

CHAPTER 500

REPUBLIC OF TANGANYIKA (CONSEQUENTIAL, TRANSITIONAL AND TEMPORARY PROVISIONS)

An Act to make provision consequential upon Tanganyika becoming a Republic and for matters incidental thereto, and to repeal and amend certain Laws

C.A. Act No.2

[9TH DECEMBER, 1962]

1. (1) This Act may be cited as the Republic of Tanganyika (Consequential, Transitional and Temporary Provisions) Act, 1962, and shall be read as one with the Republican Constitution.

Short title, construction and commencement

(2) This Act shall come into operation on the ninth day of December, 1962.

Interpretation

2. In this Act, unless the context otherwise requires:-

“the existing Constitution” means the Constitution set out in the Second Schedule to the 1961 Order, as in force immediately before the commencement of the Republican Constitution,

“existing law” means the written and unwritten law of Tanganyika as it exists immediately before the ninth day of December, 1962, and for the avoidance of doubts it is hereby declared that it includes a law enacted or made by any enactment or instrument passed or made before, and coming into operation on or after, that date;

“the Republican Constitution” means the Constitution of Tanganyika enacted by the Constituent Assembly of Tanganyika;

Cap. 499

“1961 Order” means the Tanganyika (Constitution) Order in Council, 1961.

G.N. 1961 No. 415

3. The provisions of this Act shall have effect notwithstanding anything contained in the Republican Constitution.

Act to prevail over Constitution

Repeal of existing Constitutional provisions

4. Subject to the provisions of section 26 of this Act, the laws specified in Part I of the First Schedule to this Act are hereby repealed and revoked.

Repeal of existing constitutional provisions.

Continuity of laws and legal proceedings

5.(1) Without prejudice to the repeal or revocation of any existing effect from the date on which this Act comes into operation, the e:

Existing laws.

shall continue to be the law of Tanganyika after the commencement of the Republican Constitution, except in so far as it is thereafter amended, modified, repealed or revoked by competent authority or any provision thereof expires, but shall be construed with such modifications, adaptations, qualifications, and exceptions as may be necessary to bring it into conformity with the provisions of the Republican Constitution or as are provided in this Act; and for the avoidance of doubts it is hereby declared that, subject as aforesaid and to other the provisions of this Act, the operation of the existing law after the commencement of the Republican Constitution shall not be affected by the repeal or revocation of the laws specified in Part I of the First Schedule to this Act, or by Tanganyika becoming a Republic.

(2) The President may, at any time before the ninth day of June, 1963, by order published in the *Gazette*, make such amendments to any that law into conformity with the provisions of the Republican Constitution or otherwise for giving effect or enabling effect to be given to those provisions, and where the President makes an order under this section in relation to an Act of the Common Services Organization, that order shall have effect so as to amend that law in and in relation to any person or matter connected with Tanganyika, notwithstanding any provision to the contrary in the Interpretation and General Clauses Ordinance.

Cap. 1

Constitutional requirements fulfilled by existing provisions

6. Where any matter that falls to be prescribed or otherwise provided requirements for under the Republican Constitution by Parliament, or by any other existing authority or person, is prescribed or provided for by or under existing provisions law (including any amendment made to such law under section 5 or section 31), or is otherwise prescribed or provided for immediately before the commencement of the Republican Constitution by or under the 1961 Order, that prescription or provision shall, as from the commencement of the Republican Constitution, have effect as if it had been made under the Republican Constitution by Parliament or, as the case may be, by the other authority or person.

Prerogatives, powers and duties.

7. 1) Where, under existing law, any rights, prerogatives, powers, duties privileges, duties or functions are vested in or imposed on Her Majesty the Queen or the Crown in respect of Tanganyika, those rights, prerogatives, powers, privileges, duties and functions shall, on the commencement of the Republican Constitution, vest in and be imposed on the Republic and, subject to the provisions of the Republican Constitution and of any other law, the President shall have the power to do all things necessary for the exercise or performance thereof.

(2) Where, under existing law, any rights, powers, privileges, duties or functions are vested in or imposed on the Governor General or the Prime Minister, those rights, powers, privileges, duties and functions shall, on the commencement of the Republican Constitution and subject to the provisions of that Constitution and of any other law, vest in and be exercisable by or, as the case may be, shall be performed by the President.

Adaptation of laws.

8. Save as may be provided in this or in any other written law and or laws unless the context otherwise requires:-

(a) any reference in existing law or in any public document to Her Majesty the Queen (whether or not that expression is used) or to the Crown, in respect of Tanganyika, shall be read and construed in respect of any time, or any period commencing, on or after the ninth day of December, 1962, as if it were a reference to the Republic;

- (b) any reference in existing law or in any public document to the Governor General of Tanganyika (including references to the Governor and Commander-in-Chief of the former Trust Territory of Tanganyika, to the Governor in Executive Council, the Governor in Council and the Governor in Council of Ministers, which by reason of any law which had effect immediately prior to the ninth day of December, 1962, are to be read and construed as references to the Governor General) shall be read and construed in respect of any time, or any period commencing, on or after the ninth day of December, 1962, as if it were a reference to the President;
- (c) any reference in existing law or in any public document to the Prime Minister shall be read and construed in respect of any time, or any period commencing, on or after the ninth day of December, 1962, as if it were a reference to the President;
- (d) any reference in existing law or in any public document to the Cabinet (including references to any other Council which by reason of any law which had effect immediately before the ninth day of December, 1962, are to be read and construed as references to the Cabinet) shall be read and construed in respect of any time, or any period commencing, on or after the ninth day of December, 1962, as if it were a reference to the Cabinet established by the Republican Constitution.

