1960 No. 206

The Tanganyika (Legislative Council) (Amendment) Order in Council, 1960

Made - - - -	8*th February*, 1960
Laid before Parliament	12*th February*, 1960
Coming into Operation	13*th February*, 1960

At the Court at Buckingham Palace, the 8th day of February, 1960

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 Tanganyika (Legislative Council) (Amendment) Order in Council, 1960, and shall be construed as one with the Tanganyika (Legislative Council) Orders in Council, 1926 to 1959(b).

(2) The Tanganyika (Legislative Council) Orders in Council, 1926 to 1959, and this Order may be cited together as the Tanganyika (Legislative Council) Orders in Council, 1926 to 1960.

(3) This Order shall come into operation on the thirteenth day of February, 1960:

Provided that sections 3 and 4 and sections 6 to 15 inclusive shall come into operation immediately after the next dissolution of the Council after that date.

Amendment of Order of 1926

2. Clause III of the Tanganyika (Legislative Council) Order in Council, 1926(c), (hereinafter referred to as "the principal Order") (as set out in section II of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1948, and as amended by section 2 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1959(d)) is amended—

(*a*) by the deletion from sub-clause (1) of the definition of "The Executive Council";

(*b*) by the insertion in sub-clause (1) after the definition of "The Governor" of the following definition :—

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

(a) 53 & 54 Vict. c. 37. (b) S.R. & O. 1926/991, 1945/1371, S.I. 1948/105 (Rev. VIII, p. 278: 1926, p. 576; 1945 I, p. 410; 1948 I, p. 1354); S.I. 1949/2191, 1953/1208, 1955/430, 1957/1875, 1958/592, 1959/1048 (1949 I, p. 1888; 1953 II, p. 2271; 1955 I, p. 689; 1957 I, p. 665; 1958 II, p. 996). (c) S.R. & O. 1926/991 (Rev. VIII, p. 278: 1926, p. 576). (d) S.I. 1959/1048 (1959 I, p. 988).

(*c*) by the deletion from sub-clause (1) of the words " at any time " in the definition of " Session " and the substitution of the words " or dissolution ".

3. Clause V of the principal Order (as set out in section 3 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1959) is revoked and the following Clause is substituted:—

" Composition of Legislative Council.

V. The members of the Council shall be—

(*a*) a Speaker;

(*b*) such number of *ex-officio* Members as Her Majesty may, by instructions given through a Secretary of State, from time to time direct;

(*c*) such number of Nominated Members as Her Majesty may, by instructions given through a Secretary of State, from time to time direct; and

(*d*) seventy-one Elected Members who shall represent the constituencies referred to in Clause VIB of this Order.".

4. Clause VA of the principal Order (as set out in section 2 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1953(**a**), and as amended by section 3 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1955(**b**)) is amended by the deletion from sub-clause (1) of the words " Representative Member " and the substitution of the words " Elected Member ".

5. Clause VB of the principal Order (as set out in section 2 of the Tanganyika (Legislative Council) Order in Council, 1953) is amended by the deletion of the words " the Executive Council " wherever they occur and the substitution of the words " the Council of Ministers ".

6. Clause VIA of the principal Order (as set out in section 2 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1955), is amended by the deletion from sub-clause (1) of the words ", but the Governor shall not appoint as a Nominated Member any person not holding office of emolument under the Crown in the Territory unless he is satisfied that such person will support government policy in the Council when requested by him to do so ".

7. Clause VIB of the principal Order (as set out in section 3 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1957(**c**)), is revoked and the following Clause is substituted:—

" Division of Territory into constituencies and representation of constituencies.

VIB. (1) The Territory shall be divided into fifty areas (hereinafter referred to as " constituencies ").

(2) The constituencies into which the Territory shall be divided shall be such as the Governor shall from time to time delimit by Proclamation published in the Gazette.

(3) Subject to the provisions of sub-clause (4) of this Clause, each of the constituencies shall be represented by one Elected Member of the Council.

(4) The Governor may, by Proclamation published in the Gazette, prescribe—

(*a*) that a constituency shall be represented by two Elected Members of the Council, in which case any

(a) S.I. 1953/1208 (1953 II, p. 2271). (b) S.I. 1955/430 (1955 I, p. 689).
(c) S.I. 1957/1875 (1957 I, p. 665).

such Proclamation shall specify either that one of those members shall be an Asian, or that one of those members shall be a European; or

(*b*) that a constituency shall be represented by three Elected Members, of whom one shall be an Asian and one shall be a European:

Provided that the powers of the Governor under this sub-clause shall be exercised in such a manner that eleven of the Elected Members of the Council are required to be Asians and ten of the Elected Members of the Council are required to be Europeans.

