

**THE EAST AFRICAN COMMON SERVICES
ORGANIZATION ORDINANCE, 1961**

No. 26 of 1961

Date of Assent: 4th December, 1961

Date of Commencement: The day upon which the Agreement, which is set out in the Schedule to this Ordinance, comes into force; see Article 2 thereof.

AN ORDINANCE TO PROVIDE FOR GIVING EFFECT TO CERTAIN PROVISIONS OF THE EAST AFRICAN COMMON SERVICES ORGANIZATION AGREEMENT; AND FOR MATTERS CONNECTED THEREWITH

WHEREAS provision is made by the East Africa (High Commission) Orders in Council, 1947 to 1961, for the control and administration of certain matters and services of common interest to the inhabitants of Tanganyika, Kenya and Uganda, and for that purpose an East Africa High Commission and an East Africa Central Legislative Assembly are thereby established;

AND WHEREAS at discussions held in London in June, 1961, attended by delegations representing Her Majesty's Government in the United Kingdom, the East Africa High Commission, and Tanganyika, Kenya and Uganda it was agreed to recommend that the East Africa High Commission and the East Africa Central Legislative Assembly established by the said Orders in Council should be abolished in order that they may be replaced by an Organization (to be known as the East African Common Services Organization) established by means of an Agreement between the Governments of Tanganyika, Kenya and Uganda;

AND WHEREAS the draft of an Agreement for establishing the East African Common Services Organization (which is set out in the Schedule to this Ordinance) has been approved by the Governments of Tanganyika, Kenya and Uganda, but the Agreement has not been entered into by those Governments;

AND WHEREAS by the East Africa (High Commission) (Special Provisions) Order in Council, 1961, it is provided that provision may be made by the respective Legislatures of Tanganyika, Kenya and Uganda for giving effect to any Agreement that may be entered into by the Governments of

Tanganyika, Kenya and Uganda for the establishment of the proposed East African Common Services Organization and matters connected therewith, notwithstanding anything contained in the East Africa (High Commission) Orders in Council, 1947 to 1961;

AND WHEREAS it is proposed that provision should be made by Her Majesty in Council for the revocation of the East Africa (High Commission) Orders in Council, 1947 to 1961, and that such provision should come into operation when the said Agreement comes into force;

AND WHEREAS it is expedient to make provision for giving effect to certain provisions contained in the draft Agreement which shall come into operation when the Agreement has been entered into by the Governments of Tanganyika, Kenya and Uganda and has come into force:

NOW, THEREFORE, BE IT ENACTED by the Legislature of the Colony and Protectorate of Kenya, as follows:—

Short title and commencement.

1. (1) This Ordinance may be cited as the East African Common Services Organization Ordinance, 1961.

(2) This Ordinance shall come into operation on the day upon which the Agreement comes into force.

Interpretation.

2. In this Ordinance, except where the context otherwise requires—

“Act of the Organization” means an Act of the East African Common Services Organization enacted in accordance with the provisions of Part III of the Constitution of the Organization;

“the Agreement” means the Agreement entered into by the Governments of Tanganyika, Kenya and Uganda in the terms set out in the Schedule to this Ordinance;

“the Assembly” means the Central Legislative Assembly of the East African Common Services Organization established by Article 16 of the Constitution of the Organization;

“the Authority” means the East African Common Services Authority established by Article 3 of the Constitution of the Organization;

“the Constitution of the Organization” means the Constitution annexed to the Agreement.

3. (1) The Authority shall have the capacity within Kenya of a body corporate with perpetual succession, and shall have power to acquire, hold, manage and dispose of land and other property, and to sue and be sued in the name of the Authority.

Authority to be body corporate.

(2) The Authority shall have power to perform any of the functions conferred upon it by the Constitution of the Organization and to do all things that in the opinion of the Authority are necessary or desirable for the performance of those functions.

(3) The provisions of subsection (2) of this section relate only to the capacity of the Authority as a body corporate and nothing in that subsection shall be construed as authorizing the disregard by the Authority of any written law, or as affecting any power of the Authority conferred by any written law.

4. (1) The provisions of an Act of the Organization with respect to any matter that is included in the Second Schedule to the Constitution of the Organization shall, from the date of the publication of the Act in the Gazette of the Organization, have the force of law in Kenya.

Acts of the Organization to have force of law.

(2) An Act of the Organization shall come into operation on the date of its publication in the Gazette of the Organization or, if it is provided either in that Act or some other Act or some law of the High Commission that some or all of its provisions shall come into operation on some other date (whether before or after the date of publication), those provisions shall come into operation on that other date.

5. (1) Whenever an Act of the Organization has been disallowed in accordance with the provisions of Article 33 of the Constitution of the Organization, that Act shall be annulled with effect from the publication of notice of disallowance of the Act in the Gazette of the Organization.

Disallowance of Acts of the Organization.

(2) On the annulment of an Act of the Organization under this section, any enactment repealed or amended by or in pursuance of that Act shall have effect as from the date of the annulment as if that Act had not been enacted, and, save as provided in the foregoing provisions of this section, the provisions of subsection (3) of section 23 of the Interpretation and General Provisions Ordinance, 1956, shall apply to that annulment as they apply to the repeal of an Ordinance.

38 of 1956.

Provisions relating to members of Central Legislative Assembly.

6. (1) Subject to the provisions of this section, in any proceedings relating to the election of an elected member of the Assembly the certificate of the Speaker that his election was conducted in accordance with the Standing Orders of the Legislative Council and stating the name of the person thereby elected shall be conclusive evidence of those matters.

48 of 1960.

(2) The provisions of Part VII and Part VIII of the Legislative Council Elections Ordinance, 1960, and such of the provisions of section 2 of the said Ordinance as are necessary for the interpretation of the said Parts, shall apply *mutatis mutandis* to and in respect of elections of members of the Assembly as they apply to and in respect of elections of Constituency Members of the Legislative Council.

11 of 1958.

(3) The provisions of Part I, Part II (other than subsection (1) of section 5), Part III and Part IV of the Election Offences Ordinance, 1958, shall apply to and in respect of the election of members of the Assembly as though references to "poll" and "polling station" were references to voting at the election and to the place at which the election is held respectively.

(4) The provisions of section 30B of the Kenya (Constitution) Orders in Council, 1958 to 1961, shall apply to and in respect of the determination of any question whether an elected member of the Assembly has vacated his seat in the Assembly as they apply to and in respect of the determination of the like question in relation to Constituency Members of the Legislative Council.

Existing laws of High Commission to continue in force.

7. (1) The existing laws of the High Commission shall continue in force in Kenya and shall be read and construed with such modifications, adaptations and qualifications as may be necessary to bring them into conformity with the Agreement.

