STATUTORY INSTRUMENTS

# 1963 No. 1042

# EAST AFRICA

## The Zanzibar Order in Council 1963

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| *Made* - - - - | *30th May* 1963 |
| *Laid before Parliament* | *7th June* 1963 |
| *Coming into Operation* | *24th June* 1963 |

**At the Court at Buckingham Palace, the 30th day of May 1963**

**Present,**

**The Queen's Most Excellent Majesty in Council**

Her Majesty, by virtue and in exercise of powers 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 Zanzibar Order in Council 1963 and shall be construed as one with the Zanzibar Orders in Council 1924 to 1962(b).

(2) This Order and the Zanzibar Orders in Council 1924 to 1962 may be cited together as the Zanzibar Orders in Council 1924 to 1963.

(3) This Order shall come into operation on such day as may be appointed by the British Resident, acting in his discretion, by Proclamation published in the Zanzibar Government Gazette, which day shall not be earlier than 8th June 1963.

Replacement of Article 8 of Order of 1924.

**2.** Article 8 of the Zanzibar Order in Council 1924 (hereinafter referred to as the principal Order) (as set out in section 2 of the Zanzibar (No. 2) Order in Council 1953(c)) is revoked and the following article is substituted—

"8.—(1) There shall be a Deputy British Resident who shall be appointed by the British Resident in pursuance of instructions given by Her Majesty through a Secretary of State and shall hold office during Her Majesty's pleasure.

(2) If the office of Deputy British Resident is vacant or the Deputy British Resident is performing the functions of the office of the British Resident or is for any reason unable to perform the functions of the

(a) 53 & 54 Vict. c. 37.
(b) S.R. & O. 1924/1401 (Rev. VIII, p. 313: 1924, p. 434); 1925/932 (Rev. VIII, p. 327: 1925, p. 374); 1926/106, 1936/80, 1939/292, 1942/835 (Rev. VIII, p. 313: 1926, p. 586; 1936 I, p. 947; 1939 II, p. 1703; 1942 I, p. 216); S.I. 1951/609, 1952/635, 1953/194, 1205, 1961/1507, 1962/2784 (1951 I, p. 1148; 1952 III, p. 3984; 1953 II, pp. 2760, 2761; 1961 II, p. 3080; 1962 III, p. 3973).
(c) S.I. 1953/1205 (1953 II, p. 2761).

office of Deputy British Resident, then the British Resident, acting in his discretion, may appoint a person to act as Deputy British Resident and any such person shall continue to act until his appointment is revoked by the British Resident.".

Insertion of Articles 9 and 10 in Order of 1924.

**3.** There shall be inserted in the principal Order, immediately after Article 8, the following Articles—

"9.—(1) Whenever the office of British Resident is vacant or the British Resident is absent from the Protectorate or is for any other cause prevented or incapable of discharging the functions of his office—

(*a*) the Deputy British Resident; or

(*b*) if the office of Deputy British Resident is vacant or the Deputy British Resident is absent from the Protectorate or is for any reason unable to discharge the functions of his office, such person as Her Majesty may designate by Instructions given under Her Sign Manual and Signet or through a Secretary of State.

shall, during Her Majesty's pleasure, discharge the functions of the office of British Resident.

(2) The Deputy British Resident shall not continue to discharge the functions of the office of the British Resident after the British Resident has notified him that he is about to assume or resume the discharge of those functions and the person designated under paragraph (1)(*b*) of this Article shall not continue to discharge those functions after the British Resident or the Deputy British Resident has so notified him.

