(*b*) Where any law of the legislature of Kenya provides that an instrument, after being made by one person or authority, shall be submitted for approval to another person or authority and the instrument does not have the force of law until approved by that other person or authority, then for the purpose of the last foregoing subsection and this subsection, the instrument shall not be deemed to have been made until it is so approved."

W. G. Agnew.

EXPLANATORY NOTE

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

This Order makes certain amendments to the Kenya (Constitution) Order in Council, 1958, with respect to the Council of State and one minor amendment to that Order with respect to the introduction of Bills in the Legislative Council.

1959 No. 1047

The Tanganyika Order in Council, 1959

Made - - - -	15*th June*, 1959
Laid before Parliament	19*th June*, 1959
Coming into Operation	1*st July*, 1959

At the Court at Buckingham Palace, the 15th day of June, 1959

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890(a), or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, construction and commencement

1.—(1) This Order may be cited as the Tanganyika Order in Council, 1959, and shall be construed as one with the Tanganyika Orders in Council, 1920 to 1955(b).

(2) The Tanganyika Orders in Council, 1920 to 1955, and this Order may be cited together as the Tanganyika Orders in Council, 1920 to 1959.

(3) This Order shall come into operation on the first day of July, 1959.

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

(b) S.R. & O. 1920/1583, 1939/875: S.I. 1948/2066 (Rev. VIII, p. 266: 1920 I, p. 685; 1939 II, p. 1698; 1948 I, p. 1353); S.I. 1949/2192, 1955/1216 (1949 I, p. 1890; 1955 I, p. 688).

Amendment of Order of 1920

2. Article 4 of the Tanganyika Order in Council, 1920(**a**), (hereinafter referred to as "the principal Order") (as amended by Article 2 of the Tanganyika Order in Council, 1949(**b**)) is amended—

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

"(4) (*a*) Whenever the office of Governor is vacant or the Governor is absent from the Territory or is from any other cause prevented from or incapable of discharging the functions of the office of Governor—

(i) such person as Her Majesty may designate by Instructions given under Her Sign Manual and Signet or through a Secretary of State ; or

(ii) if there is no person in the Territory so designated and capable of discharging the functions of the office of Governor, the Chief Secretary,

shall, during Her Majesty's pleasure, discharge the functions of the office of Governor and administer the government of the Territory accordingly.

(*b*) Before assuming the administration of the government of the Territory any such person as aforesaid shall make the oaths directed by paragraph (3) of this Article to be made by a person appointed to the office of Governor.

(*c*) Any such person as aforesaid shall not continue to administer the government of the Territory after the person holding the office of Governor or some other person having a prior right to administer the government has notified him that he is about to assume or resume the administration.

(*d*) For the purposes of this paragraph the Governor—

(i) shall not be regarded as absent from the Territory during his passage from one part of the Territory to another, or as prevented from discharging the functions of the office of Governor by reason that he is so passing ;

(ii) shall not be regarded as absent from the Territory or as prevented from or incapable of discharging the functions of the office of Governor at any time when there is a subsisting appointment of a Deputy to the Governor under paragraph (5) of this Article." ;

(*b*) by the insertion after the words "at any time be" in sub-paragraph (*c*) of paragraph (5) of the words "varied or" ; and

(*c*) by the insertion after paragraph (5) of the following paragraph:—

"(6) In paragraph (5) of this Article the reference to the powers and functions vested in the Governor does not include a reference to any power or function conferred upon the Governor by any Act of Parliament or by any Order of Her Majesty in Council other than this Order, the Tanganyika (Legislative Council) Order in Council, 1926(**c**), the Emergency Powers Order in Council, 1939(**d**), or any Order amending or replacing any of those Orders."

(**a**) S.R. & O. 1920/1583 (Rev. VIII, p. 266: 1920 I, p. 685).
(**b**) S.I. 1949/2192 (1949 I, p. 1890).
(**c**) S.R. & O. 1926/991 (Rev. VIII, p. 278; 1926, p. 576).
(**d**) *See* S.I. 1952 I, p. 621.

3. Article 6 of the principal Order is revoked and the following Article is substituted:—

"Council of Ministers and Executive Council.

6. There shall be in and for the Territory a Council of Ministers and an Executive Council constituted in such manner as Her Majesty may direct by Instructions under Her Sign Manual and Signet."

4. Article 9 of the principal Order is revoked and the following Article is substituted:—

"Constitution of offices, etc.

9.—(1) The Governor, in Her Majesty's name and on Her Majesty's behalf, may constitute all such offices for the Territory as may lawfully be constituted by Her Majesty and, subject to the provisions of any Order of Her Majesty in Council, may make appointments (including appointments on promotion and transfer) to any such office.

(2) Subject to the provisions of any law for the time being in force in the Territory, any person appointed to any office constituted under subsection (1) of this section shall hold that office during Her Majesty's pleasure."

5. Articles 21 and 25 of the principal Order are revoked.

6. Article 26 of the principal Order is amended by the deletion from paragraph (1) of the words "(except the Special Tribunal)".

7. Article 27 of the principal Order is revoked.

Adaptation of existing laws

8.—(1) The Governor may, by order published in the Gazette, at any time within six months after the commencement of this Order, provide that any existing law shall be read and construed with such adaptations and modifications as may appear to the Governor to be necessary or expedient for bringing the provisions of that law into conformity with the provisions of this Order, the Tanganyika (Legislative Council) (Amendment) Order in Council, 1959(a) and the Tanganyika Royal Instructions, 1959, as from time to time amended, or otherwise for giving effect or enabling effect to be given to those provisions; and any existing law shall have effect accordingly from such date as may be specified in the order, not being a date earlier than the date of commencement of this Order.

(2) In this section "existing law" means an Ordinance in force immediately before the commencement of this Order and includes any instrument in force as aforesaid and made in exercise of a power conferred by any Ordinance.

(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.

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 Order in Council, 1920, as amended, relating to the exercise of the Governor's powers and the constitution of public offices and provides for the establishment of a Council of Ministers.

(a) S.I. 1959/1048 (Pt. I. p. 988, of this vol.).