(5) Any Proclamation made under this Clause may be varied or revoked by the Governor by a further Proclamation."

8. Clause VIC of the principal Order (as set out in section 2 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1955, and as amended by section 4 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1959) is revoked.

9. Clause VID of the principal Order (as set out in section 2 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1955, and as amended by section 4 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1957, and section 5 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1959) is revoked and the following Clause is substituted:—

"Election of members to represent constituencies.

VID. (1) Subject to the provisions of this Order, the Governor may by regulations make provision for the election of persons as Elected Members of the Council and, without prejudice to the generality of the foregoing, for all or any of the following matters:—

(*a*) qualifications and disqualifications for election additional to the disqualifications specified in paragraphs (*a*) (*b*) (*c*) (*d*) and (*e*) of sub-clause (1) of Clause VIF of this Order;

(*b*) qualifications and disqualifications for registration as a voter or for voting at elections;

(*c*) the registration of voters;

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

(*e*) the holding of elections;

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

(2) Any regulations made under this Clause may be amended or revoked by the Governor."

10. Clause VIE of the principal Order (as set out in section 6 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1959) is revoked.

11. Clause VIF of the principal Order (as set out in section 2 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1955, and as amended by section 3 of the Tanganyika (Legislative

Council) (Amendment) Order in Council, 1958(a)) is revoked and the following Clause is substituted:—

"Disqualification for appointment as a Nominated Member or election as an Elected Member.

VIF. (1) A person shall not be qualified to be appointed as a Nominated Member, or to be elected as an Elected Member, of the 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 declared a bankrupt under any law in force in any part of Her Majesty's dominions or in any territory under Her Majesty's protection or in which Her Majesty has for the time being jurisdiction; or

(*c*) subject to the provisions of sub-clause (4) of this Clause, is under sentence of death imposed on him by a court in any part of Her Majesty's dominions or in any territory under Her Majesty's protection or in which Her Majesty has for the time being jurisdiction, or is serving a sentence of imprisonment (by whatever name called) exceeding six months imposed upon him by such a court or substituted by competent authority for some other sentence imposed on him by such a court; or

(*d*) is disqualified for membership of the Council by reason of any law enacted in pursuance of sub-clause (2) of this Clause; or

(*e*) is, under any law for the time being in force in the Territory, adjudged to be a lunatic or otherwise declared to be of unsound mind; or

(*f*) in the case of an Elected Member, is disqualified for election as such by reason of any law enacted in pursuance of sub-clause (3) of this Clause; or

(*g*) in the case of an Elected Member, is otherwise disqualified by reason of any regulation made under paragraph (*a*) of sub-clause (1) of Clause VID of this Order.

(2) A law enacted under this Order may provide that, subject to such exceptions and limitations (if any) as may be prescribed therein, a person shall be disqualified for appointment as a Nominated Member of the Council or election as an Elected Member of the Council by reason of his having any such interest in any such Government contract as may be prescribed in any such law.

(3) A law enacted under this Order may provide that, subject to such exceptions and limitations (if any) as may be prescribed therein, a person shall be disqualified for election as an Elected Member of the Council by reason of—

(*a*) his holding or acting in any office or appointment specified (either individually or by reference to a class of office or appointment) by such law; or

(a) S.I. 1958/592 (1958 II, p. 996).

(*b*) his belonging to any of the armed forces of the Crown specified by such law or to any class of person so specified that is comprised in any such force; or

(*c*) his belonging to any police force specified by such law or to any class of person so specified that is comprised in any such force.

(4) For the purposes of paragraph (*b*) of sub-clause (1) of this Clause—

(*a*) two or more sentences that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds six months, but if any one of those sentences exceeds that term they shall be regarded as one sentence; 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."

12. Clause VIG of the principal Order (as set out in section 2 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1955) is revoked and the following Clause is substituted:—

"Tenure of seats in the Council.

VIG. (1) A Nominated Member of the Council shall hold his seat during Her Majesty's pleasure:

Provided that his seat shall in any case become vacant in the circumstances prescribed in sub-clause (2) of this Clause.

