STATUTORY INSTRUMENTS

1961 No. 740

EAST AFRICA

The Tanganyika (Legislative Council) (Amendment) Order in Council, 1961

Made - - - -	14*th April*, 1961
Laid before Parliament	20*th April*, 1961
Coming into Operation	1*st May*, 1961

At the Court at Windsor Castle, the 14th day of April, 1961

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, 1961, and shall be construed as one with the Tanganyika (Legislative Council) Orders in Council, 1926 to 1960(**b**).

(2) The Tanganyika (Legislative Council) Orders in Council, 1926 to 1960, and this Order may be cited together as the Tanganyika (Legislative Council) Orders in Council, 1926 to 1961.

(3) References in this Order to the Tanganyika (Legislative Council) Order in Council, 1926(**c**) (hereinafter called "the principal Order") and to the Tanganyika Order in Council, 1920(**d**), shall be construed as references to those respective Orders as from time to time amended.

(4) Subject to the provisions of subsection (6) of section 22 of this Order, this Order shall come into operation on the first day of May, 1961.

Restyling of Legislative Council as National Assembly.

2. The Legislative Council constituted as provided by the principal Order shall be known as the National Assembly, and every reference (howsoever expressed) to the Legislative Council contained in the principal Order, in any other Order of Her Majesty in Council or in any laws enacted under the principal Order or the East Africa (High Commission) Order in Council, 1947(**e**), as from time to time amended,

(**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, 1960/206, 1058, 1374 (1949 I, p. 1888; 1953 II, p. 2271; 1955 I, p. 689; 1957 I, p. 665; 1958 I , p. 996; 1959 I, p. 988 ; 1960 I, pp. 1260, 1269, 1271).
(**c**) S.R. & O. 1926/991 (Rev. VIII, p. 278: 1926, p. 576).
(**d**) S.R. & O. 1920/1583 (Rev. VIII, p. 266: 1920 I, p. 685).
(**e**) S.R. & O. 1947/2863 (Rev. XI, p. 695: 1947 I, p. 758).

(including all instruments made under any law so enacted) which are in force in the Territory immediately before the date on which this Order comes into operation or which have been made before that date but have not previously been brought into operation shall, subject to amendment or repeal by the competent authority, be construed in relation to any period beginning on or after that date as a reference to the National Assembly.

Amendment of Clause III of Order of 1926.

3. Clause III of the principal Order is hereby amended by the insertion in sub-clause (1) thereof, in their respective places in alphabetical order, of the following definitions, that is to say:—

"Cabinet" means the Cabinet established by the Tanganyika Order in Council, 1920;

"Minister" means a Minister appointed under Article 12E of the Tanganyika Order in Council, 1920; and "Parliamentary Secretary" means a Parliamentary Secretary appointed under Article 12L of the Tanganyika Order in Council, 1920;

"public office" means any office of emolument in the public service;

"public officer" means a person holding or acting in a public office;

"the public service" means the service of the Crown in a civil capacity in respect of the Government of the Territory.

Amendment of Clause V of Order of 1926.

4. Clause V of the principal Order is hereby amended by the deletion of paragraph (*b*) thereof.

Amendment of Clause VA of Order 1926.

5. Clause VA of the principal Order is hereby amended—

(*a*) by the deletion of the words "an ex-officio" in sub-clause (1) thereof and the substitution therefor of the word "a"; and

(*b*) by the addition at the end thereof of the following sub-clause as sub-clause (4):—

"(4) In the exercise of the powers conferred on him by this Clause, the Governor shall act in his discretion.".

Amendment of Clause VB of Order of 1926.

6. Clause VB of the principal Order is hereby amended by the deletion of the words "a Member of the Council of Ministers" wherever the same occur therein and the substitution therefor of the words "a Minister or a Parliamentary Secretary".

Revocation of Clause VI of Order of 1926.

7. Clause VI of the principal Order is hereby revoked.

Amendment of Clause VIA of Order of 1926.

8. Clause VIA of the principal Order is hereby amended by the insertion immediately after the word "Governor" in sub-clause (1) thereof of the words "acting in his discretion".

Replacement of Clause VI D of Order of 1926.

9.—(1) Clause VID of the principal Order is hereby revoked and the following Clause is substituted therefor:—

"Election of Members to represent constituencies.

VI D. Subject to the provisions of this Order, provision may be made in any law enacted under this Order for the election of persons as Elected Members of the National Assembly 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 (*b*), (*c*), (*d*), (*e*) and (*f*) of sub-clause (1) of Clause VI F 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) Notwithstanding the provisions of subsection (1) of this section, the Governor shall, until a law enacted under the principal Order otherwise provides, continue to have power to make regulations for all or any of the matters referred to in Clause VI D of the principal Order and to revoke, replace or amend any such regulation and any regulation made by the Governor under Clause VI D of the principal Order as in force immediately before the date on which this Order comes into operation; and all regulations made under this subsection or under Clause VI D of the principal Order as in force as aforesaid shall, subject to the provisions of any law enacted under the principal Order, have effect as if they were laws so enacted and may be revoked, replaced or amended accordingly.

