

**THE CONSTITUTION OF KENYA  
(AMENDMENT) ACT, 1964**

**No. 28 of 1964**

*Date of Assent: 23rd November 1964*

*Date of Commencement:*

*The whole Act, except Part III—12th December 1964*

*Part III—By Notice*

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**An Act of Parliament to establish the Republic of Kenya,  
to amend the Constitution, and for matters incidental  
thereto and connected therewith**

ENACTED by the Parliament of Kenya, as follows:—

PART I—PRELIMINARY

1. (1) This Act may be cited as the Constitution of Kenya (Amendment) Act, 1964.

(2) This Act shall be read and construed as one with the Kenya Independence Order in Council 1963 (hereinafter referred to as the Order) and the Constitution of Kenya contained in the Schedule to the Order (hereinafter referred to as the Constitution) in so far as it makes amendments thereto.

Short title,  
construction and  
commencement.

(3) (a) Part III of this Act shall come into operation on such day as the Governor-General may, by notice in the Kenya Gazette, appoint.

(b) The remaining Parts of this Act shall come into operation on 12th December 1964.

2. (1) In this Act, unless the context otherwise requires—

Interpretation.

“amended Constitution” means the Order and the Constitution as amended by this Act;

“constitutional changes” means the changes in the constitutional position of Kenya effected by this Act;

“existing law” means any Act, enactment, law, rule, regulation, order or other instrument made or having effect as if it had been made in pursuance of the Order (including any regulation, order or other instrument made in exercise of a power conferred by the Order), and having effect as part of the law of Kenya or any part thereof immediately before 12th December 1964, or any Act of the Parliament of the United Kingdom or Order of Her Majesty in Council so having effect.

(2) Save where the context otherwise requires, expressions used in this Act have the same meaning as in the Constitution

and the provisions of section 247 of the Constitution shall apply for the purposes of interpreting this Act as they apply for the purposes of interpreting the Constitution.

(3) The provisions of Part IV of this Act shall have effect notwithstanding anything contained in Part II of this Act.

Saving of specially entrenched provisions.

3. Notwithstanding any of the provisions of this Act, nothing in this Act shall be construed as making any alteration to any provision of the Constitution, the Kenya Independence Order in Council 1963, or the Kenya Independence Act 1963, in so far as those provisions are specially entrenched by virtue of section 71 (7) and Schedule 4 of the Constitution.

#### PART II—CONSTITUTIONAL CHANGES

Establishment of Republic of Kenya.

4. On 12th December 1964 Kenya shall become a sovereign Republic, and accordingly shall cease to form part of Her Majesty's Dominions.

Amendment of Constitution.

5. The provisions of the Constitution specified in the first column of the First Schedule to this Act shall be amended in the manner specified in relation thereto in the second column of that Schedule.

Amendment of Kenya Independence Order in Council.

6. The provisions of the Kenya Independence Order in Council 1963 specified in the first column of the Second Schedule to this Act shall be amended in the manner specified in relation thereto in the second column of that Schedule.

Amendment of Kenya Independence Act.

7. The provisions of the Kenya Independence Act 1963 specified in the first column of the Third Schedule to this Act shall be amended in the manner specified in relation thereto in the second column of that Schedule.

#### PART III—FIRST PRESIDENT OF KENYA

First President.

8. The first President of Kenya shall be the person who immediately before 12th December 1964 holds the office of Prime Minister under the Constitution.

9. Until 12th December 1964 there shall be a President designate who shall be the person who holds the office of Prime Minister under the Constitution.

President designate.

10. Notwithstanding the provisions of section 33B of the amended Constitution, the President designate shall assume office as President of the Republic of Kenya on 12th December 1964 as if he had been elected in pursuance of the amended Constitution.

Assumption of office.

11. Where by or under the amended Constitution the President has power to make any appointment or make any order or do any other thing, that power may be exercised by the President designate before 12th December 1964 to such extent as may in his opinion be necessary or expedient to enable the amended Constitution to function as from 12th December 1964.

President designate's power to make appointments, etc.

12. Without prejudice to the powers of the President designate under section 11 of this Act, he may before 12th December 1964 appoint a Vice-President designate who, without further appointment, shall assume the office of Vice-President on 12th December 1964.

Appointment of Vice-President designate.

13. (1) On 12th December 1964, or as soon as may be convenient thereafter, the President, the Vice-President, the Ministers and Assistant Ministers (formerly Parliamentary Secretaries) shall take and subscribe the oath of allegiance prescribed in the Fifth Schedule to this Act, and the oaths for due execution of office prescribed for their respective offices in the said Schedule, and all the said oaths shall be tendered by and subscribed before the Chief Justice.

Oaths of First President, Vice-President and Ministers.

(2) Until Parliament otherwise prescribes, the oaths prescribed by subsection (1) of this section shall be the oaths applicable to the offices referred to in this section.

#### PART IV—CONSEQUENTIAL PROVISIONS

##### *Continuity of Laws and Legal Proceedings*

14. (1) Subject to the provisions of this Act, the existing laws shall, notwithstanding the constitutional changes, continue in force as from 12th December 1964 as if they had been made

Existing laws.

in pursuance of the amended Constitution, but they shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the amended Constitution.

(2) Any existing law—

(a) to the extent to which it makes provision with respect to any matter with respect to which, under the amended Constitution, a Regional Assembly may, and Parliament may not, make laws; or

(b) to the extent to which—

(i) it makes provision with respect to any matter with respect to which, under the amended Constitution, both Parliament and a Regional Assembly may make laws; and

(ii) it was made by a Regional Assembly or it had effect under the Constitution immediately before 12th December 1964 as if it had been so made,

shall have effect as from 12th December 1964 as if it had been made by (or, as the case may require, as if it had been made under a law made by) that Regional Assembly, but the existing laws shall otherwise have effect as from 12th December 1964 as if they had been made by Parliament (or, as the case may require, as if they had been made under an Act of Parliament):

Provided that any existing law made by (or under a law made by) a Regional Assembly which by virtue of this subsection has effect as a law made by (or under a law made by) an Act of Parliament shall have effect so as to apply only in that Region.

(3) Where any matter that falls to be prescribed or otherwise provided for under the amended Constitution by Parliament or by any other person or authority is prescribed or provided for by or under an existing law (including any amendment to any such law made under this section) or is otherwise prescribed or provided for immediately before 12th December 1964 by or under the Constitution, that prescription or provision shall, as from 12th December 1964, have effect as if it had been made under the amended Constitution by Parliament or, as the case may be, by that other person or authority.

(4) The President may by order made and published in the Kenya Gazette at any time before 12th December 1965 make such amendments to any existing law, to the extent to which it makes provision with respect to any matter with respect to which, under the amended Constitution, Parliament may make laws, as may appear to him to be necessary or expedient for bringing that law into conformity with the amended Constitution, or for giving effect or enabling effect to be given to that law or to the amended Constitution, or which he otherwise considers necessary or expedient in consequence of the amendment of the Constitution by this Act.

(5) Without prejudice to the powers of the President under subsection (4) of this section the President may, by order made and published in the Kenya Gazette at any time before 12th December 1965, repeal any law made by (or under a law made by) a Regional Assembly before 12th December 1964, to the extent to which it makes provision with respect to any matter with respect to which, under the amended Constitution, Parliament may make laws, if it appears to him to be necessary or expedient to do so in consequence of the amendment of the Constitution by this Act.

(6) The provisions of this section shall be without prejudice to any powers conferred by this Act or by the amended Constitution or by any other law upon any person or authority to make provision for any matter, including the amendment or repeal of any existing law.

15. (1) Save as may be provided in this Act or in any other written law, and unless the context otherwise requires—

Adaptation of  
existing laws.

(a) any reference in an existing law to Her Majesty (whether or not that expression is used), or to the Crown, in respect of Kenya shall be read and construed as from 12th December 1964 as if it were a reference to the Republic of Kenya;

(b) any reference in an existing law to the Governor-General (including any reference to the Governor and Commander-in-Chief of the former Colony and Protectorate of Kenya, or to the Governor in Council, or any such reference which by reason of any law which had effect immediately before

12th December 1964 is to be read and construed as a reference to the Governor-General shall be read and construed as from 12th December 1964 as if it were a reference to the President; and

(c) any reference in an existing law to the Prime Minister shall be read and construed as from 12th December 1964 as if it were a reference to the President.

(2) Notwithstanding the constitutional changes, the existing laws shall, until provision to the contrary is made by any law, have the same operation in Kenya as they would have had if Kenya had not become a Republic.

Prerogatives  
and privileges  
of Crown.

16. Where under any existing law any prerogatives or privileges are vested in Her Majesty in respect of Kenya those prerogatives or privileges shall as from 12th December 1964 vest in the Government of the Republic of Kenya and, subject to the provisions of the amended Constitution and any other law, the President shall have power to do all things necessary for the exercise thereof.

Pending matters.

17. Where any matter or thing has been commenced before 12th December 1964 by any person or authority having power in that behalf under the Constitution or any existing law, that matter or thing may be carried on and completed by the person or authority having power in that behalf on or after 12th December 1964 and, unless the President in any case otherwise directs, it shall not be necessary for the latter person or authority to commence such matter or thing *de novo*.