9. Where any matter or thing has been commenced, or any step has been taken, before the ninth day of December, 1962, by any person or matters authority having power in that behalf under existing law, such thing or matter may be carried on and completed and such further steps taken by the person or authority having power in that behalf on or after the ninth day of December, and, unless the President in any case otherwise directs, it shall not be necessary for the latter person or authority to reconsider or commence such matter or thing, or take any such step, *de novo*.

Pending matters

10.-(1) Any proceeding pending immediately before the commencement of the Republican Constitution before the High Court established by the existing Constitution may be continued and concluded, and Court decrees, judgments and orders therein given and perfected, after such commencement before and by the High Court established by the Republican Constitution.

Legal proceedings in the High Court.

(2) Every decree, judgment or order given or perfected by the High Court established by the existing Constitution, or by Her Majesty's High Court of Tanganyika established by the Tanganyika Orders in Council, 1920 to 1961, which shall not have been fully executed or enforced before the commencement of the Republican Constitution, may be executed and enforced after such commencement by the High Court established by the Republican Constitution and, in so far as they have jurisdiction, by courts subordinate thereto.

A.L. [5]

(3) Any reference in existing law or in any public document to Her Majesty's High Court of Tanganyika shall be read and construed in respect

Legal proceedings generally
Cap. 507
Cap. 451.

of any time, or any period commencing, on or after the ninth day of December, 1962, as if it were a reference to the High Court established by the Republican Constitution.

11. Subject to the provisions of the Appellate Jurisdiction Act, 1962, any proceedings pending in any court (including a court to which an generally appeal lies under the existing Constitution or the Appellate Jurisdiction Ordinance) immediately before the commencement of the Republican Constitution in which Her Majesty the Queen, or any servant of Her Majesty the Queen, is a party in respect of Tanganyika, or the Government of Tanganyika is a party, shall continue after such commencement and to have complied with any requirement of the Republican Constitution, or of other written law, to take and subscribe any oath on appointment or election to office:

Provided that any person who, under the 1961 Order or such Order in Council or Royal Instructions or existing law, would have been required to vacate his office at the expiration of any period or on the attainment of any age shall vacate his office at the expiration of that period or upon the attainment of that age.

(2) The provisions of this section shall be without prejudice to the powers conferred by or under any law upon any person or authority to make provision for the abolition of offices, to remove persons holding or acting in offices, or to require persons to retire from office.

Cap. 509

(3) Until the President makes other provision in that behalf, the Chairman of the Civil Service Commission established by the Civil Service Act, 1962, shall be deemed to have been appointed a member of the Judicial Service Commission under paragraph (c) of subsection (I) of section 52 of the Republican Constitution.

(4) Nothing in this section shall apply to the office of Governor-General, Prime Minister, Minister, Parliamentary Secretary, Speaker or Deputy Speaker of the National Assembly, a member of the National Assembly, or a member of the Public Service Commission or the Advisory Committee on the Prerogative of Mercy established by the existing Constitution.

(5) In determining, for the purpose of any law relating to retiring benefits or otherwise to length of service, the length of service of a person to whom subsection (1) of this section applies, service under the Crown which terminates immediately before the commencement of the Republican Constitution and service under the Republic which begins at the commencement of that Constitution shall be deemed to be continuous.

15. The number of puisne judges of the High Court shall, until Parliament otherwise provides, be seven.

Number of
repealed judges
Act 44/64

16.- So long as the office of Controller and Auditor-General is held by a person who is an entitled officer or a qualified officer, within the meanings respectively assigned to those expressions in the Tanganyika (Compensation and Retiring Benefits) Order in Council, 1961, and the

Controller and
Auditor General
A.L. [59] Cap.
483

Cap. 483 Retirement (Special Provisions) Act, 1962, or an officer to whom subsection (2) of section 17 of this Act applies, subsection (I) of section 63 of the Republican Constitution shall have effect as if there were substituted for the age of sixty years the age of fifty-five years.

17.-(1) Any provision of the Republican Constitution that relates to the removal from office of an officer in the service of the Republic shall be without prejudice to-

- (a) the provisions of paragraph 5 of the Schedule to the Tanganyika candidates (Compensation and Retiring Benefits) Order in Council, 1961;
- (b) the provisions of section 3 of the Retirement (Special Provisions) Act, 1962;

Compulsory retirement to facilitate appointment of local candidates

(which provide for the compulsory retirement of certain public officers for the purpose of facilitating the appointment of local and African officers and candidates respectively); or

- (c) the provisions of subsection (2) of this section.

(2) If the President is satisfied that there are more local candidates qualified for appointment to, or promotion in, any branch of the service of the Republic than there are vacancies in that branch which could appropriately be filled by such local candidates, he may select officers in that branch to whom this subsection applies and whose retirement would cause vacancies that could appropriately be filled by such suitably qualified local candidates as are available and fit for appointment and, by notice in writing, call upon the officers so selected to retire from the service of the Republic; and any officer who is so required to retire shall retire accordingly.