Amendment of Clause VIF of Order of 1926.

10. Clause VIF of the principal Order is hereby amended—

(*a*) by the deletion of paragraph (*a*) of sub-clause 1 thereof; and

(*b*) by the deletion from paragraph (*g*) of that sub-clause of the words "any regulation made under paragraph (*a*) of sub-clause (1) of Clause VI D of this Order" and the substitution therefor of the words "any law made in pursuance of paragraph (*a*) of sub-clause (1) of Clause VI D of this Order or any regulation having effect as if it were such a law".

Amendment of Clause VIG of Order of 1926.

11. Clause VIG of the principal Order is hereby amended—

(*a*) by the deletion from paragraphs (*d*) and (*e*) of sub-clause (2) thereof of the reference to paragraph (*a*) of sub-clause (1) of Clause VIF; and

(*b*) by the addition at the end thereof of the following sub-clause as sub-clause (11):—

"(11) In the exercise of the powers conferred on him by this Clause, the Governor shall act in his discretion.".

12. Clause VII of the principal Order is hereby amended by the addition at the end of sub-clause (1) thereof of the words " acting in his discretion ". Amendment of Clause VII of Order of 1926.

13. Clause VIII of the principal Order is hereby amended by the deletion of the words " shall have the right to address " and the substitution therefor of the words " acting in his discretion, may address ". Amendment of Clause VIII of Order of 1926.

14. Clause XV of the principal Order is hereby revoked and the following Clause substituted therefor:— Amendment of Clause XV of Order of 1926.

"Assent to Bills, etc.

XV—(1) A Bill passed by the National Assembly shall become law when—

(*a*) the Governor has assented thereto in Her Majesty's name and on Her Majesty's behalf, and has signed it in token of such assent, or

(*b*) Her Majesty has given her assent thereto through a Secretary of State and the Governor has signified such assent by Proclamation published in the Gazette.

(2) When a Bill has been passed by the Assembly it shall be presented to the Governor for his assent and he shall thereupon declare that he assents or refuses assent thereto, or that he reserves the Bill for the signification of Her Majesty's pleasure:

Provided that, unless he has been authorised by a Secretary of State to assent thereto, the Governor shall reserve for the signification of Her Majesty's pleasure any Bill which appears to him, acting in his discretion—

(*a*) to be inconsistent with any obligation imposed on Her Majesty by any treaty, convention, or agreement or arrangement relating to any country or international or similar organisation outside Tanganyika; or

(*b*) to be likely to prejudice the Royal prerogative.

(3) The Governor, acting in his discretion, may refuse his assent to any Bill which appears to him to affect his responsibility for defence and external affairs.

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

15. Clauses XVI to XIX (inclusive) of the principal Order are hereby revoked. Revocation of Clauses XVI to XIX of Order of 1926.

16. Clause XXI of the principal Order is hereby amended by the deletion of sub-clause (1) thereof and the substitution therefor of the following:— Amendment of Clause XXI of Order of 1926.

" (1) Any ordinance may be disallowed by Her Majesty through a Secretary of State if it contains any provision that appears to Her Majesty—

(*a*) to be inconsistent with any obligation imposed on Her Majesty by any treaty, convention or agreement with, or arrangement relating to, any country or international or similar organisation outside Tanganyika ; or

(*b*) to be likely to prejudice the Royal prerogative ; or

(*c*) to alter, to the injury of the stockholders, any provisions relating to any Tanganyika Government stock that is registered in the United Kingdom in accordance with the provisions of the Colonial Stock Act, 1877(a), as from time to time amended, or to involve a departure from the original contract in respect of any such stock.".

Revocation of Clauses XXIII to XXVIII of Order of 1926.

17. Clauses XXIII to XXVIII (inclusive) of the principal Order are hereby revoked.

Amendment of Clause XXIX of Order of 1926.

18. Clause XXIX of the principal Order is hereby amended by the deletion of the words "a member of the Council of Ministers" and the substitution therefor of the words "a Minister or a Parliamentary Secretary".

Amendment of Clause XXXI Order of 1926.

19. Clause XXXI of the principal Order is hereby amended by the deletion of sub-clauses (3) and (4) thereof and the substitution therefor of the following :—

"(3) If, in the case of a Bill or motion that is before the Assembly or any committee thereof—

(*a*) the Governor gives notice to the Assembly or to the committee, as the case may be, that in his opinion the Bill or motion relates to or affects any matter relating to defence or external affairs ; or

(*b*) the Speaker or other Member presiding considers that the Bill or motion relates to or affects any matter relating to defence or external affairs,

no further proceedings shall be taken upon such Bill or motion except with the consent of the Governor.