Legal  
proceedings.

18. (1) Subject to the provisions of this section, all proceedings that immediately before 12th December 1964 are pending before any court shall not be affected by the constitutional changes and may be continued and concluded accordingly.

(2) Until otherwise provided by any law, any proceedings pending in any court immediately before 12th December 1964 in which Her Majesty or any public officer is a party in respect of Kenya, or the Government of Kenya is a party, shall continue after that day—

(a) in the case of proceedings brought in accordance with the Criminal Procedure Code, with the Republic



(whether or not that expression is used) substituted as a party; and

- (b) in the case of all other proceedings, with the Attorney General, or some other public officer representing the Republic, as a party.

*Continuity of Offices*

19. (1) Subject to the provisions of this section, any person who immediately before 12th December 1964 held or was acting in any office established by or in pursuance of the Constitution shall, so far as is consistent with the provisions of this Act and the amended Constitution, be deemed to have been appointed, elected or otherwise selected on 12th December 1964 to hold or to act in the same or the equivalent office under the amended Constitution and to have taken any necessary oath under the amended Constitution: Existing offices.

Provided that—

- (a) any person who under the Constitution or under any 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 on the attainment of that age;
- (b) the President may, at any time after the commencement of this Act, require any person who continues in office by virtue of the provisions of this subsection to take an oath of allegiance and any oath for the due execution of his office prescribed by or under any Act of Parliament.

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

(3) In determining (for the purpose of any law relating to pensions benefits or otherwise to length of service) the length of service of a public officer to whom subsection (1) of this section applies, service as a public officer under the Crown which terminates immediately before 12th December 1964 shall

be deemed to be continuous with service as a public officer under the Republic which begins on that day.

(4) In this section "pensions benefits" means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as public officers or for the widows, children, dependants or personal representatives of such persons in respect of such service.

(5) In this section "office" includes a public office and the offices excluded by section 247 (3) of the Constitution from inclusion in any reference to a public office:

Provided that "office" in this section shall not include any office which is the subject of any provision in the Constitution which is specially entrenched in so far as it relates to that office.

*Land, Property and Contracts*

Confirmation  
of titles and  
interests in land.

20. (1) All estates, interests or rights in or over land which the Governor of the former Colony and Protectorate of Kenya or any other officer or authority of the Government of the former Colony and Protectorate, acting in exercise or purported exercise of any power in that behalf conferred by any law, had at any time before 1st June 1963 created, granted or recognized are hereby confirmed—

(a) as having been validly created, granted or recognized;

(b) to the extent to which they were still subsisting on 31st May 1963, as continuing as from 1st June 1963 according to their respective tenors and subject to the provisions of the Kenya Order in Council 1963 and of any other law for the time being in force; and

(c) to the extent to which they were still subsisting on 11th December 1963, as continuing as from 12th December 1963 according to their respective tenors and subject to the provisions of this Act and of any other law for the time being in force.

(2) Where on 31st May 1963 any land was subject to an unadjudicated claim made under the Land Titles Act, that claim shall be deemed to have continued unabated on 1st June 1963 and to have continued as from 1st June 1963 subject to adjudication in accordance with the provisions of that Act or any law amending or replacing that Act.

Cap. 282.

21. (1) Subject to the provisions of section 208 of the Constitution, all estates, interests and rights in or over land situated in a Region that immediately before 22nd October 1964 were vested in the Region shall be deemed to have vested on 22nd October 1964 in the Government of the Republic of Kenya.

Land vested in Government of Kenya.

(2) All estates, interests or rights in or over land that immediately before 12th December 1964 were vested in, or in Her Majesty or the Governor-General in right of, the Government of Kenya shall be deemed to have vested on 12th December 1964 in the Government of the Republic of Kenya.

22. All estates, interests and rights in or over land situated in the Nairobi Area that on 31st May 1963 were registered in the name of the Trust Land Board under the former Land Registration (Special Areas) Ordinance (now the Land Adjudication Act), and that immediately before 12th December 1964 were vested in, or in Her Majesty or the Governor-General in right of, the Government of Kenya shall be deemed to have vested on 12th December 1964 in the Government of the Republic of Kenya.

Former Trust land in Nairobi Area.

Cap. 283.

23. All unextracted minerals and mineral oils that immediately before 12th December 1964 were situated in any part of Kenya and were vested in, or in Her Majesty or the Governor-General in right of, the Government of Kenya, or in a Region, shall be deemed to have vested on 12th December 1964 in the Government of the Republic of Kenya; but such vesting shall be subject to—

Minerals and mineral oils.

(a) any rights in respect of those minerals and mineral oils that, by or under any law, were granted or recognized as being vested in any person (other than a person in whom any such rights were vested in right of the Government of Kenya) before 12th December 1964 and that were subsisting immediately before that day; and

(b) any rights in respect of those minerals and mineral oils that may, subject to any law, be granted to any person on or after 12th December 1964 by the President or by any person authorized in that behalf by him or by or under any law.

Water.

**24.** The water of every body of water in Kenya that immediately before 12th December 1964 was vested in, or in Her Majesty or the Governor-General in right of, the Government of Kenya shall be deemed to have vested on 12th December 1964 in the Government of the Republic of Kenya; but such vesting shall be subject to any rights of user—

(a) that, by or under any law, were granted to or recognized as being vested in any person (other than a person in whom any such rights were vested in right of the Government of Kenya) before 12th December 1964 and were subsisting immediately before that day; and

(b) that may, subject to any law, be granted by the President (or by any person or authority authorized in that behalf by him or by or under any law) on or after 12th December 1964.

Succession  
to property  
generally.

**25.** Subject to the provisions of this Part of this Act and of Chapter XII of the amended Constitution—

(a) all property, whether movable or immovable, and all assets that immediately before 12th December 1964 were vested in, or in Her Majesty or the Governor-General or any other person in right of, the Government of Kenya shall on 12th December 1964 vest in the Government of the Republic of Kenya; and

(b) all property, whether movable or immovable, and all assets that immediately before 12th December 1964 were held by any person in trust for Her Majesty or the Governor-General for or in right of the Government of Kenya, shall on and after 12th December 1964 be held by that person on the like trust for the Government of the Republic of Kenya.

Rights,  
liabilities, and  
obligations.

**26.** (1) All rights, liabilities and obligations of—

(a) Her Majesty in respect of the Government of Kenya; and

(b) the Governor-General or any public officer in respect of the Government of Kenya on behalf of that Government; and

(c) the Government of Kenya, shall on and after 12th December 1964 be rights, liabilities and obligations of the Government of the Republic of Kenya.

(2) In this section, rights, liabilities and obligations include rights, liabilities and obligations arising from contract or otherwise (other than any rights referred to in section 25 of this Act).

27. (1) All movable property to which this section applies—

Succession to certain Regional property.

(a) that immediately before 22nd October 1964 was vested in a Region, or in any person or authority for or in right of a Region, shall be deemed to have vested on 22nd October 1964 in the Government of the Republic of Kenya; and

(b) that immediately before 12th December 1964 was vested in a Region, or in any person or authority for or in right of a Region, shall be deemed to have vested on 12th December 1964 in the Government of the Republic of Kenya.

(2) The movable property to which this section applies is all movable property which is in use or has been acquired for use for any of the purposes of, or for any purposes connected with the provision of, any of the services which under the Constitution are to be provided by the Regions, and which under the amended Constitution are to be provided by the Government of Kenya:

Provided that this section shall not apply to any movable property which by direction in writing of the Minister for the time being responsible for finance is excepted from the provisions of this section, either generally or specially, and whether before or after the relevant date of vesting under this section.

#### *Miscellaneous*

28. (1) Subject to the provisions of this section, the expenses of providing in a Region the services to which this section applies (including the salaries and allowances of the persons providing those services) shall be defrayed out of moneys provided by the Regional Assembly:

Transitional financial provisions.

Provided that nothing in this subsection shall prevent Parliament from providing moneys for the provision of any services in a Region.

(2) The services to which this section applies are—

(a) secondary education;

(b) the Police Force;

(c) medical institutions and facilities; and

(d) such other services as may from time to time be specified for the purposes of this subsection by the Minister responsible for finance by notice published in the Kenya Gazette.

(3) The power of a Regional Assembly to make laws for the peace, order and good government of the Region or any part thereof shall extend to making laws for the purposes of subsection (1) of this section :

Provided that any Appropriation Bill providing for the issue of moneys from the Regional Fund in pursuance of the power to make laws conferred by this section shall not, save with the concurrence of the Minister for the time being responsible for finance, be introduced into the Regional Assembly or certified under section 103 of the Constitution as having been passed by the Regional Assembly.

(4) The concurrence of the Minister for the time being responsible for finance given for the purposes of subsection (2) of this section shall be given in the same manner as a concurrence given by him in accordance with the provisions of section 132 (6) of the Constitution.

(5) The provisions of this section shall cease to have effect on such date as may be specified by the President by notice published in the Kenya Gazette.