- (3) Subsection (2) of this section applies to any overseas officer who-

- (a) after the commencement of the 1961 Order, was appointed to any public office, within the meaning of that expression in that Order, (otherwise than on promotion or transfer from another public office) and who is notified at the time of his appointment that subsection (2) of section 10 of the 1961 Order will apply to him; or who

- (b) after the commencement of the Republican Constitution is appointed to any office in the service of the Republic (otherwise than on promotion or transfer from another such office) and who is notified at the time of his appointment that this subsection will apply to him.

- (4) In this section the expression "overseas officer" has the meaning ascribed thereto in the Tanganyika (Compensation and Retiring Benefits) Order in Council, 1961.

18.- (1) If any Commission decides to give such concurrence as is required under subsection (1) or (2) of section 23 of the Civil Service and 508 Act, 1962, or under subsection (1) or (2) of section 23 of the Judicial Service Act, 1962, in respect of any benefits to which those sections apply that may this section applies, the Commission shall cause to be delivered to the officer concerned (or to his personal representatives) a written notice of its decision, stating the time, not being less than fourteen days from the date on which the notice is delivered, within which he (or his personal representatives) may apply for the case to be referred to an Appeals Board.

(2) Any such decision of a Commission shall not have effect until the expiry of the time stated in the notice, and if application is duly made within that time for the case to be referred to an Appeals Board, the decision shall not have effect until the final determination of the case under this section and except to the extent authorized by such determination:

Provided that, pending the expiry of the time stated in the notice or pending the final determination of the case under this section-

- a) the Commission may suspend the payment of any benefits to which the decision that is(the subject of the reference to the Appeals Board relates; and
- (b) the President or the Judicial Service Commission, as the case may be, may suspend the officer concerned from the exercise of the functions of his office.

(3) If application is duly made within the time stated in the notice for the case to be referred to an Appeals Board, the Commission shall notify the President in writing of that application, and the President shall then appoint an Appeals Board of three members, consisting of—

- (a) one member selected by the President;
- (b) one member selected by an association representative of officers in the service of the Republic or by a professional body, nominated in either case by the applicant; and
- (c) one member selected by the two other members jointly, who shall be the Chairman of the Board.

(4) The Appeals Board shall inquire into the facts of the case and for that purpose shall hear the applicant if he so requests in writing, and shall hear any other person who, in the opinion of the Board, is able to give the Board information on the case, and the Board shall have access to, and shall consider, all documents that were available to the Commission and shall also consider any further document relating to the case that may be produced by or on behalf of the applicant or the Commission.

(5) After the Appeals Board has completed its consideration of the case, the Board shall advise the Commission whether the decision of the Commission should be confirmed, reversed or modified and the Commission shall act in accordance with such advice.

(6) The officers to whom this section applies are any officers who are liable to compulsory retirement under any such provision as is referred to in paragraph (a) or paragraph (b) of subsection (1) of section 17 of this Act.

Parliament

19.-(1) The National Assembly established by the Tanganyika Existing (National Assembly) Orders in Council, 1926 to 1961, and continued in being by subsection (1) of section 6 of the 1961 Order (hereinafter referred to as “the existing National Assembly”) shall be the National Assembly for the purposes of the Republican Constitution during the period beginning with the commencement of that Constitution and ending with the first dissolution of Parliament thereafter (hereinafter referred to as “the interim period”).

Existing
National
Assembly A.L.
[21]

(2) Subject to the provisions of subsection (4) of section 44 of the Republican Constitution, Parliament shall, unless sooner dissolved, stand dissolved on the eleventh day of October, 1965.

Act 42 / 65

(3) During the interim period, the provisions of the Republican Constitution mentioned in Part I of the Second Schedule to this Act shall not have effect, the provisions set out in Part II of that Schedule shall have effect in lieu thereof and the provisions of the Republican Constitution mentioned in column 1 of Part III of that Schedule shall have effect subject to the modifications specified in column 2 of that Part:

Provided that any provision of this section or of the Second Schedule to this Act whereby any provision of the Republican Constitution shall not have effect during the interim period, or shall have effect during that period subject to modifications, or whereby other provision shall have effect in lieu thereof, shall not operate with respect to the exercise during that period of any function for the purposes of elections to the National Assembly that are to be held after the expiration of that period.

20. The persons who, immediately before the commencement of the members of Republican Constitution, are members of the existing National Assembly shall continue to be members of the National Assembly after the commencement of that Constitution, and as from that time shall be deemed to have been elected or appointed thereto in pursuance of the provisions of the Republican Constitution then having effect (including any modifications to those provisions specified in Part III of the Second Schedule to this Act and any provisions having effect in lieu

of those provisions set out in Part II of that Schedule) and shall hold their seats in the National Assembly in accordance therewith; and such members shall be deemed to have complied with any requirement of the Republican Constitution to take and subscribe any oath on election or appointment:

Provided that nothing in this section shall apply to the person declared by the Republican Constitution to be the first President of Tanganyika or to any person who is not a citizen of Tanganyika, but every such person shall vacate his seat in the National Assembly on the commencement of the Republican Constitution.

21. The person who immediately before the commencement of the Deputy Republican Constitution is the Speaker of the existing National speaker Assembly and the person who immediately before the last prorogation of the National Assembly before the commencement of that Constitution is the Deputy Speaker of the existing National Assembly shall continue to be the Speaker and the Deputy Speaker respectively of the National Assembly after the commencement of that Constitution, and as from that time shall be deemed to have been elected as such in pursuance of the provisions of the Republican Constitution and shall hold office in accordance therewith; and such persons shall be deemed to have complied with any requirement of the Republican Constitution to take and subscribe any oath on election: Provided that nothing in this section shall apply to any person who is not a citizen of Tanganyika, but any such person shall vacate such office aforesaid on the commencement of the Republican Constitution.