(2) The Authority may, by order published in the Gazette of the Organization at any time before the Assembly first meets after the commencement of this Ordinance, make such amendments to any of the existing laws as may appear to the Authority to be necessary or expedient for bringing that law into conformity with the provisions of the Agreement or otherwise for giving effect or enabling effect to be given to that provision.

(3) In this section "existing laws" means any Act of the High Commission in force or having any effect immediately before the commencement of this Ordinance and any rules, regulations, orders or other instruments in force or having effect as aforesaid and made in pursuance of any such Act.

8. The Minister for the time being responsible for legal affairs may, by order published in the Gazette at any time before the expiration of six months from the commencement of this Ordinance, make such amendments to any written law as may appear to the Minister to be necessary or expedient for bringing that written law into conformity with the provisions of the Agreement or otherwise for giving effect or enabling effect to be given to those provisions and, without prejudice to the generality of the foregoing, may declare that references in any written law to the High Commission shall be construed, in respect of any period after the commencement of this Ordinance, as references to the Organization or as references to the Authority.

Adaptation of
written laws.

9. The Interpretation and General Provisions Ordinance, 1956, is amended—

Amendment of
Ordinance 38 of
1956.

(a) by inserting in subsection (1) of section 3 thereof, in their respective alphabetical positions, the following new definitions—

"the Authority" means the East African Common Services Authority established by Article 3 of the Constitution of the Organization annexed to the Agreement set out in the Schedule to the East African Common Services Organization Ordinance, 1961;

"the Organization" means the East African Common Services Organization established by Article 1 of the Agreement set out in the Schedule to the East African Common Services Organization Ordinance, 1961;

(b) by substituting for the definition of "Central Legislative Assembly" or "Central Assembly", which appears in subsection (1) of section 3 thereof a new definition as follows—

“Central Legislative Assembly” or “Central Assembly” means the Central Legislative Assembly of the Organization;

(c) by substituting for the heading “A” to Part III thereof a new heading as follows—

A—Ordinances, Acts of Parliament, Applied Acts and Acts of the Organization; and

(d) by inserting, immediately after section 7 thereof, a new section as follows—

Acts of
Organiza-
tion.

7A. (1) Where an Act of the Organization is inconsistent with an Ordinance enacted before the Act of the Organization was enacted, the Act of the Organization shall be construed so as to repeal, to the extent of the inconsistency, the Ordinance unless that Ordinance makes provision in express terms indicating the intention that the provisions of the East African Common Services Organization Ordinance, 1961, shall not apply in relation thereto.

(2) Where an Act of the Organization is inconsistent with an Ordinance enacted after the Act of the Organization was enacted, the Ordinance shall not be construed so as to repeal any provision of the Act unless the Ordinance expressly so provides or makes other provision in express terms indicating the intention that the Ordinance shall have effect notwithstanding the Act of the Organization.

(3) For the purposes of this section, where an Act of the Organization and an Ordinance are enacted on the same day, the Ordinance shall be deemed to have been enacted after the Act.

(4) References in subsection (2) of this section to Acts of the Organization include references to Acts of the High Commission.

SCHEDULE

(s. 2)

AN AGREEMENT BETWEEN THE GOVERNMENT OF TANGANYIKA, THE GOVERNMENT OF KENYA AND THE GOVERNMENT OF UGANDA FOR THE ESTABLISHMENT OF THE EAST AFRICAN COMMON SERVICES ORGANIZATION

Whereas provision is made by the East Africa (High Commission) Orders in Council, 1947 to 1961, for the control and administration of certain matters and services of common interest to the inhabitants of Tanganyika, Kenya and Uganda and for that purpose an East Africa High Commission and an East Africa Central Legislative Assembly are thereby established:

And whereas at discussions held in London in June, 1961, attended by delegations representing Her Majesty's Government in the United Kingdom, the East Africa High Commission, Tanganyika, Kenya and Uganda the arrangements contained in the said Orders in Council were reviewed in the light of constitutional changes that are proposed in respect of Tanganyika:

And whereas at the said discussions the delegations representing Tanganyika, Kenya and Uganda affirmed their desire that common services should continue to be provided for those territories by a single organization, notwithstanding the constitutional changes proposed in respect of Tanganyika or other constitutional changes that may occur in those territories:

And whereas it was accordingly agreed to recommend that, in place of the arrangements contained in the said Orders in Council, there should be an organization, to be known as the East African Common Services Organization, which should be established by an agreement entered into by the Governments of Tanganyika, Kenya and Uganda:

And whereas Her Majesty's Government in the United Kingdom has entrusted the Governments of Kenya and Uganda with authority to enter into the agreement hereinafter contained:

Now it is hereby agreed as follows:—

Article 1

The contracting Governments agree upon the establishment of the East African Common Services Organization, in accordance with the Constitution annexed to this agreement, and the East African Common Services Organization is accordingly hereby established with effect from the coming into force of this agreement.

Article 2

When this agreement has been signed on behalf of the Government of Kenya or the Government of Uganda, that Government shall notify the Government of Tanganyika accordingly. When this agreement has been signed on behalf of all the contracting Governments

the Government of Tanganyika shall cause notice to be published in the official Gazette of Tanganyika that this agreement has been so executed and the agreement shall come into force on the day following the day upon which that notice is published.

Article 3

1. This agreement shall have indefinite duration.

2. Each of the contracting Governments and the Government of the United Kingdom (so long as it remains responsible for the government of Kenya or Uganda) shall have the right to terminate this agreement at any time by giving not less than one year's notice to the other Governments having the same right under this article.

3. If notice is given terminating this agreement in accordance with the preceding paragraph, the contracting Governments and the Government of the United Kingdom (so long as it remains responsible for the government of Kenya or Uganda) shall consult together with a view to agreeing upon the continuation of the Organization, as respects the Governments not desiring termination of this agreement, or upon the arrangements for its winding up.

Article 4

Modifications of this agreement may be made with the consent of each of the contracting Governments and the Government of the United Kingdom (so long as it remains responsible for the government of Kenya or Uganda).

Article 5

Each of the contracting Governments undertakes (as regards its Territory) to take all steps that are within its power to secure the enactment and the continuation of such legislation as is necessary and within the competence of the legislature of the Territory to give effect to this agreement and in particular—

- (a) to confer upon the East African Common Services Authority such legal capacity as will enable it to perform its functions under the Constitution of the Organization;
- (b) to confer upon Acts of the Organization enacted in accordance with the Constitution of the Organization the force of law in the Territory.

Article 6

1. The contracting Governments undertake to make such financial contributions to the Organization as will enable it effectively to discharge its functions and to meet its financial obligations.