Central Land  
Board.

**29.** (1) Notwithstanding the repeal by this Act of Part I of Chapter XII and section 212 of the Constitution, those provisions shall, as amended in accordance with the provisions of subsection (2) of this section, continue in force as from 12th December 1964 as if they had been re-enacted by this Act, and shall cease to have effect, unless sooner repealed by the President by notice published in the Kenya Gazette, on 12th December 1965.

(2) Such of the provisions of the Constitution referred to in subsection (1) of this section as are specified in the first column of the Fourth Schedule to this Act shall, for the purposes of their continuance in force as part of this Act, be amended in the manner specified in relation thereto in the second column of that Schedule.

(3) Subject to the provisions of subsection (1) of this section and subject to any provision made by Parliament in that behalf, the President may, by regulations which shall be published in the Kenya Gazette, make such provisions as appears to him to be necessary or expedient for the purpose of or in consequence of the winding up and abolition of the Central Land Board, or for the purpose of enabling the Board to continue and conclude the performance of its functions and, without prejudice to the generality of that power, he may by such regulations make such further amendments to the provisions of the Constitution which are continued in force as part of this Act by this section, as appear to him to be necessary or expedient for those purposes.

(4) Without prejudice to the powers of the President under this section—

- (a) the corporate existence of the Central Land Board shall not be affected by the repeal and re-enactment by this Act of the provisions of Chapter XII and section 212 of the Constitution; and
- (b) the provisions of section 19 of this Act (which relates to existing officers) shall apply to the members of the Board as if they were officers to whom that section applies.

30. Notwithstanding the provisions of section 49 (4) of the amended Constitution, the Electoral Commission shall, before 12th December 1965 and in accordance with the provisions of the said section 49, review the number and the boundaries of the constituencies into which Kenya is divided, and any order made by the Commission in consequence of such review shall come into effect when published in the Kenya Gazette as if it had been made in pursuance of that section.

Constituencies.

31. Until Parliament otherwise prescribes, the Public Seal shall be the Public Seal in use immediately before 12th December 1964.

Public Seal.

## FIRST SCHEDULE

(s. 5)

## AMENDMENTS TO THE CONSTITUTION

*Provision**Amendment*

## Chapter III.

Substitute for the title "THE GOVERNOR-GENERAL" the following—

## THE REPUBLIC AND THE PRESIDENT

## PART 1

*The Republic of Kenya*

## Section 31.

Delete whole section and substitute the following—

Declaration  
of Republic.

31. Kenya is a sovereign Republic.

## Section 32.

(a) Delete whole section and substitute the following—

Public Seal.

32. The Public Seal of Kenya shall be such device as may be prescribed by or under an Act of Parliament.

(b) Insert immediately after section 32 the following—

## PART 2

*The President*

## Section 33.

Delete whole section and substitute the following—

Office of  
President.

33. There shall be a President of Kenya who shall be the Head of State and Commander-in-Chief of the armed forces of the Republic.

Election of  
President.

33A. (1) The President shall be elected in accordance with the provisions of this Constitution and, subject thereto, with the provisions of any Act of Parliament regulating the election of a President.

(2) An election of a President shall be held whenever—

(a) Parliament is dissolved; or

(b) the President dies; or

(c) the President resigns his office without having first dissolved Parliament; or

(d) it is determined in accordance with the provisions of this Constitution that the election of the President was invalid; or

(e) the President ceases to be a member of the House of Representatives otherwise than by reason of a dissolution of Parliament; or

(f) the Speaker of the House of Representatives has received a certificate under the hand of the Chief Justice, pursuant to section 33E of this Constitution, to the effect that the President is unable to



## FIRST SCHEDULE—(Contd.)

## Provision

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discharge the functions of his office, and within the succeeding period of three months the Speaker has not received any certificate under the hand of the Chief Justice to the effect that the President has ceased to be unable to discharge the functions of his office.

(3) (a) Upon a dissolution of Parliament, an election of a President shall be held at the ensuing general election in accordance with the provisions of subsection (5) of this section.

(b) Where no person assumes office as President by virtue of having been elected at a general election, the Speaker of the House of Representatives shall, as soon as practicable after that general election and before the holding of any general election of the Specially Elected Members of that House, summon a meeting of the Elected Members of that House for the election of a President, and that election meeting shall be held in accordance with the provisions of subsection (6) of this section.

(c) Where occasion for an election of a President arises otherwise than by reason of a dissolution of Parliament, the Speaker of the House of Representatives shall, as soon as it is practicable to do so, summon a meeting of all the members of that House for the election of a President, and that election meeting shall be held in accordance with the provisions of subsection (6) of this section, and shall be held notwithstanding that any vacancy exists among the Elected or Specially Elected Members of that House.

(4) A person shall be qualified for election or re-election as President if, and shall not be so qualified unless he—

(a) is a citizen of Kenya who has attained the age of thirty-five years; and

(b) is registered in some constituency as a voter in elections to the House of Representatives.

(5) At a general election following the dissolution of Parliament—

(a) nominations of candidates for President shall be delivered to the returning officer on such day and at such time as may be prescribed by or under an Act of Parliament;

(b) the nomination of a candidate for President shall not be valid unless it is supported, in such manner as may be prescribed by or under an Act of

## FIRST SCHEDULE—(Contd.)

## Provision

## Amendment

Parliament, by not less than one thousand persons registered as voters in elections to the House of Representatives;

- (c) every person who is nominated as a candidate for election to the House of Representatives shall, before such day before the taking of the poll in that election as may be prescribed by or under any law, declare which of the candidates (including himself) who is nominated for election as President he supports, and if he does not so declare, his nomination as a candidate for election to that House shall be void;
- (d) where the election is contested in any constituency the ballot papers shall be in such form as to disclose both the names of the candidates for election to the House of Representatives and the name of the candidate for President which each of the candidates for election to that House supports;
- (e) where a candidate for President is elected to the House of Representatives and receives the declared support of a number of members elected to that House (including himself) exceeding one half of the number of constituencies into which Kenya is for the time being divided, the returning officer shall declare him elected as President, and in any other case the returning officer shall declare that no candidate for President has been so elected;
- (f) where at the expiration of the time for the delivery of nominations of candidates for President no candidate is validly nominated, or a candidate validly nominated for President dies before the first day appointed for the taking of the poll, a fresh general election shall be commenced and held in the manner provided by this section, and subject thereto by any other law.
- (6) At an election meeting held by members of the House of Representatives for the election of a President—
- (a) the Speaker shall preside at the meeting and shall conduct the election;
- (b) the election shall be by secret ballot;
- (c) every member of that House who is entitled to vote on any question before that House, and who is

## FIRST SCHEDULE—(Contd.)

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- entitled to attend the election meeting, other than a member who is the Speaker or the Deputy Speaker, shall be entitled to vote;
- (d) a candidate for President shall be qualified for election as President in any ballot if, and shall not be so qualified unless he—
- (i) is an Elected Member of the House of Representatives; and
  - (ii) is nominated with his consent, before the sitting at which the ballot is taken, by not less than 20 other members of that House who are entitled to vote in that ballot;
- (e) a candidate in a ballot who receives the votes of more than one-half of the total number of persons entitled to vote thereat shall be declared elected as President;
- (f) not more than three ballots shall be taken, unless the person presiding considers that the holding of further ballots is likely to result in the election of a President, in which case not more than two further ballots may be taken;
- (g) only one ballot shall be taken at each sitting of the House, and the person presiding may adjourn the meeting between the taking of any two successive ballots for such period as he thinks fit, being not less than two hours and not more than two days (exclusive of the days on and to which it is adjourned);
- (h) where there is no nomination for the first ballot, or where the number of ballots allowed under paragraph (f) of this subsection has been taken and no candidate has been declared elected, Parliament shall stand dissolved or, in the case of an election following a general election, that general election shall be void and there shall be another general election.

(7) An election meeting held by members of the House of Representatives for the election of a President shall not be regarded as a meeting of the House of Representatives for the purposes of any other provision of this Constitution, and no other business than the election of a President shall be transacted at any such meeting:

Provided that nothing in this subsection shall be construed as precluding that House from making rules, in pursuance of section 62 (1) of this Constitution, which provide for the orderly conduct of the proceedings at such

## FIRST SCHEDULE—(Contd.)

## Provision

## Amendment

an election meeting, or as precluding Parliament from making provision, pursuant to section 62 (5) of this Constitution, for the powers, privileges and immunities of that House or the members thereof in connection with such an election meeting.

(8) (a) The provisions of section 50 of this Constitution shall apply in relation to the hearing and determination of any question whether any person has been validly elected as President at a general election, as they apply in relation to the hearing and determination of any question whether any person has been validly elected as a member of the National Assembly.

(b) Any question whether any person who has been declared elected as President has been validly elected President at an election meeting of members of the House of Representatives in accordance with the provisions of subsection (6) of this section shall be determined by the House of Representatives, and no determination of any such question by that House shall be questioned in any court.

(9) At any time when the office of Speaker of the House of Representatives is vacant or the holder of that office is unable by reason of absence or illness to exercise the functions vested in him by this section, those functions may be exercised by the Deputy Speaker.