Standing Rules & Orders

22. The Standing Rules and Orders and other the rules of procedure of the existing National Assembly as in force immediately before the Orders commencement of the Republican Constitution shall, except as may be otherwise provided by the National Assembly, continue to be the Standing Rules and Orders and rules of procedure of the National Assembly after the commencement of the Republican Constitution but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Republican Constitution and this Act.

23. Subject to any alteration made in accordance with section 32 of the Republican Constitution, the constituencies prescribed by the Electoral Commission established under the existing Constitution shall, on being approved by resolution of the existing National Assembly, be the constituencies into which Tanganyika shall be divided as from the expiry of the interim period for the purposes of elections to the National Assembly.

Elections

24.-(1) Until new provision is made for the holding of elections to the National Assembly, the election of members to the National Assembly shall be held in accordance with the provisions of regulations 2 and 3 and of Parts V to X (inclusive) of the National Assembly Elections Regulations, 1960, as in force on the eighth day of December, 1962, and an amended and modified by the Registration of Voters Cap. 478 (National Elections) Act, 1962, and Part IV of the Second Schedule to this Act.

A.L (22A)

Cap. 478

(2) The President may, by regulations published in the Gazette, amend any provision of the National Assembly Elections Regulations, 1960, in order to bring them into conformity with the provisions of the Republican Constitution and of this Act.

First meeting of Assembly during Republic

25. The first meeting of the National Assembly after the commencement of the Republican Constitution shall be held at a half past eight o'clock in the morning on the tenth day of December, 1962.

Citizenship

Existing citizenship laws.

Cap 512

26.-(1) Notwithstanding the provisions of section 4 of this Act, Chapter I of the existing Constitution, as amended in accordance with the Third Schedule to this Act, shall continue to be law after the commencement of the Republic of Tanganyika, and shall have effect as if it were an Act of Parliament and shall be cited as the Citizenship Act, 1961 and printed accordingly.

(2) References in any other law to Chapter I of the existing Constitution or to any provision thereof shall be read and construed as references to the Citizenship Act, 1961, and to the corresponding provision of that Act.

International Agreements

Miscellaneous

27. Any treaty, agreement or convention with any country or international organization-

- (a) made by the Government of Tanganyika on or after the ninth day of December, 1961, and still in force on the eighth day of December, 1962; or
 - (b) to which the Government of Tanganyika is otherwise a party on the eighth day of December, 1962,
- shall, subject to any revocation or modification thereof, or unless it expires, continue after that date as if the Government of the Republic were a party.

Emergency powers G.N 1954 No. 129

28. The Emergency Powers Orders in Council, 1939 to 1961, shall, Emergency notwithstanding anything contained in the 1961 Order, continue to have effect as part of the law of Tanganyika and shall be read and construed as existing law is, by this Act, to be read and construed.

Public Seal Cap. 504.

29. Notwithstanding the provisions of the Public Seal Act, 1962, if the seal thereby prescribed is not available in Tanganyika, the President may by proclamation prescribe some other device which shall be the Public Seal of the Republic until the seal prescribed by that Act is available.

Oaths

30.-(1) Notwithstanding any provision of this Act, the President may require any person holding office in the service of the Republic, or the Speaker or any member of the National Assembly, to take the oath of allegiance, and any judicial oath or oath of office prescribed by law for persons of the appropriate category.

For the avoidance of doubts, it is hereby declared that a person shall not be deemed to be under a declaration of allegiance to a country other than Tanganyika by reason of his having, before the commencement of the Republican Constitution, taken an oath of allegiance in a form then prescribed by law in Tanganyika.

31.-(1) Notwithstanding the provisions of subsection (2) of section 1 of this Act, the Prime Minister may, at any time after this Act has been passed by the Constituent Assembly, exercise any power conferred on the President by the Republican Constitution or by any other Act of the Constituent Assembly to make any appointment, to make any proclamation or order, or to do any other thing for the purposes of that Constitution or such Act, to such an extent as may, in his opinion, be necessary or expedient to enable the Republican Constitution to function, or for enabling such Act to have effect, as from the ninth day of December, 1962; and where the Prime Minister exercises any power under this section, then, on the commencement of the Republican Constitution, that power shall be deemed to have been exercised by the President.

(2) Subject to the provisions of subsection (1), any person or authority having power under or in accordance with existing law (including, without prejudice to the generality of that expression, section 24 of the Interpretation and General Clauses Ordinance) to make any subsidiary legislation or appointments may, at any time after this Act has been passed by the Constituent Assembly, make such subsidiary legislation (or amend any existing subsidiary legislation) or appointments in conformity with the laws which come into operation on the ninth day of December, 1962:

Provided that, unless such subsidiary legislation or appointment is necessary for bringing any law into operation on the ninth day of

December, 1962, no such subsidiary legislation or appointment shall come into force until that date.

32. Notwithstanding any other rule of law to the contrary, any subsidiary legislation or appointment published in the *Gazette* after the eighth day and before the twenty-second day of December, 1962, which is expressed to come into operation on, or to have effect from, the ninth day of December, 1962, or any other day between the two dates first mentioned, shall not be invalidated solely by reason of being published after the date on which it is expressed to come into operation or from which it is expressed to have effect:

Provided that nothing in this section shall render any person liable to be convicted of an offence by reason of anything contained in any such subsidiary legislation in respect of any act or omission on or after the date on which such subsidiary legislation or appointment is expressed to come into operation or from which it is expressed to have effect and before the date on which it is so published, unless he would have been so liable to be convicted had this section not been enacted.