(3) The British Resident, or, if the Deputy British Resident has entered upon the discharge of the functions of the office of the British Resident under paragraph (1) of this Article, the Deputy British Resident may, if he has occasion to be absent from the Protectorate for a period which in his opinion will be of short duration, direct by notice published in the Zanzibar Government Gazette that, notwithstanding his absence from the Protectorate, he will continue to discharge the functions of the office of the British Resident

(4) For the purposes of paragraph (1) of this Article—

(*a*) the British Resident or the Deputy British Resident shall not be regarded as absent from the Protectorate or as unable to discharge the functions of the office of the British Resident by reason only of the fact that he is in passage from one part of the Protectorate to another;

(*b*) so long as any direction given by the British Resident under paragraph (3) of this Article is in force, the British Resident shall not be regarded as absent from the Protectorate or as unable to discharge the functions of the office of the British Resident by reason only of the fact that he is in passage to, or in, any place outside the Protectorate or in passage from that place to the Protectorate;

(*c*) when the Deputy British Resident has entered upon the discharge of the functions of the office of the British Resident and so long as any direction given by the Deputy British Resident under paragraph (3) of this Article is in force, he

shall not be regarded as absent from the Protectorate or as unable to discharge the functions of the office of the British Resident by reason only of the fact that he is in passage to, or in, any place outside the Protectorate or in passage from that place to the Protectorate.

(5) In this Article " the British Resident " means the person holding the office of British Resident and " the Deputy British Resident " means the person holding the office of Deputy British Resident.

10.—(1) The British Resident may, by writing under his hand authorize the Deputy British Resident to exercise for and on behalf of the British Resident, subject to such exceptions and conditions as the British Resident may from time to time specify, any or all of the functions of the office of the British Resident.

(2) The powers and authority of the British Resident shall not be affected by any authority of the Deputy British Resident under paragraph (1) of this Article otherwise than as Her Majesty may from time to time think proper to direct and the Deputy British Resident shall conform to and observe such instructions relating to the discharge by him of any of the functions of the office of the British Resident as the British Resident may from time to time address to him for his guidance.

(3) Any authority given under paragraph (1) of this Article may at any time be varied or revoked by Her Majesty by instructions through a Secretary of State or by the British Resident by writing under his hand.

(4) In paragraph (1) of this Article the reference to any functions of the office of the British Resident does not include a reference to—

(*a*) the functions conferred upon the British Resident by this Article;

(*b*) any functions conferred upon the British Resident by any Act of Parliament or by any Order of Her Majesty in Council or other instrument made under any Act of Parliament other than this Order, the Emergency Powers Order in Council 1939(a) or any Order amending or replacing those Orders.".

Revocation of Article 12 of Order of 1924.

**4.** Article 12 of the principal Order is revoked.

Amendment of Article 17 of Order of 1924.

**5.** Article 17 of the principal Order (as set out in section 4 of the Zanzibar Order in Council 1925(b) and as amended by the Zanzibar Order in Council 1939(c) and the Zanzibar Order in Council 1961(d), is amended as follows—

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

" (4)(*a*) The Chief Justice shall be appointed by the British Resident, acting after consultation with the Prime Minister of the Protectorate, and the Judges other than the Chief Justice shall be appointed by the British Resident acting on the recommendation of the Judicial Service Commission.

(a) *See* S.I. 1952 I, p. 621.
(b) S.R. & O. 1925/932 (Rev. VIII, p. 327: 1925, p. 374).
(c) S.R. & O. 1939/292 (Rev. VIII, p. 313: 1939 II, p. 1703).
(d) S.I. 1961/1507 (1961 II, p. 3080).

(*b*) Where the Judicial Service Commission make a recommendation for the purposes of this paragraph the British Resident shall act in accordance with that recommendation:

Provided that—

(i) before he acts in accordance therewith he may once refer the recommendation back to the Judicial Service Commission for reconsideration;

(ii) if the Judicial Service Commission, having reconsidered the original recommendation, substitutes a different recommendation the provisions of this proviso shall apply to that different recommendation as they apply to the original recommendation.";

(*b*) by the insertion immediately after paragraph (6) of the following paragraph—

"(7) In this Article the expression "the Judicial Service Commission" means the Judicial Service Commission established for the Protectorate by any Decree of the Sultan of Zanzibar for the time being in force and countersigned by the British Resident.".

*W. G. Agnew.*

## EXPLANATORY NOTE

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

This Order establishes the office of Deputy British Resident for Zanzibar and makes fresh provision for the performance of the functions of the office of the British Resident and for the appointment of the judges of the High Court of Zanzibar.