(10) Subject to the provisions of this section the House of Representatives may make rules for the election of a President under subsection (5) of this section, and for the determination of any question as to the validity of such an election which falls to be determined by that House.

Assumption  
and tenure  
of office of  
President.

33B. (1) The President shall assume office on the day following the declaration of his election and shall, unless his office becomes vacant by reason of death, resignation, the invalidity of his election, or his ceasing to be a member of the House of Representatives otherwise than by reason of a dissolution of Parliament, continue in office until the person elected at the next election of a President assumes office.

(2) The President shall, when assuming the functions of his office and before entering upon that office, whether following his election or re-election, take and subscribe the oath of allegiance and such oath for the due execution of his office as may be prescribed by Parliament.

## FIRST SCHEDULE—(Contd.)

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(3) When the President assumes office any other public office held by him shall become vacant, and while he continues in office as the President he shall be disqualified for any other public office.

(4) For the purposes of subsection (3) of this section—  
(a) any public office as defined in section 247 of this Constitution;

(b) any of the offices (other than the offices of Minister and member of the House of Representatives) referred to in paragraphs (a) and (b) of section 247 (3) of this Constitution;

(c) any office in any naval, military or air force;

(d) any office in the service of the East African Common Services Organization;

(e) any office on the staff of a local government authority;

(f) any paid appointment as a member of, or person employed by, a body corporate established directly by any law in force in Kenya; and

(g) any other office of emolument under the Republic, shall be regarded as a public office.

Status and functions of President in Parliament.

33c. The President shall be entitled—

(a) in the exercise of his functions as Head of State, to address either House of the National Assembly, or both Houses sitting together;

(b) in the exercise of his functions as Head of the Cabinet and as a member of the House of Representatives, to attend all meetings of that House and to take part in all proceedings thereof, and to vote on any question before that House; and

(c) in the exercise of his functions as Head of the Cabinet, to attend all meetings of the Senate and to take part in all proceedings thereof, but not to vote on any question before that House.

Discharge of President's functions during vacancy, etc.

33d. (1) Whenever the office of President is vacant by reason of death, resignation, the invalidity of his election, or his ceasing to be a member of the House of Representatives otherwise than by reason of a dissolution of Parliament, or it is determined in accordance with the provisions of section 33E of this Constitution that the President is by reason of physical or mental infirmity unable to discharge the functions of his office, those functions shall be exercised by the Vice-President.

## FIRST SCHEDULE—(Contd.)

## Provision

## Amendment

(2) Subject to the provisions of subsection (1) of this section, whenever the President is absent from Kenya, or considers it desirable to do so by reason of illness or any other cause, he may, by directions in writing, appoint the Vice-President to exercise, subject to such restrictions or exceptions as he may specify, the functions of his office.

(3) Whenever the occasion arises for the Vice-President to exercise the functions of the office of President, and the office of the Vice-President is vacant, or he is absent from Kenya, or he considers that he is for any reason unable to discharge the functions of the office of President, or it is determined in accordance with the provisions of section 33E of this Constitution that he is by reason of physical or mental infirmity unable to discharge the functions of that office, those functions shall be exercised by such Minister as may be appointed by the Cabinet, or in a case to which subsection (2) of this section applies, by such Minister as may be appointed by the President.

(4) Whenever the office of any Minister who has been appointed under the provisions of subsection (3) of this section to exercise the functions of the office of President becomes vacant, or that Minister is absent from Kenya, or it is determined in accordance with the provisions of section 33E of this Constitution that he is by reason of physical or mental infirmity unable to discharge the functions of the office of President, and by reason of any of the provisions of subsection (3) of this section those functions cannot be performed by the Vice-President, those functions shall be exercised by such other Minister as may be appointed by the Cabinet, or in a case to which subsection (2) of this section applies, by such Minister as may be appointed by the President.

(5) If occasion arises in accordance with any of the foregoing provisions of this section for the Vice-President or a Minister appointed by the Cabinet to exercise the functions of the office of President, and if for any reason no such person assumes those functions within five days of that occasion arising, the Speaker of the House of Representatives or, if the office of Speaker of that House is vacant or the holder of that office is unable by reason of absence or illness to exercise the functions vested in him by this subsection, the Deputy Speaker of that House shall appoint an Elected Member of the House of Representatives who appears to him likely to command the support of the members of that House or, if Parliament stands dissolved, a person who was an Elected Member of that House immediately before the dissolution, to exercise the

## FIRST SCHEDULE—(Contd.)

## Provision

## Amendment

functions of the office of President until, in accordance with the provisions of this Constitution, the Vice-President or a Minister appointed by the Cabinet assumes those functions, or the President resumes his office, or the President is elected and assumes office, as the case may be.

(6) Notwithstanding any of the provisions of this section or of section 76 of this Constitution, the Vice-President or any other person exercising the functions of the office of President by virtue of the provisions of this section, shall not act, except in accordance with a resolution of the Cabinet, in the performance of the following functions—

- (a) in the exercise of the powers relating to the prorogation and dissolution of Parliament, under subsections (1) and (2) of section 65 of this Constitution;
- (b) in the exercise of the powers relating to the appointment and removal of the Ministers and Assistant Ministers, under sections 75 and 81 of this Constitution;
- (c) in the exercise of the powers relating to the assignment of responsibility to any Minister, under section 77 of this Constitution; and
- (d) in the exercise of the powers relating to the giving of consent to a Minister or Assistant Minister absenting himself from Kenya, under section 82 of this Constitution.

Determina-  
tion of  
incapacity of  
President,  
etc.

33E. (1) Any question whether the President, or any other person exercising or about to exercise the functions of the office of President, is by reason of physical or mental infirmity unable to exercise the functions of that office, shall be determined in accordance with the provision of this section.

(2) Whenever the question under this section is whether any person has become unable to exercise the functions of the office of President, and the Chief Justice is requested by resolution of the Cabinet conveyed to him by the Speaker of the House of Representatives to cause that question to be determined, then—

- (a) the Chief Justice shall appoint a tribunal which shall consist of not less than five persons who shall be appointed by him from among persons who are qualified as medical practitioners under the law of Kenya, and who shall include any person

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nominated for appointment in accordance with the provisions of subsection (4) of this section; and

(b) the tribunal shall inquire into the matter and make a report to the Chief Justice stating the opinion of the tribunal whether or not the person in respect of whom the question arises is, by reason of physical or mental infirmity, unable to discharge the functions of the office of President; and

(c) the Chief Justice shall certify accordingly under his hand and cause that certificate to be conveyed to the Speaker of the House of Representatives:

Provided that the Chief Justice shall cause the question to be determined without a resolution of the Cabinet if he receives a certificate under the hand of the Speaker of the House of Representatives to the effect that there are no Ministers present in Kenya, other than a person with respect to whom the question arises, and that the Speaker considers that it is in the interests of Kenya that the question should be determined without delay.

(3) Whenever the question under this section is whether any person, in respect of whom the Chief Justice has given a certificate in accordance with the provisions of subsection (2) of this section that he is unable to exercise the functions of the office of President, has ceased to be unable to exercise those functions, and the Chief Justice is requested, by resolution of the Cabinet conveyed to him by the Speaker of the House of Representatives, or by request under the hand of the person in respect of whom such certificate was given conveyed to him by the Speaker of that House, to cause that question to be determined, then the Chief Justice shall appoint a tribunal in accordance with the provisions of paragraph (a) of subsection (2) of this section, and that tribunal shall inquire and report in accordance with the provisions of paragraph (b) of that subsection, and the Chief Justice shall certify accordingly under his hand and cause that certificate to be conveyed to the Speaker of the House of Representatives.

(4) Whenever the Speaker informs the Chief Justice that a question under this section is to be determined he shall forthwith so inform the person in respect of whom the question arises, and that person may, by writing delivered to the Speaker within two days of his being so informed, nominate for appointment as members of the



## FIRST SCHEDULE—(Contd.)

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tribunal to be appointed by the Chief Justice under this section not more than two persons qualified to be so appointed.

(5) A certificate given by the Chief Justice under this section shall be conclusive for the purposes of this Constitution, and shall not be questioned in any court.

(6) At any time when the office of Speaker of the House of Representatives is vacant or the holder of that office is unable by reason of absence or illness to exercise the functions vested in him by this section, those functions may be exercised by the Deputy Speaker of that House.

Salary and allowances of President.

33F. (1) The President shall receive such salary and allowances, and on retirement such pension, gratuity or allowance, as may be determined by resolution of the House of Representatives.

(2) The salary and allowances payable to any holder of the office of President shall not be altered to his disadvantage during his tenure of office.

(3) All moneys provided in pursuance of this section shall be a charge on the Consolidated Fund.

Protection of President in respect of legal proceedings during office.

33G. (1) No criminal proceedings whatsoever shall be instituted or continued against the President while he is in office.

(2) No civil proceedings in which relief is claimed against the President in respect of anything done or omitted to be done shall be instituted or continued against the President while he is in office.