2. In particular the contracting Governments undertake that—

- (a) if the financial resources of the Organization in any financial year are insufficient to meet the expenditure of the Organization in that year, the contracting Governments—
 - (i) will authorize the Organization to increase the amounts payable to the Distributable Pool Fund in accordance with the provisions of any agreement made in pursuance

THE CONSTITUTION OF THE EAST AFRICAN COMMON
SERVICES ORGANIZATION

PART I FUNCTIONS OF THE ORGANIZATION

*Article 1—Functions of the Organization on behalf of the
Governments of the Territories*

1. The Organization shall perform the following functions on behalf of the Governments of the Territories—
 - (a) administer the services set out in the First Schedule to this Constitution and, for that purpose, take over from the High Commission such of those services as are in existence at the date of the coming into force of this Constitution;
 - (b) provide machinery to facilitate the co-ordination of the activities of the Governments of the Territories on any matter of common interest to the Territories; and
 - (c) (subject to the provisions of this Constitution) enact measures to which legislative effect may be given in the Territories with respect to the matters set out in the Second Schedule to this Constitution.
2. An Act of the Organization or, subject to any such Act, the Authority may—
 - (a) transfer functions from one service administered by the Organization to any other such service;
 - (b) change the name or designation of any service administered by the Organization;
 - (c) wind up any service administered by the Organization; or
 - (d) establish advisory or consultative bodies in respect of any service or matter (whether or not included in the First or Second Schedule to this Constitution).

*Article 2 Functions of the Organization on behalf of other
Governments*

1. The Authority may enter into arrangements—
 - (a) with the Government of the United Kingdom with respect to the assumption by the Organization of certain administrative functions in relation to the Court of Appeal for Eastern Africa; and
 - (b) with the Government of Zanzibar for the provision by the Organization on behalf of that Government of any of the services administered by the Organization on behalf of the Governments of the Territories under Article 1 of this Constitution.
2. Arrangements made under this Article shall include provision under which the Organization is fully reimbursed for any expenditure incurred.
3. The Organization may provide and administer services for the purpose of giving effect to arrangements entered into under this Article

4. The Organization may, under arrangements made with the Government of Zanzibar, provide machinery to facilitate the co-ordination of the activities of the Governments of the Territories and the Government of Zanzibar in any matter of common interest to the Territories and Zanzibar.

PART II—EXECUTIVE ARRANGEMENTS

Article 3—Executive Authorities of the Organization

1. The principal executive authorities of the Organization shall be—

- (a) the East African Common Services Authority; and
- (b) four Ministerial Committees,

and those authorities are hereby established.

2. Nothing in this Article shall preclude the establishment of subordinate authorities of the Organization.

Article 4—Composition of the Authority

The Authority shall consist of the principal elected Minister of the Government of each of the Territories.

Article 5—Functions of the Authority

1. The Authority shall have responsibility for, and the general direction and control of, the performance of the executive functions of the Organization.

2. The Authority shall be assisted in the discharge of its functions under this Article by the Ministerial Committees.

Article 6—Procedure of the Authority

1. Subject to the provisions of this Constitution, the Authority shall determine its own procedure, including the procedure for the despatch of business at meetings of the Authority and at times when the Authority is not meeting, for the rotation of the office of chairman among the members of the Authority and for the appointment of the time and place of meetings of the Authority.

2. The arrangements of the Authority under this Article for the despatch of business at times when the Authority is not meeting may, if it so determines, include arrangements under which the exercise of any function of the Authority under this Constitution is delegated, subject to such conditions as the Authority may specify, to a member of the Authority or to an officer of the Organization.

Article 7—Decisions of the Authority

1. Any member of the Authority may record his objection to a proposal submitted for the decision of the Authority and, if any such objection is recorded, the Authority shall not proceed with the proposal unless any objection to the proposal is withdrawn.

2. Subject to the provisions of any Act of the Organization, the acts and decisions of the Authority may be signified under the hand of any member of the Authority or of any officer of the Organization authorized by the Authority in that behalf.

3. Nothing in this Article shall preclude the making of provision by Act of the Organization for the delegation by the Authority to any officer of the Organization of any powers conferred upon the Authority by any law.

Article 8—Ministerial Committees

Of the four Ministerial Committees—

- (a) one Committee, whose principal purpose shall be the conduct of business relating to communications, shall be styled the Communications Committee;
- (b) one Committee, whose principal purpose shall be the conduct of business relating to income tax, customs and excise duties and other financial matters, shall be styled the Finance Committee;
- (c) one Committee, whose principal purpose shall be the conduct of business relating to the co-ordination of the commercial and industrial activities of the Governments of the Territories, shall be styled the Commercial and Industrial Co-ordination Committee; and
- (d) one Committee, whose principal purpose shall be the conduct of business relating to the research services and social services of the Organization, shall be styled the Social and Research Services Committee.

Article 9—Composition of Ministerial Committees

1. A Ministerial Committee shall consist of one member from each Territory who shall be such Minister of the Government of the Territory as may for the time being be designated by that Government.

2. The Government of a Territory may, by notice in writing addressed to the Secretary-General, appoint a person who is a Minister or Parliamentary Secretary to be the alternate member representing that Government on a Ministerial Committee. At any time when the member of a Ministerial Committee designated by the Government of a Territory under paragraph 1 of this Article is absent from a meeting of that Committee the alternate member representing that Government may attend and take part in the proceedings of the Committee, and any such alternate member shall, in relation to proceedings in which he takes part in accordance with this paragraph, have the same right to vote and to object to proposals submitted to the Committee as a member designated under paragraph 1 of this

Article. A person appointed under this paragraph shall vacate office as an alternate member of a Ministerial Committee if—

- (a) he ceases to be a Minister or a Parliamentary Secretary; or
- (b) his appointment is revoked by the Government of the Territory by which it was made, by notice in writing addressed to the Secretary-General.

Article 10—Functions of Ministerial Committees

1. The Authority may assign responsibility to a Ministerial Committee for—

- (a) the administration of any of the services administered by the Organization;
- (b) such of the executive functions of the Organization with respect to the matters referred to in subparagraph (b) of paragraph 1 of Article 1 of this Constitution as it may determine.

In assigning responsibility under this paragraph the Authority shall have regard to the purposes for which a Committee is established and shall ensure that, so far as is practicable, responsibility for every service administered by the Organization is assigned to a Committee.

2. Where responsibility is assigned to a Ministerial Committee under this Article with respect to a service or matter the Committee shall formulate and direct the execution of policy with respect to that service or matter.

3. The Authority may give directions to a Ministerial Committee as to the exercise and performance by the Committee of any function conferred upon the Committee and the Committee shall comply with any such directions.

4. The assignment of responsibility under this Article to a Ministerial Committee shall not authorize the Committee to exercise any power or discharge any duty conferred by this Constitution or by law on any authority or person other than the Committee.

Article 11—Chairman of Ministerial Committees

1. In a Ministerial Committee the representative of each Government designated under paragraph 1 of Article 9 of this Constitution shall, subject to the provisions of this Article, hold the office of chairman in rotation for a period of four months, and the term of office of the first chairman of a Committee shall commence at the coming into force of this Constitution.