Temporary provision relating to publication of subsidiary legislation

33. Subject to any express provision to the contrary and unless the context otherwise requires, the references to the Constitution in any Act Constitution of the Constituent Assembly shall be read as references to the Republican Constitution.

References to Constitution

Repeals and Miscellaneous Amendments

34. The enactments set out in Part II of the First Schedule to this Act Repeals are hereby repealed.

Repeals

35. Subject to the provisions of this Act, the provisions of section 10 of the Interpretation and General Clauses Ordinance shall have effect in relation to the repeal and revocation of the enactments set out in Part I of the First Schedule to this Act as they apply in relation to the repeal of an Act of Parliament.

Savings

36.- (1) The laws set forth in the first and second columns of Part I of the Fourth Schedule to this Act are hereby amended in the manner specified in the third column thereof, subject to such qualifications as are set out in Part II of that Schedule.

Amendment
of
miscellaneous
laws

(2) The provisions of this section and of the Fourth Schedule to this Act shall be without prejudice to the generality of the provisions of section 5 of this Act.

FIRST SCHEDULE

REPEALS AND REVOCATIONS

PART I

The Tanganyika Independence Act of the Parliament of the United Kingdom. (Section 4)

The Tanganyika (Constitution) Order in Council, 1961.

G.N.1961
No. 415

The Constitution (Amendment) Act. 1962

Acts 1962
No.1

PART II

The National Assembly (Elected Members) Act, 1962.

(Section 34)

Cap 473

The President Designate (Election) Act, 1962.

Cap 477

SECOND SCHEDULE (Section 19)

PART I

Provisions of the Republican Constitution which shall nor have effect during the interim period:

Subsections (I) to (7) (inclusive) of section 32.

PART II

Provisions which shall have effect during the interim period in lieu of the provisions specified in Part I:

1. The constituencies into which Tanganyika shall be divided for the purposes of elections to the National Assembly shall be those into which it is divided, immediately before the commencement of the Republican Constitution, under the Tanganyika (National Assembly) Orders in Council, 1926 to 1961.

2. Where, under the said Orders in Council, it is prescribed that a constituency shall be represented in the National Assembly by two or three elected members, that constituency shall continue to be represented by two or three elected members, as the case may be, but any provision of or made under the said Orders in Council requiring a member representing any such constituency to be an Asian or a European, or reserving any seat in the National Assembly for candidates who are Asians or Europeans, shall cease to have effect on the commencement of the Republican Constitution:

Provided that nothing in this paragraph shall require any person to whom section 20 applies, who was elected to a seat in the National Assembly reserved for candidates who are Asians or Europeans, to vacate his seat in the National Assembly.

PART III

Provisions of the Republican Constitution having effect during the interim period subject to modifications:-

Section 21 (1) (a): The words and figures “elected in accordance with section 22 of this Constitution” shall be omitted.

Section 22 (1): There shall be substituted for the words “one hundred and seven” the words “seventy-one”.

Section 23: The words “from among persons who are qualified for election as members of the National Assembly” shall be omitted.

Section 27 (1): Paragraphs (a) and (c) shall not apply in relation to nominated members

PART IV

(Section 24)

Adaptations and modifications of the National Assembly Elections Regulations, 1960:-

A. *During the interim period*

1. Where there are two by-elections pending at the same time in a plural constituency, the Returning Officer shall number the vacant seats in the constituency, and a candidate shall declare, on the nomination paper, for which seat he is a candidate

2 The proviso (b) to regulation 31, and regulation 34, shall have effect as if the references to an open seat, an Asian seat or a European seat were references to the vacant seat or, if there is more than one, the vacant seat of the relevant number.

B. *After the interim period*

The Regulations shall have effect as if all references to plural constituencies and to Asian and European seats were deleted, and as if the references to an open seat were references to the vacant seat.

C. *Until new provision is made for the holding of elections to the National Assembly*

1. The Regulations shall have effect as if:-

- (a) references to the Governor or to the Supervisor of Elections were references to the Electoral Commission;
- (b) for the provisions of regulation 24 requiring a day to be appointed for a new election not earlier than seven weeks and not later than twelve weeks after a dissolution, there were substituted provisions requiring a day to be appointed not earlier than eleven weeks and not later than fifteen weeks after a dissolution;
- (c) the references in regulation 25 (2) to Clause XXXV of the Order in Council and the proviso to that clause were references to section 19 (2) of this Act, or, after the interim period, to section 44 (3) of the Republican Constitution;
- (d) the following new proviso were added to regulation 26 (2):-

“Provided further that where, by reason of the lack or death of any candidates for the office of President, the Chief Justice appoints a second or subsequent nomination day under the Presidential Elections Act, 1962, before voting has commenced under these Regulations, the Commission shall appoint a new election day not earlier than fifteen days after the date, subsequent to such nomination day, appointed for the delivery of preferences under that Act, or if the presidential election is not contested, not earlier than fifteen days after such nomination day.”;

- (e) for the provisions requiring tendered ballot papers to be of a different colour from that of ordinary ballot papers, there were substituted a provision requiring tendered ballot papers to be marked in accordance with the directions of the Commission;
- (f) regulation 51 provided that the certificates issued under regulation 47 were to be included in the package of the marked duplicate copies of the rolls or of accepted application forms under the Registration of Voters (National Elections) Act, 1962, and that the declarations provided for in regulation 46 and the oaths and

affirmations provided for in regulation 48 were to be included in the package of tendered ballot papers;

(g) references to the close of the poll in the constituency were references to the latest close of the poll in a polling district in the constituency;

(h) for regulation 50, there were substituted the following regulation: -

“If at the hour of closing the poll at any polling station there are voters present who have not had an opportunity to vote, the poll shall be kept open a sufficient time to enable them to vote; but no one who is not in fact present at the polling station at the hour of closing the poll shall be permitted to vote under this regulation”.