(3) Where provision is made by law limiting the time within which proceedings of any description may be brought against any person, the term of any person in the office of President shall not be taken into account in calculating any period of time prescribed by that law which determines whether any such proceedings as are mentioned in subsection (1) or subsection (2) of this section may be brought against that person.

(4) The provisions of this section shall apply to any person assuming or appointed to exercise the functions of the office of President in accordance with the provisions of this Constitution, while he is exercising those functions.

## FIRST SCHEDULE—(Contd.)

<i>Provision</i>	<i>Amendment</i>
Section 34 (1).	Substitute for the words "Her Majesty and a", the words "the President and the".
Section 37.	At the commencement of the section insert the words "Subject to the provisions of this Constitution".
Section 42.	Insert immediately after subsection (3) a new subsection as follows— (4) A member of the House of Representatives shall vacate his seat therein if he is elected as Speaker of that House.
Section 45.	(a) In subsection (3) substitute for the words "a Parliamentary Secretary" the words "an Assistant Minister". (b) In subsection (5) insert immediately after the word "Speaker" where it first appears, the words "or the election of a President". (c) Add immediately after subsection (5) a new subsection as follows— (6) The Speaker, whether or not he is a member of the House of Representatives, shall be an <i>ex officio</i> member of that House, but as such member he shall not be entitled to vote on any question before that House.
Section 46.	(a) In subsection (1) substitute for the words "Parliamentary Secretaries" the words "Assistant Ministers". (b) In subsection (4) (c) substitute for the words "a Parliamentary Secretary" the words "an Assistant Minister".
Section 48.	(a) In subsection 1 (c) substitute for the words "the Governor-General, acting in accordance with the advice of the Prime Minister" the words "the President". (b) In subsection (1) (d) substitute for the words "Governor-General, acting in accordance with the advice of the President of the Regional Assembly of that Region" the word "President". (c) In subsection (2) substitute for the words "a Parliamentary Secretary" the words "an Assistant Minister". (d) In subsection (5) substitute for the words "Governor-General" wherever they appear, the word "President". (e) In subsection (6) substitute for the words "Governor-General" wherever they appear, the word "President". (f) In subsection (7)— (i) substitute for the words "Governor-General" wherever they appear, the word "President"; (ii) delete the words " , acting in accordance with the advice of the Chairman of the Commission,";

## FIRST SCHEDULE—(Contd.)

## Provision

## Amendment

- (iii) delete the words “, acting in accordance with such advice as aforesaid”.
- (g) In subsection (9)—
- (i) substitute for the words “Prime Minister in the case of a public officer serving on the establishment of the Government of Kenya or in the case of any authority of that Government and with the consent of the President of the Regional Assembly in the case of a public officer serving on the establishment of a Region in the case of any authority of a Region” the word “President”;
- (ii) substitute for the words “such an” the words “any public”.
- Section 56 (2). Insert immediately after the words “is a member” the words “(other than an *ex officio* member)”.
- Section 59. (a) In subsection (1) delete the words “and assented to by Her Majesty or by the Governor-General on behalf of Her Majesty”.
- (b) In subsection (3)—
- (i) substitute for the words “; and shall be presented to the Governor-General for his assent” the words “, and —”;
- (ii) delete paragraph (b) and substitute the following—
- (b) when it is required to be presented under section 61 of this Constitution,
- it shall be presented to the President for his assent.
- (c) Delete subsection (4) and substitute the following—
- (4) When a Bill that has been duly passed is presented for assent in accordance with the provisions of this Constitution it shall become law, and shall thereupon be published in the Kenya Gazette as a law.
- (d) Delete subsection (5).
- Section 60 (2). Substitute for the words “Governor-General” the word “President”.
- Section 64 (1). Substitute for the words “Governor-General” the word “President”.
- Section 65. (a) In subsection (1) substitute for the words “Governor-General” the word “President”.
- (b) Delete subsection (2) and substitute two new subsections as follows—
- (2) The President may at any time dissolve Parliament.
- (2A) If the House of Representatives passes a resolution which is supported by the votes of a majority of all the members of that House, and of which not less than seven days’ notice has been given in accordance with the procedure of that House, declaring

## FIRST SCHEDULE—(Contd.)

<i>Provision</i>	<i>Amendment</i>
	that it has no confidence in the Government of Kenya, and the President does not within three days of the passing of that resolution either resign from his office or dissolve Parliament, Parliament shall stand dissolved on the fourth day following the day on which that resolution was passed.
Section 68.	(a) In subsection (1) delete the words "Subject to the provisions of subsection (2) of this section,". (b) Delete subsection (2).
Section 69.	Substitute for the words "Governor-General" wherever they appear, the word "President".
Section 72.	(a) Delete subsection (1) and substitute a new subsection as follows— (1) The executive authority of the Government of Kenya shall be vested in the President and, subject to this Constitution, may be exercised by him either directly or through officers subordinate to him. (b) In subsection (2) substitute for the words "Governor-General" the word "President". (c) In subsection (3) delete the words "but subject to the provisions of this section and of section 74 of this Constitution". (d) Delete subsection (5).
Section 73.	Delete whole section.
Section 74.	Delete whole section and substitute new section as follows—
The Vice-President of Kenya.	74. (1) There shall be a Vice-President of Kenya, who shall be appointed by the President. (2) The President shall appoint the Vice-President from among the Ministers who are Elected Members of the House of Representatives: Provided that no appointment to the office of Vice-President shall be made when Parliament stands dissolved, or at any time when the functions of the office of President are being exercised by any person other than the President. (3) The Vice-President shall be the principal assistant of the President in the discharge of his functions. (4) The Vice-President shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by Parliament. (5) When the Vice-President assumes office any other public office held by him shall become vacant, and while

## FIRST SCHEDULE—(Contd.)

*Provision**Amendment*

he continues in office as the Vice-President he shall be disqualified for any other public office; and for the purposes of this subsection any of the offices and appointments referred to in section 33B (4) of this Constitution shall be regarded as a public office.

(6) The office of the Vice-President shall become vacant—

- (a) if the President (being the elected holder of that office) so directs; or
- (b) if the holder of the office ceases to be an Elected Member of the House of Representatives otherwise than by reason of the dissolution of Parliament; or
- (c) upon the election of a person to the office of President.

## Section 75.

Delete whole section and substitute new section as follows—

Ministers of Government of Kenya. 75. (1) There shall be such offices of Minister of the Government of Kenya as may be established by Parliament or, subject to any provisions made by Parliament, by the President.

(2) The President shall appoint the Ministers from among the members of the two Houses of the National Assembly:

Provided that, if occasion arises for making an appointment to the office of any Minister while Parliament stands dissolved, a person who was a member of the House of Representatives immediately before the dissolution may be appointed to that office.

- (3) The office of any Minister shall become vacant—
- (a) if the President so directs; or
  - (b) if the holder of the office ceases to be a member of either House of the National Assembly otherwise than by reason of the dissolution of Parliament; or
  - (c) in the case of a Minister who, immediately before the dissolution of Parliament, was a member of the House of Representatives, if, when that House first meets after that dissolution, he is not then a member thereof; or
  - (d) upon the election of a person to the office of President.

## Section 76.

Delete whole section and substitute new section as follows—

Cabinet. 76. (1) There shall be a Cabinet consisting of the President, and the Vice-President and other Ministers.

## FIRST SCHEDULE—(Contd.)

## Provision

## Amendment

(2) The function of the Cabinet shall be to aid and advise the President in the government of Kenya.

(3) The Cabinet shall be collectively responsible to the two Houses of the National Assembly for all things done by or under the authority of the President or the Vice-President or any other Minister in the execution of his office.

(4) The provisions of subsections (2) and (3) of this section shall not apply in relation to—

(a) the appointment and removal from office of the Vice-President, Ministers and Assistant Ministers under sections 74, 75 and 81 of this Constitution, the assignment of responsibility to any Minister under section 77 of this Constitution, or the giving of consent under section 82 of this Constitution to the Vice-President, a Minister or an Assistant Minister absenting himself from Kenya;

(b) the dissolution of Parliament; or

(c) the matters referred to in section 88 of this Constitution (which relates to the exercise of the Prerogative of Mercy).

Section 77.

Delete whole section and substitute new section as follows—

Allocation of portfolios to Ministers. 77. Responsibility for any of the business of the government of Kenya, including the administration of any of the departments of Government, may be assigned to the Vice-President and the several Ministers as the President may, by directions in writing, determine.

Section 78.

Delete whole section.

Section 79.

Delete whole section.

Section 80.

Delete whole section.

Section 81.

Delete whole section and substitute new section as follows—

Assistant Ministers. 81. (1) The President may appoint Assistant Ministers from among the members of the two Houses of the National Assembly to assist the President, Vice-President and the Ministers in the performance of their duties:

Provided that, if occasion arises for making an appointment while Parliament stands dissolved, a person who was a member of the House of Representatives immediately before the dissolution may be appointed as an Assistant Minister.