2. The order in which the office of chairman of a Ministerial Committee shall be held by each of the members of the Committee shall be as follows—

- (a) as respects the Communications Committee, first the member representing the Government of Tanganyika, second the member representing the Government of Kenya, third the member representing the Government of Uganda, and so on in that order;

- (b) as respects the Finance Committee, first the member representing the Government of Kenya, second the member representing the Government of Tanganyika, and third the member representing the Government of Uganda, and so on in that order;
- (c) as respects the Commercial and Industrial Co-ordination Committee, first the member representing the Government of Uganda, second the member representing the Government of Kenya, third the member representing the Government of Tanganyika, and so on in that order; and
- (d) as respects the Social and Research Services Committee, first the member representing the Government of Tanganyika, second the member representing the Government of Uganda, third the member representing the Government of Kenya, and so on in that order.

3. If the person holding the office of chairman of a Ministerial Committee is absent from a meeting of the Committee there shall preside at that meeting such member of the Committee as the members present may elect for the purpose.

4. If the term of office of any member of the Committee as chairman is due to expire at any time when a meeting of the Committee or of the Assembly is being held, that member shall continue in office until the conclusion of the meeting of the Committee or the Assembly, as the case may be, or, if a meeting of the Committee is held during the period of the meeting of the Assembly, until the conclusion of both those meetings. For the purposes of this paragraph a meeting of a Committee shall be concluded when the Committee is adjourned *sine die* or is adjourned for a period exceeding three days.

Article 12—Procedure of Ministerial Committees

1. Subject to the provisions of this Constitution, a Ministerial Committee shall determine its own procedure, including the procedure for the despatch of business at meetings of the Committee and at times when the Committee is not meeting and for appointing the time and place of meetings of the Committee.

2. The arrangements of a Ministerial Committee under this Article for the despatch of business at times when the Committee is not meeting may, if the Committee so determines, include arrangements under which the exercise of any function of the Committee under this Constitution is delegated, subject to such conditions as the Committee may specify, to a member of the Committee or to an officer of the Organization.

3. The General Manager of the Railways and Harbours Administration, the Postmaster General and the Chairman of the East African Airways Corporation shall each be entitled to attend meetings of the respective Ministerial Committee responsible for the services under his control, at times when the Committee is conducting business relating to that service.

Article 13—Decisions of Ministerial Committees

1. Any member of a Ministerial Committee may record his objection to a proposal which is submitted for the decision of the Committee. Unless such objection is withdrawn, the question at issue between the members of the Committee shall be referred to the Authority for its decision.

2. The General Manager of the Railways and Harbours Administration or the Postmaster General or the Chairman of the East African Airways Corporation may record his objection to a decision of the Ministerial Committee responsible for the services under his control which relates to those services. Unless such objection is withdrawn, the question at issue between the Committee and the General Manager of the Railways and Harbours Administration or the Postmaster General or the Chairman of the East African Airways Corporation, as the case may be, shall be referred to the Authority.

3. No further action shall be taken in relation to a proposal before a Ministerial Committee or the decision of a Ministerial Committee, as the case may be, in respect of which a question has been referred to the Authority whilst that question is under consideration by the Authority, unless the objection is withdrawn and the Authority is so notified.

4. The provisions of the foregoing paragraphs of this Article shall not apply to a proposal relating to the procedure of a Ministerial Committee, upon which a decision may be taken by the majority of the Committee.

5. Subject to the provisions of any law, the acts and decisions of a Ministerial Committee may be signified by any member of the Committee or by any officer of the Organization authorized by the Committee in that behalf.

Article 14—Joint Meetings of Ministerial Committees

1. For the purpose of securing co-ordination of the activities of the Organization, there shall be joint meetings of the members of the Ministerial Committees, which shall be held at such times and in such places as the Authority may direct.

2. Subject to any direction by the Authority, the procedure of a joint meeting, including the election of a Chairman, shall be determined by the meeting.

3. If at the time appointed for the holding of a joint meeting the number of Ministers of the Government of a Territory who are members of the Ministerial Committees, by virtue of paragraph 1 of Article 9 of this Constitution, is less than four, the Government of the Territory may appoint such number of persons to be representatives of that Government at that joint meeting as, together with its members of the Ministerial Committees, will bring the number of persons representing that Government up to four. No person shall be appointed or hold office as a representative of a Government under this Article unless he is a Minister or a Parliamentary Secretary of that Government.

4. An alternate member of a Ministerial Committee appointed under Article 9 of this Constitution shall have the same right to attend and take part in joint meetings under this Article as he has to attend and take part in the proceedings of the Ministerial Committee to which he is appointed.

Article 15—Executive Measures of the Organization Affecting the Defence or Internal Security of Kenya or Uganda

1. The Governor of Kenya or the Governor of Uganda shall have the right, exercisable on behalf of the Government of the United Kingdom, to give notice to the Authority that executive action that is being taken, or is proposed to be taken, by the Authority, a Ministerial Committee, or any officer, servant or subordinate authority of the Organization may adversely affect the defence or internal security of the Territory under his administration.

2. If notice is given in accordance with this Article—

(a) the Authority shall give such directions as will ensure that the executive action in respect of which notice is given is deferred or discontinued for the prescribed period;

(b) the Authority shall consult with the Government of the United Kingdom with a view to resolving any conflict between the action, or proposed action, of the Organization and the interests of the Government of the United Kingdom in the maintenance of the defence or internal security of Kenya or Uganda;

(c) on the expiration of the prescribed period the executive action in respect of which notice was given may, save to the extent that it is otherwise agreed between the Government of the United Kingdom and the Authority, be taken or resumed.

3. For the purposes of this Article the prescribed period means a period commencing on the date on which the notice under paragraph 1 of this Article is received and ending six months thereafter or when the Government of the United Kingdom notifies the Authority that the notice is withdrawn, whichever is the earlier.

4. The provisions of this Article shall cease to have effect in relation to Kenya or in relation to Uganda, as the case may be, when the Government of the United Kingdom ceases to be responsible for the government of that Territory.

PART III—THE CENTRAL LEGISLATIVE ASSEMBLY

Article 16—Composition of Central Legislative Assembly

1. There shall be a Central Legislative Assembly for the Organization, which is hereby established.

2. The Assembly shall consist of—

(a) the Speaker;

(b) twelve Ministerial Members;

(c) two *ex officio* members, that is to say, the Secretary-General and the Legal Secretary;

- (d) twenty-seven elected members ; and
- (e) such temporary Ministerial members as are appointed under paragraph 3 of Article 17 of this Constitution.

Article 17—Ministerial Members of the Assembly

1. The Ministerial members shall be the Ministers of the Governments of the Territories who are for the time being members of the Ministerial Committees by virtue of paragraph 1 of Article 9 of this Constitution.

