the Deputy Speaker a Member of the Council (not being a Member of the Executive Council) appointed in that behalf by resolution of the Council, shall preside at the sittings of the Council."

"Introduction of Bills, etc.

XXXI. Subject to the provisions of this Order, and of the Standing Rules and Orders of the Council, any Member may introduce any Bill or propose any motion for debate in, or may present any petition to, the Council and the

same shall be debated and disposed of according to the Standing Rules and Orders of the Council.

Provided that, except with the recommendation or consent of the Governor signified thereto, the Council shall not proceed upon any Bill, amendment, motion or petition which, in the opinion of the Speaker or other person presiding, would dispose of or charge any public revenue or funds of the Territory, or revoke or alter any disposition thereof or charge thereon, or impose alter or repeal any rate, tax or duty."

"Vacancies and Quorum in Council.

XXXII. The Council shall not be disqualified for the transaction of business by reason of any vacancy therein and any proceedings therein shall be valid notwithstanding that some person who was not entitled to do so sat or voted therein or otherwise took part in the proceedings; but no business except that of adjournment shall be transacted if objection is taken by any Member present that there are less than six Members of the Council present in addition to any Member who may be presiding."

"Voting.

XXXVI.—(1) All questions proposed for decision in the Council shall be determined by a majority of the votes of the Members present and voting.

(2) (*a*) The Speaker shall have neither an original nor a casting vote; and

(*b*) any other person, including the Deputy Speaker, shall, when presiding in the Council, retain his original vote as a Member but shall not have a casting vote.

(3) If, upon any question before the Council, the votes are equally divided, the motion shall be lost."

"Standing Rules and Orders.

XXXVII. Subject to the provisions of this Order and of any Instructions under Her Majesty's Sign Manual and Signet, the Council may from time to time make, amend and revoke Standing Rules and Orders for the regulation and orderly conduct of its own proceedings and the despatch of business, and for the passing, intituling and numbering of Bills, and for the presentation of the same to the Governor for his assent, but no such Standing Rules and Orders shall have effect unless and until they have been approved by the Governor."

Transitional provisions concerning Standing Rules and Orders

3. Notwithstanding the revocation and replacement by Clause 2 of this Order of Clause XXXVII of the Principal Order, the Standing Rules and Orders of the Council in force at the commencement of this Order shall, until the same are revoked by Standing Rules and Orders made under Clause XXXVII as enacted by this Order, remain in force and may be amended from time to time as if the same had been made, and the same shall be deemed to have been made, under Clause XXXVII as enacted by this Order.

Construction of references in Principal Order

4. References in the Principal Order, as amended, to His Majesty or to His Majesty His Heirs and Successors shall, where necessary, be construed as references to Her Majesty Queen Elizabeth the Second and to Her Majesty Her Heirs and Successors.

Printing of Principal Order

5.—(1) Where by any Order in Council for the time being in force any Clauses or words are directed to be added to or omitted from the Principal Order or substituted for any other Clauses or words in the Principal Order then copies of the Principal Order printed under the authority of Her Majesty's Stationery Office, after such direction takes effect, may be printed with the Clauses or words added or omitted or substituted for other Clauses or words as such direction requires and with the Clauses and paragraphs thereof numbered consecutively in their due order, and the Principal Order shall be construed as if it had at the time when such direction takes effect been made with such addition, omission or substitution.

(2) The references in any documents to the Principal Order or to any provisions thereof shall, unless the context otherwise requires, be construed as referring to the Principal Order as amended by any Order in Council for the time being in force.

Consequential and minor revocations and amendments

6. Without prejudice to anything lawfully done thereunder, the provisions of the Principal Order, as amended, specified in Column 1 of the Schedule to this Order are hereby revoked to the extent, or amended in the manner, specified in Column 2 of that Schedule.

W. G. Agnew.

THE SCHEDULE

REVOCATIONS AND AMENDMENTS OF PROVISIONS OF THE PRINCIPAL ORDER

Column 1 *Clause*	*Column 2* *Particulars of Revocations and Amendments*
III	In sub-clause (1) after the definition of " Meeting " there shall be inserted the following:— " ' Member of the Council ' does not include the Speaker; " and after the definition of " Session " there shall be inserted the following definitions:— " ' The Speaker ' and ' The Deputy Speaker ' mean respectively the Speaker and the Deputy Speaker of the Council; ' Sitting ' means a period during which the Council is sitting continuously without adjournment and includes any period during which the Council is in committee; ". After sub-clause (2) there shall be added the following sub-clauses:— " (3) For the purposes of this Order a person shall not be considered to hold office of emolument under the Crown by reason of the fact that he is in receipt of a salary or other emoluments in respect of his tenure of the office of Deputy Speaker, Member of the Legislative Council or Member of the Executive Council. (4) Where in this Order reference is made to any officer by the term designating his office, such reference shall be construed as a reference to the officer for the time being lawfully discharging the functions of that office."
VIIA	This Clause shall be renumbered VIIA (1) and there shall be added at the end thereof the following sub-clause:— " (2) The Governor shall cause notification to be given to the Speaker or, as occasion may require, to the Deputy Speaker of every appointment of a person to be a Nominated Official or Unofficial Member of the Council ".

Column 1	*Column* 2
Clause	*Particulars of Revocations and Amendments*
VIIB	The words " or elected " and the words " or election " shall be deleted. For the word " election " in paragraph (7) there shall be substituted the word " appointment ".
VIIC	The words " or election, as the case may be," in paragraph (*j*) of sub-clause (1) shall be deleted. For sub-clause (5) there shall be substituted the following:— " (5) Whenever the seat of a Member becomes vacant under sub-clause (1) of this Clause the Speaker or, as occasion may require, the Deputy Speaker, unless he is satisfied that the Governor is already aware of the vacancy, shall cause notification of the same to be given to the Governor.". After sub-clause (5) there shall be added the following sub-clause:— " (6) The Governor shall cause notification to be given to the Speaker or, as occasion may require, to the Deputy Speaker of the following matters:— (*a*) the grant by the Governor to any Member of leave to be absent from any sessions or meetings of the Council or from the Territory; (*b*) the resignation of any Member; (*c*) any appointment mentioned in sub-clause (2) of this Clause; (*d*) any declaration made under sub-clause (3) of this Clause; and (*e*) any suspension of a Member and removal thereof under sub-clause (4) of this Clause."
VIIE	In sub-clause (1):— (i) for the words " Members of the Council " there shall be substituted the words " persons sitting in the Council "; (ii) paragraph (*a*) shall be revoked. In sub-clause (4) for the words " sub-section (1) " there shall be substituted the words " sub-clause (1) ".
XXV	For the words " of India or of any Colony or Protectorate " there shall be substituted the words " of any part of Her Majesty's dominions or of any territory under Her Majesty's protection, or in which Her Majesty has for the time being jurisdiction ".
XXXIII	For the word " Ordinance " where it first appears in the Clause there shall be substituted the word " Order ".

EXPLANATORY NOTE

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

This Order in Council amends the constitution of the Legislative Council of Tanganyika by providing for a Speaker, who is appointed by the Governor, and who presides at sittings of the Council at which he is present. Provision is also made for a Deputy Speaker, elected by the Council from among the Members, who presides in the absence of the Speaker. The Governor ceases to be President of the Council, but retains a right to address the Council. The Order also makes a number of minor and consequential amendments.