## FIRST SCHEDULE—(Contd.)

## Provision

## Amendment

- (2) The office of an Assistant Minister shall become vacant—
- (a) if the President so directs; or
- (b) if the holder of the office ceases to be a member of either House of the National Assembly otherwise than by reason of the dissolution of Parliament; or
- (c) in the case of an Assistant Minister who, immediately before the dissolution of Parliament, was a member of the House of Representatives, if, when that House first meets after that dissolution, he is not then a member thereof; or
- (d) upon the election of a person to the office of President.
- Section 82. Delete whole section and substitute new section as follows—
- Absence of Vice-President, Ministers and Assistant Ministers from Kenya. 82. The Vice-President, a Minister or an Assistant Minister shall not absent himself from Kenya except with the prior consent of the President.
- Section 83. (a) In the marginal note substitute for the words "Parliamentary Secretaries" the words "Assistant Ministers".
- (b) In the section substitute for the words "a Parliamentary Secretary" the words "an Assistant Minister".
- (c) Insert immediately after the section a new section as follows—
- Permanent Secretaries to the Offices of President and Vice-President. 83A. There shall be a Permanent Secretary to the President's Office and a Permanent Secretary to the Vice-President's Office whose offices shall be offices in the public service.
- Section 84. Substitute for the words "Where any" the words "Where the Vice-President or any other".
- Section 85 (2). Substitute for the words "Prime Minister" wherever they appear, the word "President".
- Section 87. (a) Substitute for the words "Governor-General" the word "President".
- (b) Delete the proviso.
- Section 88. (a) In subsection (1)—
- (i) substitute for the words "The Governor-General may, in Her Majesty's name and on Her Majesty's behalf" the words "The President may";

## FIRST SCHEDULE—(Contd.)

<i>Provision</i>	<i>Amendment</i>
	(ii) in paragraph (d) substitute for the word "Crown" the word "Republic".
	(b) In subsection (2)—
	(i) delete the words "Subject to the provisions of subsection (3) of this section,";
	(ii) substitute for the words "Governor-General" the word "President".
Section 89.	(a) In subsection (1) (c) substitute for the words "Governor-General" the word "President".
	(b) In subsection (2) (b) substitute for the words "Governor-General" the word "President".
	(c) Delete subsection (5).
Section 90.	(a) In subsection (1) substitute for the words "Governor-General" the word "President".
	(b) In subsection (2) substitute for the words "Governor-General" the word "President".
Chapter VII.	Delete whole Chapter.
Chapter VIII.	
Section 121.	(a) Delete the words "(not being revenues or other moneys raised or received by a Region or revenues or other moneys that are payable, by or under an Act of Parliament, into some other fund established for any specific purpose or that may, by or under an Act of Parliament, be retained by the authority that received them for the purpose of defraying the expenses of that authority)".
	(b) Add immediately after the words "Consolidated Fund" the words "from which no moneys shall be withdrawn except as may be authorized by an Act of Parliament (including an Appropriation Act) or by a vote on account passed by the House of Representatives under section 124 of this Constitution".
Section 122.	Delete whole section.
Section 123.	Delete whole section.
Section 125.	Delete whole section.
Section 126 (5).	(a) Delete the words "Governor-General," and the words "appointed member of the Police Service Commission".
	(b) Substitute for the words "Inspector-General of Police" the words "Chief Commissioner of Police".
Section 128.	(a) In subsection (2)—
	(i) in paragraph (a) substitute for the words " , or as provided by, section 122 of this Constitution" the word "law";
	(ii) in paragraph (c) delete the words "the accounts of the Central Land Board".



## FIRST SCHEDULE—(Contd.)

<i>Provision</i>	<i>Amendment</i>
	(b) Delete subsections (5) and (6).
	(c) In subsection (7) substitute for the expression "(4) and (5)" the expression "and (4)".
Section 137.	(a) In subsection (1) substitute for the words "a sum equal to the proceeds of that tax or duty for that financial year" the words "such sum equal to such proportion of the proceeds of that tax or duty for that financial year as may be prescribed by or under an Act of Parliament".
	(b) In subsection (2)—
	(i) in paragraph (a) insert immediately after the words "equal to" the words "the proportion payable to the Regions under this section of";
	(ii) in paragraph (b) insert immediately after the words "equal to" the words "the proportion payable to the Regions under this section of".
	(c) In subsection (3) substitute for the words "that financial year" the words "the immediately preceding financial year".
Section 138 (3).	Substitute for the words "that financial year" the words "the immediately preceding financial year".
Section 139.	Delete whole section.
Section 140.	(a) In subsection (1) substitute for the words "two-thirds of the excess" the words "ten per cent of the excess, or such larger proportion thereof as may be prescribed by or under an Act of Parliament".
	(b) In subsection (2)—
	(i) in paragraph (a) insert immediately after the words "one sixth of" the words "the proportion payable to the several Regions under this section of";
	(ii) in paragraph (b) insert immediately after the words "one-half of" the words "the proportion payable to the several Regions under this section of".
	(c) Delete subsection (3).
	(d) In subsection (4) substitute for the expression "(1), (2) and (3)" the expression "(1) and (2)".
	(e) Delete subsection (5).
Section 141.	Delete whole section.
Section 142.	Delete whole section.
Section 143.	Delete whole section.
Section 144.	Delete whole section.

## FIRST SCHEDULE—(Contd.)

<i>Provision</i>	<i>Amendment</i>
Section 145.	Delete whole section.
Section 146.	Delete whole section.
Section 147.	Delete whole section.
Section 148.	Delete whole section.
Section 149.	Delete whole section.
Section 150.	Delete whole section.
Section 151.	Delete whole section.
Section 152 (2).	(a) Delete the words "in any financial year". (b) Delete the words "in that financial year".
Section 153.	Delete whole section.
Section 154.	Delete whole section.
Section 155.	Delete whole section.
Chapter IX.	
Section 157.	Delete whole section and substitute new section as follows—
	Police Force. 157. (1) There shall be a Police Force which shall be under the command of a Chief Commissioner of Police.
	(2) Subject to the provisions of this Constitution, the Police Force shall be organized and administered in accordance with such provision as may be made in that behalf by Parliament.
	(3) Subject to the provisions of this Constitution, the members of the Police Force shall have such powers and duties as may be conferred upon them by any law.
	(4) Subject to the provisions of this section, no other police force shall be established for Kenya or any part thereof.
	(5) Parliament may make provision for police forces forming part of naval, military or air forces.
	(6) Nothing in this section shall prevent Parliament from making provision for a disciplined force having administrative functions and functions as an auxiliary police force.
Section 158.	Delete whole section.
Section 159.	Delete whole section.
Section 160.	Delete whole section.
Section 161.	Delete whole section.
Section 162.	(a) In subsection (1) substitute for the words "Governor-General acting in accordance with the advice of the Police Service Commission" the word "President".

## FIRST SCHEDULE—(Contd.)

## Provision

## Amendment

(b) In subsection (2) substitute for the words "Governor-General, acting in accordance with the advice of the Police Service Commission," the word "President".

(c) In subsection (5) substitute for the words "Governor-General" wherever they appear, the word "President".

(d) In subsection (6)—

(i) substitute for the words "Chairman of the Police Service Commission represents to the Governor-General" the words "President considers";

(ii) in paragraph (b) substitute for the words "Governor-General" the word "President".

(e) In subsection (7)—

(i) substitute for the words "Governor-General, acting in accordance with the advice of the Police Service Commission," the word "President";

(ii) substitute for the words "Governor-General, acting in accordance with such advice as aforesaid" the word "President";

(iii) substitute for the words "Governor-General" the word "President".

(f) In the marginal note and throughout the section substitute for the words "Inspector-General" the words "Chief Commissioner".

## Section 163.

Delete whole section and substitute a new section as follows—

163. The power to appoint persons to hold or act in offices in the Police Force (including the power to confirm appointments), the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest—

(a) in the case of offices of or above the rank of Sub-Inspector, or such rank other than the rank of Sub-Inspector as may be specified for the purposes of this section by or under an Act of Parliament, in the Public Service Commission;

(b) in the case of offices below the rank of Sub-Inspector, or such other rank as may be specified as aforesaid, in the Chief Commissioner:

Provided that—

(i) the Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under this section to any one or more members of the Commission or to the Chief Commissioner;

(ii) the Chief Commissioner may, by directions given in such manner as he thinks fit and subject to such conditions as he thinks fit, delegate any of his powers under this section to any member of the Police Force.