2. If at any time the number of Ministers of the Government of a Territory who are members of the Ministerial Committees by virtue of paragraph 1 of Article 9 of this Constitution is for any reason less than four, the Government of the Territory may, by notice in writing addressed to the Speaker, appoint as Ministerial members of the Assembly such number of Ministers of the Government of the Territory as will bring the number of Ministerial members from that Territory up to four. The notice appointing a Ministerial member under this paragraph shall specify the circumstances which gave rise to his appointment

3. If the Government of a Territory informs the Speaker, by notice in writing, that a person who is a Ministerial member from that Territory by virtue of paragraph 1 or 2 of this Article is, by reason of absence or illness, temporarily unable to discharge his functions as a Ministerial member of the Assembly that member shall not, until the notice is revoked, take part in the proceedings of the Assembly; and that Government may, by notice in writing addressed to the Speaker, appoint a person who is a Minister or Parliamentary Secretary of the Government to be a temporary Ministerial member of the Assembly.

Article 18—Elected Members of the Assembly

1. Of the elected members, nine shall be elected to represent each Territory.

2. A person shall be qualified to be elected as an elected member of the Assembly to represent a Territory if he is qualified in accordance with the laws for the time being in force in the Territory for election as an elected member of the legislative house of the Territory and if he is not an officer or servant of the Organization.

3. If provision is made by the Constitution of a Territory for more than one class of member to be elected to the legislative house of the Territory, it shall be sufficient for the purposes of the preceding paragraph if a person possesses the qualifications required for one such class.

4. An elected member of the Assembly to represent a Territory shall be elected by the elected members of the legislative house of the Territory in such manner as that legislative house may prescribe by its rules of procedure.

Article 19—Tenure of Office of Members of the Assembly

1. An elected member of the Assembly shall vacate his seat in the Assembly when the legislative house of the Territory he represents first meets after it has been dissolved.

2. An elected member of the Assembly shall also vacate his seat in the Assembly if—

(a) in the case of an elected member who is a member of the legislative house of the Territory he represents, he vacates his seat in that house for a reason other than his resignation of his seat in that house or the dissolution of the house;

(b) in the case of an elected member who is not a member of the legislative house of the Territory he represents, circumstances arise that would disqualify him, in accordance with the laws for the time being in force in that Territory, for election as an elected member of that legislative house;

(c) he is appointed to be an officer or servant of the Organization;

(d) by writing under his hand addressed to the Speaker he resigns; or

(e) he is absent from the sittings of the Assembly for such period and in such circumstances as are prescribed by the rules of procedure of the Assembly.

3. If provision is made by the Constitution of a Territory for more than one class of member to be elected to the legislative house of the Territory, a member representing that Territory shall not be disqualified for the purposes of subparagraph (b) of paragraph 2 of this Article unless he is disqualified for election as a member of every such class.

4. If the circumstances such as are referred to in subparagraph (b) of paragraph 2 of this Article arise because an elected member of the Assembly is under sentence of death or imprisonment, adjudged to be of unsound mind, declared bankrupt or convicted of an offence relating to elections and if it is open to the member to appeal against the decision (either with the leave of the court or other authority or without such leave), he shall forthwith cease to perform his functions as a member but, subject to the provisions of this paragraph, he shall not vacate his seat until the expiration of thirty days thereafter or such further period as the Speaker, at the request of the member, may direct in order to enable the member to appeal against the decision. If, on the determination of the appeal, such circumstances continue to exist and no further appeal is open to the member (other than an appeal by special leave of Her Majesty to Her Majesty in Council), or, if by reason of the expiration of any period for entering an appeal or notice thereof or the refusal of leave to appeal or for any other reason, it shall cease to be open to the member to appeal to any court or authority (other than by special leave of Her Majesty), he shall forthwith vacate his seat. If at any time before the member vacates his seat the circumstances that gave rise to his disqualification cease to exist he shall not vacate his seat on the expiration of the period referred to in this paragraph and he may resume the performance of his functions as a member.

5. A Ministerial member of the Assembly appointed by the Government of a Territory in accordance with paragraph 2 of Article 17 of this Constitution shall vacate his seat in the Assembly if—

- (a) the circumstances which gave rise to his appointment have ceased to exist; or
- (b) his appointment is revoked by the Government of the Territory by notice in writing addressed to the Speaker; or
- (c) he ceases to be a Minister of the Government of the Territory.

6. A temporary Ministerial member of the Assembly appointed in accordance with paragraph 3 of Article 17 of this Constitution shall vacate his seat in the Assembly if—

- (a) the Ministerial member of the Assembly on account of whose absence or illness he was appointed again becomes entitled to take part in the proceedings of the Assembly, or vacates his seat as a Ministerial member;
- (b) he ceases to be a Minister or a Parliamentary Secretary; or
- (c) his appointment is revoked by the Government of the Territory he represents by notice in writing addressed to the Speaker.

Article 20—Determination of Questions as to Membership

1. Any question that may arise whether any person has been validly elected as an elected member of the Assembly, or the seat of an elected member has become vacant shall be determined by the same authority and in the same manner as if the question related to membership as an elected member of the legislative house of the Territory he represents.

2. Any question that may arise whether any person is a Ministerial member or a temporary Ministerial member of the Assembly or the seat of a Ministerial member or a temporary Ministerial member of the Assembly has become vacant shall be determined by the Government of the Territory he represents.

Article 21—The Speaker of the Assembly

1. The Speaker of the Assembly shall be appointed by the Authority, by instrument in writing.

2. A person shall not be qualified to hold the office of Speaker of the Assembly if he is a member of the Assembly, a member of a legislative house of a Territory, an officer or servant of the Organization or the holder of an office in the public service of a Territory.

3. The office of Speaker shall become vacant—

- (a) at the expiration of the period specified in the instrument by which he is appointed; or
- (b) if any circumstances arise that, if he were not the Speaker of the Assembly, would cause him to be disqualified for appointment as such.

4. The Speaker may be removed from office by the Authority for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour, and shall not be otherwise removed from office.

Article 22—Summoning of Persons to Assist the Assembly

1. The Authority may summon any person to the Assembly notwithstanding that he is not a member of the Assembly when, in the opinion of the Authority, the business before the Assembly renders his presence desirable.

2. A person so summoned shall be entitled to take part in the proceedings of the Assembly relating to the matters in respect of which he was summoned as if he were a member of the Assembly, but he shall not have a right to vote in the Assembly.

Article 23—Voting in the Assembly

1. All questions proposed for decision in the Assembly shall be determined by a majority of the votes of the members present and voting.

2. The Speaker shall have neither an original nor a casting vote.

3. In the absence of the Speaker, the presiding member shall retain his original vote but shall not have a casting vote.

4. If upon any question before the Assembly the votes of the members are equally divided the motion shall be lost.

Article 24—Presiding in the Assembly

There shall preside at any sitting of the Assembly—

(a) the Speaker;

(b) in the absence of the Speaker, such other member of the Assembly as the Authority may appoint; or

(c) in the absence of the Speaker or a member so appointed, such elected member of the Assembly as the Assembly may elect for the sitting.