2. Notwithstanding any provision of the Regulations or of the President Designate (Election) Act, 1962, (hereby repealed), the Returning Officer may open any package of marked duplicate copies of accepted application forms under the Registration of Voters (National Elections) Act, 1962, in order to compile the first registers under that Act, or for any purpose connected with a by-election in his constituency:

Provided that where any such copies are marked a second or subsequent time for the purposes of any election, the marks shall be of a distinctive nature or colour from those used in any previous election.

THIRD SCHEDULE

(Section 26)

AMENDMENTS TO CHAPTER 1 OF THE EXISTING CONSTITUTION

1. The title "Chapter 1-Citizenship" at the commencement thereof shall be deleted.
2. There shall be substituted for the words "this Chapter" and "this Constitution" wheresoever they occur the words "this Act".
3. The full stop at the end of subsection (5) of section 6 shall be deleted, a colon shall be substituted therefor, and the following new proviso added: -

"Provided that where any person who has made such declaration aforesaid is thereafter able to renounce his citizenship of that other country, he may be required to renounce that citizenship".
4. The words and comma "the Federation of Rhodesia and Nyasaland," in subsection (3) of section 7 shall be deleted.
5. The following new subsection shall be added immediately below subsection (3) of section 7 : -

"(4) Any person who:-

 - (a) but for the inclusion of the Federation of Rhodesia and Nyasaland in subsection (3) of section 1 of the British Nationality Act, 1948, of the Parliament of the United Kingdom, would be a citizen of the United Kingdom and Colonies; or
 - (b) but for the exception of Northern Rhodesia and Nyasaland from the operation of any reference in that Act to a protectorate, or the exclusion of those protectorates from the British Protectorates, Protected States and Protected Persons Order in Council, 1949, as amended from time to time (or any Order in Council substituted therefore), would be a British protected person, shall have the status of a Commonwealth citizen, and for the purposes of this Act and of the Tanganyika Citizenship Ordinance, shall be deemed to be a citizen of the United Kingdom and Colonies or, as the case may be, a British protected person."
6. The following new section shall be added immediately below section 10:-

"Title 11. This Act may be cited as the Citizenship Act 1961."

FOURTH SCHEDULE

(Section 36)

PART I

PARTICULAR AMENDMENTS

(a) *Ordinances and Acts*

1	2	3
Cap. 5	Government Suits Ordinance	<p><i>Add</i>, immediately below section 1, the following new section:- “Interpretation- 1A. In this Ordinance, references to the Government shall be read and construed as if they included references to the Republic”.</p>
Cap. 16	Penal Code	<p>(1) Section 3, in paragraph (5), delete the words and commas ‘Her Majesty, or the Governor as the representative of Her Majesty,’ and substitute the words “the President”.</p> <p>In paragraph (6), delete the words and comma “Her Majesty’s military or naval or air forces, or the military or police forces of the Territory” and substitute the words “the Armed Forces of Tanganyika or in any police force established by law”.</p> <p>(2)Section 5. In the definition “person employed in the public service” delete paragraph (i) and substitute the following new paragraph:- (i) any civil office including the office of President and any office the power of appointing a person to which or of removing from which is vested in the President or in any public Commission or Board; or”.</p> <p>(3) Delete section 39 and substitute the following new section: — “Treason 39. Any person who, being under allegiance to the Republic of Tanganyika:- (a)levies war against the Republic in Tanganyika; or</p>

(b) adheres to the enemies of the Republic in Tanganyika or elsewhere; or

(c) murders or attempts to murder the President, shall be guilty of treason and shall be liable on conviction to suffer death.”.

(4) Delete section 42 and substitute the following new section:-

“Treason-
able
felonies

42. Any person who forms an intention to effect any of the following purposes, that is to say:-

(a) to take, up arms within Tanganyika in order by force or constraint to compel the Government to change its measures or counsels, or in order to put any force or constraint on, or in order to intimidate or overawe, the National Assembly; or

(b) to instigate any person to make an armed invasion of Tanganyika,

and manifests such intention by an overt act, or by publishing any printing or writing, is guilty of a felony, and is liable to imprisonment for life.”.

(5) Delete section 44.

(6) Section 48 In paragraph (a), delete the words “alien enemy of Her Majesty” and substitute the words “enemy of the Republic”.

(7) Section 55. Delete paragraph (a) of subsection (I) and substitute the following new paragraph: -

“(a) to bring into hatred or contempt or to excite disaffection against the lawful authority of the Republic or the Government thereof;

Delete paragraph (a) of subsection (2) and substitute the following new paragraph:-

“(a) to show that the Government has been misled or mistaken in any of its measures;

(8) Section 63B. Delete paragraph (a) of the proviso to subsection (I) and substitute the following new paragraph:-

“(a) to show that the Government has been misled or mistaken in any of its measures;”.