## FIRST SCHEDULE—(Contd.)

<i>Provision</i>	<i>Amendment</i>
Section 164.	Delete whole section.
Section 165.	Delete whole section.
Section 166.	Delete whole section and substitute a new section as follows—
Functions of Chief Com- missioner.	<p>166. (1) The Chief Commissioner shall be responsible to the Minister for the organization, maintenance and administration of the Police Force, and shall comply with all lawful instructions as to the discharge of that responsibility that the Minister may give to him, or cause such instructions to be complied with.</p> <p>(2) The Chief Commissioner shall comply with such general directions of policy with respect to maintaining public safety and public order in Kenya or any part thereof as the Minister may give to him, or cause such directions to be complied with.</p> <p>(3) In this section "the Minister" means the Minister for the time being responsible for matters relating to the Police Force.</p>
Section 167.	<p>(a) Delete the words "or any Regional Commissioner of Police".</p> <p>(b) Delete the words "or the Regional Commissioner of Police".</p> <p>(c) Substitute for the words "Inspector-General" wherever they appear, the words "Chief Commissioner".</p>
Section 168.	Delete whole section.
Section 169.	Delete whole section.
Section 170.	Delete whole section.
Chapter XI.	
Section 186.	<p>(a) In subsection (2) substitute for the words "Governor-General, acting in accordance with the advice of the Judicial Service Commission" the word "President".</p> <p>(b) In subsection (3)—</p> <p>(i) insert at the commencement of the subsection the words "Subject to the provisions of subsection (3A) of this section";</p> <p>(ii) in paragraph (a) substitute for the words "by any Order of Her Majesty in Council" the words "at any time before 12th December 1963".</p> <p>(c) Immediately after subsection (3) insert a new subsection as follows—</p> <p>(3A) The disqualifications referred to in paragraphs (a), (b) and (c) of subsection (3) of this section shall cease to be disqualifications in respect of any person when Parliament has been dissolved on two occasions after that person ceased to be such a member, candidate, holder of office or sponsor or supporter of such a candidate.</p> <p>(d) In subsection (7) substitute for the words "Governor-General" wherever they appear, the word "President".</p>

## FIRST SCHEDULE—(Contd.)

## Provision

## Amendment

(e) In subsection (8)—

- (i) substitute for the words "Prime Minister or the President of any Regional Assembly represents to the Governor-General" the words "President considers";
- (ii) substitute for the words "Governor-General" where they appear in paragraph (a) and paragraph (b) the word "President".

(f) In subsection (9)—

- (i) substitute for the words "Governor-General, acting in accordance with the advice of the Judicial Service Commission," the word "President";
- (ii) substitute for the words "Governor-General, acting in accordance with such advice as aforesaid" the word "President";
- (iii) substitute for the words "Governor-General" the word "President".

(g) In subsection (10) substitute for the words "Governor-General, acting in accordance with the advice of the Judicial Service Commission," the word "President".

(h) In subsection (11) substitute for the words "Governor-General, acting in accordance with the advice of the Judicial Service Commission," the word "President".

(i) In subsection (13)—

- (i) substitute for the words "Prime Minister in the case of a public officer serving on the establishment of the Government of Kenya or in the case of any authority of that Government and with the consent of the President of the Regional Assembly in the case of a public officer serving on the establishment of a Region or in the case of any authority of a Region" the word "President";
- (ii) substitute for the words "such an" the words "any public".

Section 187.

Delete whole section.

Section 188.

(a) Insert immediately after subsection (1) a proviso as follows—

Provided that the Commission may, with the approval of the President and subject to such conditions as it thinks fit, by directions in writing delegate any of its powers under this section to any one or more of its members or to any officer in the public service.

(b) Delete subsection (2) and substitute a new subsection as follows—

(2) Subject to the provisions of this section and of section 186 (12) of this Constitution, provision may be made by or under an Act of Parliament for prescribing the manner of the exercise

## FIRST SCHEDULE—(Contd.)

## Provision

## Amendment

of the functions of the Public Service Commission under this section and for any matters incidental or supplementary to the exercise of those functions.

(c) Delete subsections (3), (4), (5), (6), (7), (8), (9) and (10).

(d) In subsection (11) substitute for the words "Governor-General" wherever they appear, the word "President".

(e) Delete subsections (12), (13) and (14).

(f) In subsection (15)—

(i) substitute for the words "The provisions" the expression "Subsection (1)";

(ii) delete paragraph (f);

(iii) in paragraph (h) substitute for the words "Inspector-General of Police or any other office in the Police Force" the words "Chief Commissioner of Police or any office in the Police Force to which paragraph (b) of section 163 of this Constitution (which relates to offices within the power of appointment of the Chief Commissioner) applies".

## Section 189.

(a) In subsection (1)—

(i) substitute for the words "Governor-General, acting in accordance with the advice of the Public Service Commission" the word "President";

(ii) delete the proviso.

(b) In subsection (2) substitute for the words "Governor-General, acting in accordance with the advice of the Public Service Commission," the word "President".

(c) In subsection (3) substitute for the word "seven" the word "five".

(d) In subsection (6) substitute for the words "Governor-General" wherever they appear, the word "President".

(e) In subsection (7)—

(i) substitute for the words "Prime Minister or the President of any Regional Assembly or the Chairman of the Public Service Commission represents to the Governor-General" the words "President considers";

(ii) in paragraph (a) substitute for the words "Governor-General" the word "President";

(iii) in paragraph (b) substitute for the words "Governor-General" the word "President".

(f) In subsection (8)—

(i) substitute for the words "Governor-General" wherever they appear, the word "President";

(ii) delete the words " , acting in accordance with the advice of the Public Service Commission,";

## FIRST SCHEDULE—(Contd.)

## Provision

## Amendment

- (iii) delete the words "acting in accordance with such advice as aforesaid,".
- Section 190. (a) In subsection (1) substitute for the words "Governor-General, acting in accordance with the advice of the Public Service Commission" the word "President".
- (b) In subsection (2) substitute for the words "Governor-General, acting in accordance with the advice of the Public Service Commission," the word "President".
- (c) In subsection (5) delete the words "Governor-General" wherever they appear, and substitute the word "President".
- (d) In subsection (6)—
- (i) substitute for the words "Prime Minister or the President of any Regional Assembly or the Chairman of the Public Service Commission represents to the Governor-General" the words "President considers";
- (ii) in paragraph (a) substitute for the words "Governor-General" the word "President";
- (iii) in paragraph (b) substitute for the words "Governor-General" the word "President".
- (e) In subsection (7)—
- (i) substitute for the words "Governor-General" wherever they appear, the word "President";
- (ii) delete the words ", acting in accordance with the advice of the Public Service Commission,";
- (iii) delete the words "acting in accordance with such advice as aforesaid,".
- Section 191. (a) Substitute for the words "Governor-General, acting in accordance with the advice of the Public Service Commission" the word "President".
- (b) Delete the proviso.
- Section 192. (a) In subsection (1) substitute for the words "Governor-General, acting in accordance with the advice of the Prime Minister" the word "President";
- (b) Delete subsection (2) and substitute a new subsection as follows—
- (2) Before exercising any power conferred by subsection (1) of this section in relation to any person who holds any office in the public service, other than an office to which this section applies, the President shall consult the Public Service Commission.

## FIRST SCHEDULE—(Contd.)

<i>Provision</i>	<i>Amendment</i>
Section 193.	Delete whole section.
Section 194.	Delete whole section.
Section 195.	(a) Delete subsection (10). (b) Delete subsection (11).
Section 196 (5).	Delete whole subsection.
Chapter XII.	
Section 197.	Delete whole section.
Section 198.	Delete whole section.
Section 199.	Delete whole section.
Section 200.	Delete whole section.
Section 201.	Delete whole section.
Section 203.	Delete whole section.
Section 204.	Delete whole section.
Section 205.	Delete whole section.
Section 206.	Delete whole section.
Section 207.	Delete whole section.
Section 209.	(a) Delete marginal note and insert new marginal note as follows— “Setting apart of Trust land for Kenya Government purposes.”. (b) Delete subsection (1) and substitute a new subsection as follows— (1) The purposes for which any areas of Trust land may be set apart and vested in the Government of Kenya under this section are— (a) the purposes of the Government of Kenya; or (b) the purposes of any body corporate established for public purposes by an Act of Parliament; or (c) the purposes of the East African Common Services Organization; or (d) the purpose of the extraction of minerals (other than common minerals) or mineral oils. (c) Delete subsection (2).
Section 210.	Delete subsections (1), (2), (3) and (5).
Section 211 (1).	Delete paragraphs (a), (b) and (c) and substitute two new paragraphs as follows—



## FIRST SCHEDULE—(Contd.)

<i>Provision</i>	<i>Amendment</i>
	(a) if the land is situated in the Special Areas or is such land as is specified in paragraph (b) or paragraph (c) of section 208 (1) of this Constitution, to the county council in whose area of jurisdiction the land is situated; and
	(b) in any other case, to the Government of the Republic of Kenya.
Section 212.	Delete whole section.
Section 213.	Delete whole section.
Section 214.	Delete whole section.
Chapter XIII. Sections 223 to 238.	Delete sections 223 to 238 (inclusive) and substitute a new section as follows—
Establishment of local government authorities, etc.	223. (1) There shall be established such local government authorities with such areas of jurisdiction as may be prescribed by or under an Act of Parliament, and each local government authority shall exercise such functions as may be so prescribed.
	(2) For the purpose of giving effect to the provisions of subsection (1) of this section, provision shall be made by or under an Act of Parliament with respect to—
	(a) the number and manner of election of elected councillors who shall represent each local government authority (including councillors appointed by a local government authority the area of which falls wholly within the area of such local government authority, who may rank as elected councillors), and the number (if any) of other councillors (including aldermen) who shall represent each local government authority, and the manner of their nomination, appointment or selection;
	(b) the establishment of one or more electoral areas within the area of each local government authority for the purpose of the election of elected councillors;
	(c) the qualifications and disqualifications for registration as a voter in elections of elected councillors to local government authorities (other than councillors appointed by another local government authority as aforesaid, who may rank as elected councillors);
	(d) the right to vote in elections of elected councillors to local government authorities, and the grounds on which a person registered as a voter in such elections may be disqualified from voting;