Article 25—Quorum and Vacancies

1. If at any sitting of the Assembly a member of the Assembly who is present draws the attention of the person presiding to the fact that there are present at the sitting less than fifteen members of the Assembly and if, after such interval as may be prescribed by the rules of procedure of the Assembly, the person presiding ascertains that there are present at the sitting less than fifteen members of the Assembly, he shall adjourn the Assembly.

2. In reckoning the number of members who are present at a sitting for the purposes of paragraph 1 of this Article the person presiding shall not be included.

3. The Assembly may transact business notwithstanding that there is any vacancy among the members, and the presence or participation of any person not entitled to be present or participate in the proceedings of the Assembly shall not invalidate these proceedings.

Article 26—Bills and Motions

1. Subject to the rules of procedure of the Assembly, any member of the Assembly may propose any motion or introduce any bill in the Assembly:

Provided that a motion which does not relate to the functions of the Organization shall not be proposed in the Assembly and a bill which does not relate to a matter with respect to which Acts of the Organization may be enacted shall not be introduced into the Assembly.

2. Except with the consent of the Authority, signified by a Ministerial member of the Assembly, the Assembly shall not—

(a) proceed on any bill (including an amendment to any bill) that, in the opinion of the person presiding, makes provision for any of the following purposes—

(i) for the imposition of any charge upon any fund of the Organization or the alteration of any charge otherwise than by reduction;

(ii) for the payment, issue or withdrawal from any fund of the Organization of any monies not charged thereon or any increase in the amount of such payment, issue or withdrawal;

(iii) for the remission of any debt due to the Organization; or

(b) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes.

Article 27—Meetings of the Assembly

1. The meetings of the Assembly shall be held at such times and places as the Authority may appoint.

2. There shall be a meeting of the Assembly at least once every year, so that a period of twelve months shall not intervene between the last meeting of the Assembly in any year and the first meeting in the succeeding year.

Article 28—Rules of Procedure of the Assembly

Subject to the provisions of this Constitution and of any Act of the Organization, the Assembly may make, amend or revoke rules governing its own procedure.

Article 29 - Acts of the Organization

1. The enactment of measures of the Organization shall be effected by means of bills passed by the Assembly and assented to on behalf of the Organization by the Governor-General of Tanganyika, the Governor of Kenya and the Governor of Uganda; and every measure that has been duly passed and assented to shall be styled an Act.

2. When a bill has been duly passed by the Assembly, the Authority shall consider the bill and, having considered it, may submit the bill to the Governor-General of Tanganyika, the Governor of Kenya and the Governor of Uganda with a recommendation that they should assent, or refuse their assent, to the bill.

3. Any bill that is submitted to the Governor-General of Tanganyika, the Governor of Kenya and the Governor of Uganda for assent shall contain the following words of enactment:

"Enacted by the Governor-General of Tanganyika, the Governor of Kenya and the Governor of Uganda on behalf of the East African Common Services Organization, with the advice and consent of the East African Central Legislative Assembly".

Article 30 - Assent to Bills

1. The Governor of Kenya or the Governor of Uganda shall have the right, exercisable on behalf of the Government of the United Kingdom, to withhold his assent to a bill submitted by the Authority if he is of the opinion that it is inconsistent with any obligation in respect of Kenya or Uganda, as the case may be, imposed on the Government of the United Kingdom by any international treaty, convention or agreement.

2. Subject to the provisions of paragraph 1 of this Article and of Article 31 of this Constitution, the Governor-General of Tanganyika, the Governor of Kenya and the Governor of Uganda shall assent, or withhold assent, to a bill in accordance with the recommendation of the Authority.

3. If the Governor of Kenya or the Governor of Uganda exercises the power to withhold assent to a bill of the Assembly in accordance with paragraph 1 of this Article, the Authority shall consult with the Government of the United Kingdom with a view to resolving any conflict between the proposed Act of the Organization and the obligations of the Government of the United Kingdom.

4. A bill that has not received the assent of the Governor-General of Tanganyika, the Governor of Kenya and the Governor of Uganda within nine months of the date upon which it passed the Assembly shall lapse.

5. The provisions of paragraphs 1 and 3 of this Article shall cease to have effect in relation to Kenya or in relation to Uganda, as the case may be, when the Government of the United Kingdom ceases to be responsible for the government of that Territory.

Article 31—Bills Affecting the Defence and Internal Security of Kenya and Uganda

1. The Governor of Kenya or the Governor of Uganda shall have the right, exercisable on behalf of the Government of the United Kingdom, to give notice to the Authority that a bill that is before, or has been passed by, the Assembly may adversely affect the defence or internal security of the Territory under his administration.

2. If notice is given in accordance with this Article—

- (a) no further proceedings shall be taken during the prescribed period for the passage of the bill through the Assembly or, if it has already been passed, for its submission to the Governor-General of Tanganyika, the Governor of Kenya, and the Governor of Uganda;
- (b) if the bill is submitted for assent, assent shall be withheld during the prescribed period;
- (c) the Authority shall consult with the Government of the United Kingdom with a view to resolving any conflict between the proposed Act of the Organization and the interests of the Government of the United Kingdom in the maintenance of the defence or internal security of Kenya or Uganda, as the case may be;
- (d) at the expiration of the prescribed period, further proceedings may, save to the extent that it is otherwise agreed between the Government of the United Kingdom and the Authority, be taken for the passing, submission and approval of the bill.

3. For the purposes of this Article the prescribed period means a period commencing on the date upon which the notice under paragraph 1 of this Article is received and ending six months thereafter or when the Government of the United Kingdom notify the Authority that the notice is withdrawn, whichever is earlier.

4. The provisions of this Article shall cease to have effect in relation to Kenya or in relation to Uganda, as the case may be, when the Government of the United Kingdom ceases to be responsible for the government of that Territory.

Article 32—Publications of Acts of the Organization

The Authority shall cause every Act of the Organization to be published in the Gazette of the Organization.

Article 33—Disallowance of Acts of the Organization Relating to Stock Issued by the High Commission or the Authority

1. The Government of the United Kingdom shall have the right to disallow any Act of the Organization that appears to it to alter, to the injury of the stockholders, any provision relating to any stock to which this Article applies or to involve a departure from the original contract in respect of any such stock.

2. The right of the Government of the United Kingdom under this Article to disallow an Act of the Organization shall be exercised by giving notice to the Authority that the Act is annulled.

3. When notice of disallowance has been given to the Authority it shall be published in the Gazette of the Organization and the Act shall be annulled with effect from the date of publication of that notice.

4. On the annulment of an Act of the Organization under this Article any enactment repealed or amended by or in pursuance of that Act shall have effect as if that Act had not been enacted.