(9) Section 178. In subsection (1), delete the words and commas “Her Majesty’s naval, military or air forces, or in the military forces of Tanganyika or in any constabulary or police force in the United Kingdom, or in any British possession, protectorate, or any country in respect of which Her Majesty has accepted a mandate” and substitute the words “the Armed Forces of Tanganyika or in any police force established by law”.

(10) Section 341. In paragraph (c), delete the words “Her Britannic Majesty’s dominions wherever they occur and substitute the words “the Commonwealth”.

(11) Section 353. Delete the definition “coin” and substitute the following new definition :- “the term ‘coin’ includes any coin coined in a mint for use in Tanganyika, or lawfully current in Tanganyika or in any part of the Commonwealth and any coin of a foreign Sovereign or state”;

(12) Section 365 In paragraph (I), delete the words and commas ‘in the Territory or in any part of Her Majesty’s dominions, or in any country under the protection of Her Majesty or in respect of which Her Majesty has accepted a mandate,” and substitute the words ‘in Tanganyika or in any part of the Commonwealth”.

(13) Section 366. In paragraph (I), delete the words and commas “the Territory, or of any part of Her Majesty’s dominions, or of any country under the protection of Her Majesty in respect of which Her Majesty has accepted a mandate” and substitute the words “Tanganyika or of any part of the Commonwealth”.

Cap. 20 Criminal Procedure Code

(1) Section 2. In the definition “public prosecutor” insert after the words and comma ‘Solicitor General,’ the words and comma “Director of Public Prosecutions,”.

(2) Section 27. Delete paragraph (e).

(3) Add immediately before section 81, the following new section:-

“Director of Public Prosecutions shall have power in any case in which he considers it desirable so to do:-

(a) to institute and undertake criminal proceedings against any person before any court (other than a court-martial) in respect of any offence alleged to have been committed by that person;

(b) to take over and continue any such criminal proceedings that have been instituted or undertaken by any other person or authority; and

(c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(2) The powers of the Director of Public prosecutions under subsection (1) of this section may be exercised by him in person or by officers subordinate to him acting in accordance with his general or special instructions.

(3) The powers conferred on the Director of Public Prosecutions by paragraphs (b) and (c) of subsection (1) of this section shall be vested in him to the exclusion of any other person or authority:

Provided that where any other person or authority has instituted criminal proceedings nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of

the court.

(4) For the purposes of this section, any appeal from any judgment in any criminal proceedings before any court, or any case stated or question of law reserved for the purpose of any such proceedings, to any other court in Tanganyika or in any other court in East Africa shall be deemed to be part of those proceedings:

Provided that the power conferred on the Director of Public Prosecutions by paragraph (c) of subsection (1) of this section shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved at the instance of such a person.

(5) In the exercise of the powers conferred on him by this section, the Director of Public Prosecutions shall be subject to the directions of the President, but shall not be subject to the direction or control of any other person.

(4) Section 81. In subsection (1), delete the words “that the Crown intends” and substitute the words “on behalf of the Republic”.

(5) Section 203. In paragraph (a) of subsection (5), delete the words “the Queen’s pardon” and substitute the words “a pardon at law”.

(6) Section 246. In the form of information, delete the words “Our Sovereign Lady the Queen” and substitute the words “the Republic”.

(7) Section 251. Delete paragraph (f) and substitute the following new paragraph:- “(f) officers and men in the Armed Forces of Tanganyika on full pay;”.

(8) Section 264. In paragraph (b), delete the words “the Queen’s pardon” and substitute the words “a pardon at law”.

Cap 22

Fugitive Criminals Surrender Ordinance

(1) Section 3. Delete the words “Her Majesty’s Government in the United Kingdom” and substitute the words “the Government”.

(2) Generally-any requirement that the acts of the President shall be signified under his hand and seal shall cease to apply.

Cap 45

Official Secrets Ordinance

(1) Section 2. Delete the second to ninth lines (inclusive) and substitute therefor the following:- “any reference to a place belonging to the Republic includes a reference to a place held in trust for the Republic or belonging to any department of the Government of the Republic, whether or not the place is actually vested in the Republic;”.

(2) Generally-the Ordinance shall be read and construed in relation to any period commencing on or after the ninth day of December, 1962, as if references to a place belonging to Her Majesty were references to a place belonging to the Republic, and as if references to office under Her Majesty were references to office us the service of the Republic.

Cap. 58

Prisons Ordinance

Delete the form of declaration on enlistment in the Schedule and substitute the following new form:-

“Ido solemnly and sincerely declare that I will be faithful and bear true allegiance to the Republic of Tanganyika, and that I will faithfully serve the Republic during my service in the Prison Service and

will obey all orders of the President and of the officers placed over me, and will subject myself to all laws, orders and regulations relating to the Prison Service now in force or which may from time to time be in force.

.....
Signature or mark

Declared at

this.....day of
19.....

Before me

.....
Signature of Magistrate or Officer-in-Charge

Cap. 341	Advocates Ordinance	(1) Section 9. Delete the comma and words "Solicitor-General and Queen's Counsel" and substitute the words "and the Solicitor-General". (2) Section 40. Delete the proviso to subsection (1) and subsection (2).
Cap 460	Governor General and Public Officers(Salaries And Allowances) Ordinance	Long title. Delete the words "to the Governor-General and" and the words "for expenses of the Governor-General's Household and of Government House". Section 1. Delete the words "Governor-General and" Section 2. Delete the definition 'Governor-General's household'. Section 3. Delete. Section 4. Delete. Schedule Add the following:- "Chairman of the Local Government Service Commission. Two thousand one hundred pounds."
Cap. 461	Regions and Regional Commissioners Act, 1962.	Section 2. Delete. Section 7. Delete. Section 8. Delete
Cap 466	Area Commissioners Act, 1962.	Section 2. Delete the definition "Area Commissioner" Section 7. Delete.