(4) Any such notice as is referred to in sub-clause (3) of this Clause may be given by the Governor in such manner as he thinks fit and, in the case of a notice given to the Assembly, may be given either to the Speaker (whether or not he is presiding over the Assembly) or to any other Member who may be so presiding and, in the case of a notice given to a committee of the Assembly, may be given either to the Speaker (whether or not he is presiding over that committee) or to any other person who may be presiding over that committee.

(5) In the exercise of the powers vested in him by sub-clause (3) of this Clause, the Governor shall act in his discretion.".

Amendment of Clause XXXIA of Order of 1926.

20. Clause XXXIA of the principal Order is hereby amended by the deletion of sub-clause (1) thereof and the substitution therefor of the following :—

"(1) (*a*) The Governor may send by message to the Speaker a draft of any Bill or motion which, in the opinion of the Governor,

(a) 40 & 41 Vict. c. 59.

relates to or affects any matter relating to defence or external affairs and which he considers should be introduced or proposed in the National Assembly, and may (whether in the same or a later message) request that the Bill or motion shall be introduced or proposed not later than a date specified in such message.

(*b*) If a request of the Governor made to the Speaker in accordance with paragraph (*a*) of this sub-clause is not complied with by the date specified, the Bill or motion to which it relates shall be deemed for all purposes to have been introduced or proposed in the Assembly on that date.

(*c*) If the Assembly fail to pass the Bill or to carry the motion within such time and in such form as the Governor thinks reasonable and expedient, the Governor, at any time that he thinks fit, and notwithstanding any provision of this Order or any Standing Rules and Orders of the Assembly, may, by writing under his hand, declare that such Bill or motion shall have effect as if, on the date of such declaration, it had been passed or carried by the Assembly either in the form in which it was introduced or proposed (or is deemed to have been introduced or proposed) or (as the declaration shall specify) with such amendments as the Governor thinks fit that have been moved or proposed in the Assembly or any committee thereof; and the Bill or motion shall be deemed thereupon to have been passed or carried in the form specified in the declaration and on the date thereof, and the provisions of this Order shall have effect accordingly.

(*d*) Any message that is sent to the Speaker by the Governor under this sub-clause shall be laid before the Assembly.

(*e*) In the exercise of the powers vested in him by this sub-clause, the Governor shall act in his discretion.".

Amendment of Clause XXXV of Order of 1926.

21. Clause XXXV of the principal Order is hereby amended by re-numbering it as sub-clause (1) thereof and by adding the following as sub-clause (2):—

" (2) In the exercise of the power vested in him by sub-clause (1) of this Clause to dissolve the Assembly (otherwise than on the expiration of the said four years), the Governor shall act in accordance with the advice of the Prime Minister:

Provided that—

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

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

(*c*) if the office of Prime Minister is vacant and the Governor considers that there is no prospect of his being able to appoint a person who can command the support of the majority of the members of the Assembly to that office within a reasonable time, the Governor may, acting in his discretion, dissolve the Assembly.".

Adaption of Laws.

22.—(1) All laws enacted under the principal Order or under the East Africa (High Commission) Order in Council, 1947, as from time to time amended, (including all instruments made under any law so enacted) which are in force in the Territory immediately before the date on which this Order comes into operation or which have been made before that date but have not previously been brought into operation shall, subject to amendment or repeal by the competent authority, be construed, in relation to any period beginning on or after that date, with such adaptations or modifications as are necessary to bring them into conformity with this Order or with the Tanganyika Order in Council, 1961(a), or with the Tanganyika (Public Service Commission) (Amendment) Order in Council, 1961(b).

(2) Without prejudice to the generality of subsection (1) of this section, but subject to subsection (3) thereof, any reference in any such law as aforesaid to the Governor in Council of Ministers (however expressed) shall, in relation to any such period as aforesaid, be construed as a reference to the Governor.

(3) The Governor may, by order published in the Gazette and made at any time within six months commencing with the coming into operation of this subsection, make such amendments, adaptations and modifications in any such law as aforesaid as he may consider necessary or expedient by reason of anything contained in this Order, the Tanganyika Order in Council, 1961, or the Tanganyika (Public Service Commission) (Amendment) Order in Council, 1961.

(4) An order made by the Governor under subsection (3) of this section shall have effect from such date, not earlier than the date on which this Order comes into operation, as may be specified therein.

(5) An order made by the Governor under subsection (3) of this section may be amended or revoked by a further order made thereunder.

(6) Subsections (3), (4) and (5) of this section shall come into operation on the day after the day on which this Order is laid before Parliament.

W. G. Agnew.

EXPLANATORY NOTE

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

The purpose of this Order is to make further amendments to the principal Order in consequence of the establishment of internal self-government in Tanganyika. It provides for the Legislative Council to be renamed the National Assembly and removes the ex-officio members therefrom. The Governor's reserved powers in respect of legislation are now confined to matters affecting the Royal prerogative or defence and external affairs.

(a) S.I. 1961/738 (*See* p. 1457 of this Pt.). (b) S.I. 1961/739 (*See* p. 1465 of this Pt.).