5. The stock to which this Article applies is—

(a) the stock set out in the Third Schedule to this Constitution; and

(b) such stock issued by the Authority by the conditions of issue of which it is provided that this Article shall apply to it.

PART IV—FINANCIAL ARRANGEMENTS

Article 34—Funds of the Organization

1. There shall be a separate fund of the Organization for each self-contained service into which the revenues of that service shall be paid and from which expenditure in respect of that service shall be met.

2. There shall also be a General Fund of the Organization into which revenues of the Organization from all sources (other than revenues payable under this Constitution into some other fund of the Organization) shall be paid and from which all expenditure of the Organization (other than expenditure in respect of a self-contained service) shall be met.

3. No moneys shall be withdrawn from a fund of the Organization maintained in accordance with this Article unless the issue of those moneys has been authorized by an Appropriation Act passed in pursuance of Article 35 of this Constitution, or to meet expenditure that is charged upon the fund by an Act of the Organization.

4. No money shall be withdrawn from a fund of the Organization except in the manner prescribed by Act of the Organization.

Article 35—Authorization of Expenditure

1. The appropriate Ministerial Committee shall cause to be prepared and laid before the Assembly in each financial year estimates of the revenue and expenditure of the Organization, on account of each self-contained service fund and of the General Fund of the Organization, for the next following financial year.

2. The heads of expenditure contained in the estimates prepared in respect of a fund (other than expenditure charged upon the fund by Act of the Organization) shall be included in a bill to be known

as an appropriation bill providing for the issue from the fund of the sums necessary to meet that expenditure and appropriation of those sums for the purposes specified therein.

3. If in any financial year it is found—

(a) that the amount appropriated by the Appropriation Act in respect of a fund is insufficient or that a need has arisen for expenditure from that fund for which no amount has been appropriated by that Act; or

(b) that any money has been expended from the fund for purposes in excess of the amount appropriated for those purposes by the Appropriation Act, or for which no amount has been appropriated by the Act,

a supplementary estimate showing the sums required or spent shall be laid before the Assembly and the heads of any such expenditure shall be included in a supplementary appropriation bill.

4. For the purposes of this Article—

(a) the appropriate Ministerial Committee shall, in relation to a self-contained service, be the Ministerial Committee responsible for that service, and, in relation to all other services, shall be the Finance Committee;

(b) the financial year for a self-contained service shall be the period from the first day of January to the thirty-first day of December in any year.

Article 36—The Contingencies Fund

1. There shall be a Contingencies Fund of the Organization for the purpose of providing for urgent and unforeseen expenditure, on account of services which are not self-contained, for which no other provision exists.

2. An Act of the Organization may provide for the procedure to be followed for authorizing advances out of the Contingencies Fund.

3. Where an advance is made out of the Contingencies Fund, a supplementary estimate shall be presented and a supplementary appropriation bill shall be introduced as soon as possible for the purpose of replacing the amount advanced.

Article 37—The Distributable Pool Fund

1. Subject to the provisions of this Article, the proceeds of income tax and customs and excise duties collected by the Organization in accordance with the Acts of the Organization or the law of any Territory shall not be paid into a fund of the Organization but shall be distributed among the Territories in such proportions and in such manner as may be agreed among the Governments of the Territories.

2. There shall be a Distributable Pool Fund of the Organization.

3. Out of the proceeds of income tax and customs and excise duties collected by the Organization in accordance with the Acts of

the Organization or the law of any Territory, there shall be paid into the Distributable Pool Fund such amounts, calculated in such manner, as may be agreed between the Governments of the Territories.

4. At such intervals as may be agreed between the Governments of the Territories the amount standing to the credit of the Distributable Pool Fund shall be distributed by the Organization in the following manner—

- (a) the amount standing to the credit of the Fund on account of the costs of collection of income tax and customs and excise duties shall be paid to the Organization;
- (b) the balance shall be paid as to one-half to the Organization, as to one-sixth to the Government of Tanganyika, as to one-sixth to the Government of Kenya and as to one-sixth to the Government of Uganda.

5. The amounts distributed to the Organization under paragraph 4 of this Article shall be paid to the General Fund of the Organization.

6. Payments out of the Distributable Pool Fund shall not require the authority of an Appropriation Act of the Organization.

Article 38—Audit of Accounts

1. The public accounts of the Organization and of all officers and authorities of the Organization shall be audited and reported on by the Auditor-General of the Organization, and for that purpose the Auditor-General or any person appointed by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

2. The Auditor-General shall submit his reports to the appropriate Ministerial Committee which shall cause them to be laid before the Assembly.

3. In the exercise of his functions under this Article the Auditor-General shall not be subject to the direction or control of any other person or authority.

4. In this Article "appropriate Ministerial Committee" has the meaning assigned to it in Article 35 of this Constitution.

Article 39—Remuneration of the Speaker, members of Commissions and the Auditor-General

1. There shall be paid to the holders of the offices to which this Article applies such salary as may be prescribed by Act of the Organization.

2. The salary and allowances payable to the holders of the offices to which this Article applies shall be a charge on the General Fund of the Organization.

3. The salary payable to the holder of an office to which this Article applies and his terms of office other than allowances shall not be altered to his disadvantage after his appointment.

4. This Article applies to the office of the Speaker, of member of a Public Service Commission of the Organization and of the Auditor-General.

PART V—STAFF OF THE ORGANIZATION

Article 40—Public Service Commissions

1. There shall be a Public Service Commission for each of the self-contained services of the Organization and a single Public Service Commission for all services of the Organization other than the self-contained services.

2. A Commission established by this Article shall consist of such number of members as may be determined by the Authority who shall be appointed by the Authority by instrument in writing.

3. The Authority shall not appoint as a member of a Public Service Commission a person who is a Minister of the Government of a Territory, a member of the Assembly or a member of a legislative house of a Territory.

4. Subject to the provisions of this Article, a member of a Public Service Commission shall vacate his office—

- (a) at the expiration of four years from the date of his appointment or such earlier time as may be specified in his instrument of appointment; or
- (b) if he becomes a Minister of the Government of a Territory, a member of the Assembly or a member of a legislative house of a Territory.

5. A member of a Public Service Commission may be removed from office by the Authority for inability to discharge the functions of his office (whether arising from infirmity of mind or body or for any other cause) or for misbehaviour, but shall not otherwise be removed from office.

Article 41—Offices in the Organization

1. There shall be the following offices in the service of the Organization—

- (a) a Secretary-General, who shall be the principal executive officer of the Organization;
- (b) a General Manager of the Railways and Harbours Administration;
- (c) a Postmaster-General;
- (d) a Legal Secretary;
- (e) a Financial Secretary; and
- (f) an Auditor-General.

2. There shall be such other offices in the service of the Organization as, subject to any Act of the Organization, the Authority may determine.