Cap. 483

Retirement (Special

Provisions) Act, 1962. Section 2 (1). Delete the definition “appropriate Service Commission” and substitute the following new definition:-

“ ‘appropriate Service Commission’:-

(a) in relation to a civil servant or a police officer within the meanings ascribed to those expressions in the Civil Service Act, 1962, means respectively the Civil Service Commission and the Police Service Commission established by that Act; and

C.A. Act 11

(b) in relation to a judge or the holder of an office to which section 53 of the Constitution applies, means the Judicial Service Commission established by the Constitution;”

Cap. 483 Retirement (Special Provisions Act ,1962 (contd)

Section 3. Delete this section, other than the proviso thereto, and substitute the following:-

“If the President, or a Minister appointed in that behalf by the President, is satisfied that there are more African candidates qualified for appointment to, or promotion in, any particular branch or category of officers in the service of the Republic than there are vacancies in that branch or category that could be appropriately filled by such African candidates, he may select qualified officers (not being citizens of Tanganyika) in that branch or category whose retirement would, in his opinion, cause vacancies that could appropriately be filled by such African candidates as are available and fit for appointment, and, by notice in writing, call upon the officers so selected to retire from the service of the Republic; and any such officer who is so required to retire shall retire accordingly:

Section 5 (3). Delete the words “appropriate Service Commission” and substitute the word ‘President’.

Section 6 (a) Delete the words “appropriate Service Commission” and “Commission”

wherever they occur and substitute the word "President";

(b) Delete the last sentence in subsection (3)

Section 13 (1). Delete this subsection, other than the proviso thereto, and substitute the following:

"(I) Whenever an African officer or candidate is selected for appointment to, or promotion in, the service of the Republic, the appropriate Service Commission shall consider whether, but for the preferences for the time being accorded to African officers or candidates, a particular qualified officer would have been selected, and if, in any such case, a particular qualified officer would have been selected, it shall certify the fact and issue a copy of such certificate to the officer concerned; and such an officer shall be (deemed to have been superseded for the purposes of this Act:

Section 13(1) proviso (b). Delete the words "it would have selected some other qualified officer, and if it would have selected some other such officer" and substitute the words "some other qualified officer would have been selected, and if some other qualified officer would have been selected".

Cap. 490 Preventive Detention Act,
1962

(I) Section 2. Delete the words and brackets. "Minister for Home Affairs (hereinafter referred to as the Minister)" and substitute the words "the President".

(2) Generally, subject to item (I) above, delete the words and expressions "the Minister", "the Governor General, acting on the advice of the Minister" and "the Governor-General" wherever they occur, and substitute the words "the President".

(b) Orders in Council

A.L. (159] The Tanganyika (Compensation and Retiring Benefits) Order in Council, 1961.

CA. Act 11

A.L [59]
(could.)

The Tanganyika (Compensation and Retiring Benefits) **Order in Council**, 1961 (*contd*)

The Schedule:

Para. I (I): Delete the definition “appropriate Service Commission” and substitute the following new definition:-

“ ‘appropriate Service Commission’:-.

(a) in relation to a civil servant or a police officer within the meanings ascribed to those expressions in the Civil Service Act, 1962, means respectively the Civil Service Commission and the Police Service Commission established by that Act; and

(b) in relation to a judge or the holder of an office to which section 53 of the Constitution applies, means the Judicial Service Commission established by the Constitution”

Para 4: Delete the words “appropriate Service Commission” and “Commission” wherever they appear, and substitute the word “President”.

Para. 5 (1): Delete sub-paragraph (1). Other than the proviso thereto and substitute the following:-
“If the President is satisfied that there are more local candidates suitably qualified for appointment to, or promotion in any branch of the service of the Republic than there are vacancies in that branch that could appropriately be filled by such local candidates, he may select entitled officers in that branch whose retirement would, in his opinion, cause vacancies that could appropriately be filled by such suitably qualified local candidates as are available and fit for appointment, and, by notice in writing, call upon the officers so selected to retire from the service of the Republic; and any such officer who is so required to retire, shall retire accordingly.”.

Para 10 (2): Delete the words
“appropriate service Commission”
and substitute the word
“President”.

PART II

Qualifications

I. The provisions of this Schedule shall be without prejudice to anything lawfully done prior to the commencement of this Act under the laws hereby amended, but any such thing shall, if of force and effect immediately before such commencement, continue of force and effect until amended, modified, repealed or revoked by an authority having power in that behalf, or until it expires.

2. Notwithstanding the amendment of the Governor General and Public Officers (Salaries and Allowances) Ordinance, 1961, that Ordinance shall have effect for the purpose of making payments at the rates provided therein to the former Governor General of Tanganyika during any period of leave to which he is entitled after the commencement of this Act, as if this Act had not been enacted, and the sums necessary for making such payments shall continue to be a charge on the Consolidated Fund.

Passed in the Constituency Assembly on the 23rd November, 1962

G.W.Y.HUCKS,
Clerk of the National Assembly