## FIRST SCHEDULE—(Contd.)

<i>Provision</i>	<i>Amendment</i>
	<p>(e) the qualifications and disqualifications for election as an elected councillor of any local government authority, including any additional qualifications which may be required in any particular electoral area in respect of one or more elected councillors;</p> <p>(f) the qualifications and disqualifications for nomination, appointment or selection as a councillor other than an elected councillor; and</p> <p>(g) the tenure of office of councillors of local government authorities:</p> <p>Provided that nothing in this subsection shall be construed as precluding the making, by or under an Act of Parliament, of—</p> <p>(a) different provisions for different local government authorities, or different classes of councillor, in respect of any of the matters referred to in this subsection (other than the matters referred to in paragraph (c) and paragraph (d) of this subsection); or</p> <p>(b) any other provisions not inconsistent with the provisions of this section with respect to the matter of local government.</p>
Chapter XIV. Section 243.	Delete whole section.
Chapter XV. Section 244 (1).	<p>(a) Insert immediately after the words "established by this Constitution" the words ", including the office of President or Vice-President,".</p> <p>(b) In the proviso insert immediately after the words "Provided that" a new paragraph as follows—</p> <p>(aa) the resignation of a person from the office of President shall be addressed to the House of Representatives;.</p>
Section 245.	<p>(a) In subsection (1) insert immediately after the words "established by this Constitution" the words ", including the office of President or Vice-President,".</p> <p>(b) In subsection (2) insert immediately after the words "appointment to any office" the words "(other than the office of President or Vice-President)".</p>
Section 246.	Delete whole section.
Schedule 1.	Delete whole Schedule and substitute a new Schedule as follows—

## FIRST SCHEDULE—(Contd.)

*Provision**Amendment*

## SCHEDULE 1

MATTERS TO WHICH EXECUTIVE AUTHORITY OF REGIONS EXTENDS Sections 66, 72,  
102 and 106.

## PART I

MATTERS THAT ARE WITHIN THE EXCLUSIVE LEGISLATIVE  
COMPETENCE OF REGIONAL ASSEMBLIES

Those matters which, under the specially entrenched provisions of this Constitution, may be provided for by a law made by a Regional Assembly.

## PART II

MATTERS THAT ARE WITHIN THE CONCURRENT LEGISLATIVE  
COMPETENCE OF PARLIAMENT AND REGIONAL ASSEMBLIES

Any matter which, under any provision of this Constitution (other than the provisions referred to in Part I of this Schedule), may be provided for by a law made by a Regional Assembly.

- Schedule 2. Delete the whole Schedule.  
Schedule 5. Delete the whole of Part IV.

(s. 6)

## SECOND SCHEDULE

AMENDMENTS TO KENYA INDEPENDENCE ORDER IN COUNCIL 1963

*Provision**Amendment*

- Section 1 (2). Delete the proviso.
- Section 4. (a) Delete subsections (1), (2), (3), (4), (5) and (6).  
(b) In subsection (7) substitute for the words "Governor-General" the word "President".
- Section 5. Delete whole section.
- Section 9. Substitute for the words "Governor-General" the word "President".
- Section 10. Delete whole section.
- Section 11. Delete whole section.
- Section 12. Delete whole section.
- Section 13 (4). Substitute for the words "Prime Minister" wherever they appear, the word "President".

## SECOND SCHEDULE—(Contd.)

<i>Provision</i>	<i>Amendment</i>
Section 14.	<p>(a) In subsection (1) substitute for the words "Prime Minister" wherever they appear, the word "President".</p> <p>(b) In subsection (3) delete the words "which, in the case of a vacancy on the establishment of a Region, shall be an appointment on secondment from the establishment of the Government of Kenya)".</p> <p>(c) In subsection (8)—</p> <p style="padding-left: 2em;">(i) insert immediately after paragraph (a) the word "and";</p> <p style="padding-left: 2em;">(ii) delete paragraph (b).</p>
Section 15.	Delete whole section.
Schedule 1.	<p>(a) Delete items 1 and 2.</p> <p>(b) In item 3 substitute for the words in the second column "Governor-General" the word "President".</p> <p>(c) In item 3 substitute for the expression in the third column "12th December 1964" the expression "12th December 1965".</p>

(s. 7)

## THIRD SCHEDULE

AMENDMENTS TO KENYA INDEPENDENCE ACT 1963  
(AS PART OF THE LAW OF KENYA)

<i>Provision</i>	<i>Amendment</i>
Section 2.	Delete whole section.
Section 3.	Delete whole section.
Section 4.	Delete whole section.
Section 5.	Delete whole section.
Schedule 2.	Delete whole Schedule.

## FOURTH SCHEDULE

(s. 29)

AMENDMENTS TO PART I AND SECTION 212 OF CHAPTER XII OF THE CONSTITUTION  
FOR THE PURPOSES OF THIS ACT

<i>Provision</i>	<i>Amendment</i>
Part I.	Substitute for the words "Governor-General" wherever they appear, the word "President".
Section 197.	(a) In subsection (1) (c) delete the words "acting in accordance with the advice of the Prime Minister".

## FOURTH SCHEDULE—(Contd.)

<i>Provision</i>	<i>Amendment</i>
	(b) In subsection (6)—
	(i) delete the words "Prime Minister or the President of any Regional Assembly represents to the";
	(ii) insert immediately before the words "that the question" the word "considers".
Section 198 (5).	Substitute for the expression "1965" the expression "1956".
Section 212.	Substitute for the words "the Governor-General or in the Region in which the land is situated" the words "the Government of the Republic of Kenya".

## FIFTH SCHEDULE

(s. 13)

## FORMS OF OATHS

1. The oaths prescribed in this Schedule shall be taken in the Swahili form or in the English form.

2. In the case of an affirmation, in the English form of the oaths there shall be substituted for the word "do swear" the words "solemnly and sincerely declare and affirm", and the words "So help me God" shall be omitted; and in the Swahili form of the oaths corresponding variations shall be made.

## OATH OF ALLEGIANCE

I, ....., do swear that I will be faithful and bear true allegiance to the Republic of Kenya, and that I will preserve, protect and defend the Constitution of Kenya as by law established. So help me God.

## KIAPO CHA UTII

Mimi, ....., naapa kwamba nitakuwa mwaminifu kwa Jamhuri ya Kenya na kuitumikia kwa moyo wangu wote na kwamba nitaihifadhi, nitailinda, na kuitetea Katiba ya Kenya kwa mujibu wa Sheria iliyowekwa. Ewe Mwenyezi Mungu, nisaidie.

## OATH OF THE PRESIDENT

I, ....., do swear that I will faithfully and diligently discharge my duties and perform my functions in the high office of President of the Republic of Kenya, and that I will do right to all manner of people, according to the laws and customs of the Republic, without fear or favour, affection or ill will. So help me God.

## KIAPO CHA RAIS

Mimi, ....., naapa kwamba nitatenda kazi zangu za Urais wa Jamhuri ya Kenya kwa uaminifu, na kutimiza wajibu wa kazi hizo kwa bidii na kwa moyo mkunjufu,

## FIFTH SCHEDULE—(Contd.)

na kwamba nitawatendea haki watu wote kwa mujibu wa sheria, mila na desturi za Jamhuri ya Kenya, bila woga, upendeleo, huba wala chuki. Ewe Mwenyezi Mungu, nisaidie.

## OATH OF THE VICE-PRESIDENT AND A MINISTER

I, ....., do swear that I will well and truly serve the Republic of Kenya in the office of Vice-President/ Minister, that I will to the best of my judgment, at all times when so required, give my counsel and advice to the President of the Republic of Kenya for the good management of the public affairs of the Republic, and that I will not directly or indirectly reveal such matters as shall be referred to the Cabinet and committed to my secrecy. So help me God.

## KIAPO CHA MAKAMU WA RAIS/WAZIRI

Mimi, ....., naapa kwamba nitaitumikia vema na kwa moyo thabiti Jamhuri ya Kenya katika kazi zangu za Makamu wa Rais/Uwaziri, na kwa wakati wote nitamshauri kwa hekima na uaminifu Rais wa Jamhuri ya Kenya, na kwa vyo vyote vile sitatoa siri za Baraza la Mawaziri. Ewe Mwenyezi Mungu, nisaidie.

## OATH OF AN ASSISTANT MINISTER

I, ....., do swear that I will well and truly serve the Republic and President of Kenya in the office of Assistant Minister. So help me God.

## KIAPO CHA WAZIRI MDOGO

Mimi, ....., naapa kwamba nitaitumikia kwa uaminifu Jamhuri ya Kenya na Rais wake katika kazi zangu za Uwaziri Mdogo. Ewe Mwenyezi Mungu, nisaidie.