(2) The seat in the Council of a Nominated Member or an Elected Member shall become vacant—

(*a*) upon a dissolution of the Council, or, in the case of a Nominated Member, at such earlier date (if any) as may be provided by the Instrument by which he is appointed; or

(*b*) if he is absent from the sittings of the Council for a period of more than twelve consecutive months or is absent from two consecutive meetings of the Council and, before the end of that period or the end of the second of those meetings, as the case may be, the Governor, in the case of a Nominated Member, or the Speaker, in the case of an Elected Member, has not by writing under his hand excused his absence; or

(*c*) subject to the provisions of any law in force in the Territory, if he acquires any such interest in any such Government contract as may be prescribed by any law enacted in pursuance of sub-clause (2) of Clause VIF of this Order; or

(*d*) in the case of a Nominated Member, if any circumstances arise that if he were not a Nominated Member of the Council, would cause him to be disqualified for appointment as such by virtue of paragraph (*a*) or (*d*) of sub-clause (1) of Clause VIF of this Order; or

(*e*) in the case of an Elected Member, if any circumstances arise that, if he were not an Elected Member

or the Council, would cause him to be disqualified for election as such by virtue of paragraph (*a*), (*b*), (*e*), (*f*) or (*g*) of sub-clause (1) of Clause VIF of this Order.

(3) A Nominated Member may by writing under his hand addressed to the Governor, and an Elected Member may by writing under his hand addressed to the Speaker, resign his seat in the Council, and upon receipt of such resignation by the Governor or the Speaker, as the case may be, the seat of such Member shall become vacant.

(4) (*a*) Subject to the provisions of paragraph (*b*) of this sub-clause, if any circumstances arise that would cause any Nominated Member or Elected Member of the Council to be disqualified for appointment or election as such under paragraph (*c*) of sub-clause (1) of Clause VIF of this Order if he were not such a member, he shall forthwith cease to perform any of his functions as a member of the Council and his seat in the Council shall become vacant at the expiration of a period of thirty days from the date on which those circumstances first arose:

Provided that the Governor (in the case of a Nominated Member) or the Speaker (in the case of an Elected Member) 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 in respect of his 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*) If at any time before the member vacates his seat those circumstances cease to obtain, his seat shall not become vacant under paragraph (*a*) of this sub-clause and he may resume the performance of his functions as a member.

(*c*) For the purposes of this sub-clause—

(i) where a person is sentenced to two or more terms of imprisonment that are required to be served consecutively each of those terms shall be regarded as a separate term of imprisonment; and

(ii) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of payment of a fine.

(*d*) the provisions of this sub-clause shall be without prejudice to the other provisions of this Clause.

(5) (*a*) The Governor may, by Instrument under the Public Seal, suspend any Nominated Member from the exercise of his functions as a member of the Council.

(*b*) Every such suspension shall be forthwith reported by the Governor to Her Majesty through a Secretary of State, and shall remain in force until it is removed by the Governor by Instrument under the Public Seal or by Her Majesty by directions given through a Secretary of State, or until the person suspended ceases to be a member of the Council.

(6) The Governor may, by Instrument under the Public Seal, declare any Nominated Member to be, by reason of illness, incapable of discharging his functions as a member of the Council, and thereupon such member shall not sit or vote in the Council until he is declared in the manner aforesaid again to be capable of discharging his said functions.

(7) Whenever the seat of a member of the Council becomes vacant under sub-clause (2) or sub-clause (3) of this Clause the Speaker, unless he is satisfied that the Governor is already aware of the vacancy, shall cause notification thereof to be given to the Governor.

(8) The Governor shall cause notification to be given to the Speaker of the following matters:—

(*a*) any appointment of a person to be a Nominated Member of the Council;

(*b*) the fact that the Governor has excused the absence from the Council of any Nominated Member under paragraph (*b*) of sub-clause (2) of this Clause;

(*c*) the resignation of his seat in the Council by a Nominated Member;

(*d*) any suspension of a member under sub-clause (5) of this Clause and the removal of any such suspension;

(*e*) any declaration made by the Governor under sub-clause (6) of this Clause.

(9) At any time when there is no Speaker or when the Speaker is absent from the Territory or, being present in the Territory, is for any reason unable to perform the functions of his office—

(*a*) the Deputy Speaker may, instead of the Speaker, excuse the absence of an Elected Member for the purposes of paragraph (*b*) of sub-clause (2) of this Clause;

(*b*) the seat of an Elected Member shall become vacant under sub-clause (3) of this Clause when the resignation of such Member is received by the Deputy Speaker;

(*c*) any such notification as is referred to in sub-clause (8) of this Clause shall be given to the Deputy Speaker.

(10) Any person whose seat in the Council has become vacant may, if qualified, again be appointed or elected as a member of the Council from time to time.".

13. Clause VIH of the principal Order (as set out in section 2 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1955, and as amended by section 5 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1957) is revoked.

14. Clause VII of the principal Order (as set out in section 2 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1955) is revoked and the following Clause is substituted:—

"Determination of questions as to membership.

VII. (1) Any question whether—

(*a*) any person has become a Nominated Member of the Council; or

(*b*) the seat in the Council of a Nominated Member has become vacant; or

(*c*) a Nominated Member has been suspended from the exercise of his functions as such or declared to be incapable of discharging those functions,

shall be referred to and determined by the Governor.

(2) Any question whether—

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

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

shall be referred to and determined by the High Court of the Territory in accordance with the provisions of any regulations made by the Governor in that behalf and, subject to any such regulations, in accordance with any directions given in that behalf by the Chief Justice of the Territory.".

15. Clause IX of the principal Order is revoked.

16. Clause XV of the principal Order (as amended by section 5 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1955,) is amended by the deletion of the proviso and the substitution of the following proviso:—

" Provided that the Governor shall reserve for the signification of Her Majesty's pleasure any Bill which determines or regulates the privileges, immunities or powers of the Council or of its Members, unless he shall have been authorized by a Secretary of State to assent thereto.".

17. Clause XXIX of the principal Order (as set out in section 2 of the Tanganyika (Legislative Council) (Amendment) Order in Council, 1953) is revoked and the following Clause is substituted:—

"Presiding in Council.

XXIX. There shall preside at meetings of the Council—

(*a*) the Speaker; or

(*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 Council (not being a member of the Council of Ministers) as the Council may appoint for that purpose.".

18. Clause XXXIV of the principal Order is revoked and the following Clause is substituted:—

" Sessions of the Council.

XXXIV. (1) Subject to the provisions of sub-clause (2) of this Clause, the first meeting of every session of the Council shall be held at such place and at such time as the Governor may, by Proclamation published in the Gazette, appoint.

(2) Sessions of the Council shall be held from time to time, but so that a period of twelve months shall not intervene between the last sitting of the Council in any one

session and the date appointed for its first sitting in the next session, whether or not a dissolution of the Council occurs between such sessions.".

Transitional provisions

19.—(1) At any time after the commencement of this Order laws may be enacted and Proclamations and regulations may be made as if sections 3 and 4 and sections 6 to 15 of this Order were in operation.

(2) No elections of members to the Council for which provision is made by Clause V of the principal Order, as set out in section 3 of this Order, shall be held under any regulations made in pursuance of subsection (1) of this section until that section has come into operation; but registration of electors may take place and all other things necessary or expedient to prepare for such elections may be done in pursuance of such regulations at any time after the commencement of this Order.

(3) The Governor may, by order published in the Gazette, at any time within twelve months after the commencement of this Order provide that any existing law shall be read and construed with such adaptations or modifications as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of the principal Order, as amended by this Order, or with the provisions of this section, or otherwise for giving effect or enabling effect to be given to those provisions; and any such law shall have effect accordingly from such date as may be specified in the order, not being a date earlier than the commencement of this Order.

(4) The Governor may, by order published in the Gazette, provide that, subject to such qualifications and exceptions as may be specified in the order, the Legislative Council Elections Ordinance(a) shall cease to have effect; and that Ordinance shall cease to have effect accordingly from such date as may be specified in the order, not being a date earlier than the commencement of this Order.

(5) Any order made under subsection (3) or subsection (4) of this section may be amended or revoked by a further order made in like manner.

(6) In this section "existing law" means any law in force or having effect immediately before the commencement of this Order that was enacted under the principal Order and includes any instrument made in pursuance of any such law.

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 provisions of the Tanganyika (Legislative Council) Order in Council, 1926, as amended, relating to the composition of the Legislative Council with effect from the next dissolution of the Council, and permits preparations to be made for elections to the new Council.

(a) Chapter 388 of the Laws of Tanganyika.