Article 42—Appointment and Discipline of Secretary-General

1. (1) Subject to the provisions of this paragraph, the holder of the office of Secretary-General of the Organization shall be appointed by the Authority.

(2) Whenever the office of Secretary-General is vacant, the Authority shall inform the Government of the United Kingdom and the Government of Tanganyika and those Governments shall have the right, acting jointly, to notify the Authority of the names of the persons who are eligible for appointment as Secretary-General on that occasion. No person shall be appointed to hold the office of Secretary-General unless he is eligible for such appointment in accordance with a notification made under this subparagraph.

2. Whenever the holder of the office of Secretary-General appointed under paragraph 1 of this Article is, by reason of illness or absence, unable to perform the functions of that office he may appoint a person who is an officer of the Organization to do so:

Provided that before making an appointment under this paragraph the Secretary-General shall consult the Authority and, if the Authority gives any directions with respect to the selection of the officer of the Organization to be appointed, the Secretary-General shall comply with those directions.

3. Whenever the office of Secretary-General is vacant or the Secretary-General is unable to appoint a person under paragraph 2 of this Article, the appropriate Public Service Commission may appoint a person who is an officer of the Organization to perform the functions of the Secretary-General:

Provided that before making an appointment under this paragraph the Public Service Commission shall consult the Authority.

4. The appointment of a person under paragraph 2 of this Article may at any time be revoked by the holder of the office of Secretary-General appointed under paragraph 1 of this Article, or, if the office of Secretary-General becomes vacant during the period of the appointment, by the appropriate Public Service Commission.

5. The appointment of a person under paragraph 3 of this Article may at any time be revoked by the appropriate Public Service Commission or by the holder of the office of Secretary-General appointed under paragraph 1 of this Article.

6. For the purposes of the exercise of the power of disciplinary control and dismissal the Secretary-General shall be subject to the jurisdiction of the appropriate Public Service Commission.

7. References in this Article to the appropriate Public Service Commission are references to the Public Service Commission for the services that are not self-contained.

8. The provisions of subparagraph (2) of paragraph 1 of this Article shall cease to have effect when the Government of the United Kingdom ceases to be responsible for the government of both Kenya and Uganda.

Article 43—Appointment and Discipline of Staff

1. Subject to the provisions of this Constitution, the Public Service Commission having jurisdiction over a service shall, on behalf of the Organization, make appointments to offices in that service, and exercise powers of disciplinary control and dismissal over persons holding or acting in offices in that service.

2. Appointments to an office specified in subparagraph (b), (c), (d) or (e) of paragraph 1 of Article 41 of this Constitution shall be made by the Authority after consultation with the appropriate Public Service Commission and with the Secretary-General.

3. A Public Service Commission may, with the approval of the Authority, and subject to such conditions as it may think fit, delegate any of its functions under this Article (other than functions relating to the offices specified in paragraph 1 of Article 41 of this Constitution) to any of its members or to any officer of the Organization.

4. For the purposes of this Article, references to appointments shall be construed as including references to appointments on promotion and on transfer, and appointments of persons to perform the functions of an office for any period during which it is vacant or the holder is unable to perform the functions of the office.

Article 44—Pension Rights

1. This Article applies to any benefits payable under any law providing for the grant of pensions, compensation, gratuities or like allowances to persons who are or have been officers or servants of the Organization or of the High Commission in respect of their service as such officers or servants or to the widows, children or personal representatives of such persons in respect of such service.

2. The law applicable to any benefits to which this Article applies shall, in relation to any person who has been granted, or is eligible for such benefits, be that in force on the relevant date or any later law that is not less favourable to that person.

3. In this Article—

“the relevant date” means—

(a) in relation to any benefits granted before the coming into force of this Constitution, the date on which those benefits were granted;

(b) in relation to any benefits granted after the date upon which this Constitution comes into force to, or in respect of, any person who was an officer or servant of the High Commission before that date, or any benefits for which any such person may be eligible, the date immediately preceding the date on which this Constitution comes into force; and

(c) in relation to any benefits granted to or in respect of any person who first becomes an officer or servant of the Organization after the date upon which this Constitution comes into force, the date on which he first becomes such an officer or servant.

4. Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law specified by him in exercising the option shall, for the purposes of this Article, be deemed to be more favourable to him than any other law.

5. Any benefits to which this Article applies (not being benefits charged upon some other fund of the Organization) shall, in the case of benefits that are payable, or may be payable, in respect of the service of any person who, at the time when he ceases to be an officer or servant of the High Commission or the Organization, was in a self-contained service, be a charge upon the fund of the Organization for that self-contained service, and, in the case of any other benefits, shall be a charge upon the General Fund of the Organization.

6. Where under any law any person or authority has a discretion—

(a) to decide whether or not any benefits to which this Article applies shall be granted; or

(b) to withhold, reduce in amount or suspend any such benefits that have been granted,

those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the appropriate Commission concurs in the refusal to grant the benefits or, as the case may be, in the decision to withhold them, reduce them in amount or suspend them.

7. Where the amount of any benefits to which this Article applies that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him shall be the greatest amount for which he is eligible unless the appropriate Commission concurs in his being granted benefits of a smaller amount.

8. In the case of a decision of the appropriate Commission to give such concurrence as is required under paragraph 6 or 7 of this Article in respect of any benefits that may be granted or that have been granted to or in respect of an officer who is an entitled officer for the purposes of any law providing for the payment of compensation, an appeal shall lie at the instance of that officer (or his personal representatives) in such circumstances to an Appeals Board constituted in such manner and with such powers as may be prescribed by that law.

9. For the purpose of this Article "the appropriate Commission" means—

(a) in the case of benefits that have been granted or may be granted in respect of the service of any person who at the

time when he ceased to be an officer or servant of the Organization was subject to the jurisdiction of a Public Service Commission established by this Constitution, that Public Service Commission;

- (b) in any other case, the Public Service Commission having jurisdiction over the services of the Organization, other than the self-contained services.

PART VI—MISCELLANEOUS

Article 45—Administration of the Court of Appeal for Eastern Africa

1. Where arrangements are made between the Authority and the Government of the United Kingdom with respect to the administration of the Court of Appeal for Eastern Africa in connexion with the Organization, the following provisions of this Article shall apply.

2. The judges of the Court of Appeal and the officers and servants of the court shall (unless it is otherwise agreed between the Authority and the Government of the United Kingdom) be in the service of the Organization for the purposes of pension and other like benefits, and the provisions of Article 44 of this Constitution shall apply accordingly.

3. The expenditure of the Court of Appeal (including, without prejudice to the generality of the foregoing, the salaries, allowances, pensions and other like benefits payable to the judges, officers and servants of the court) shall be a charge upon the General Fund of the Organization.

4. The provisions of Articles 41 and 43 of this Constitution shall not apply in relation to the judges of the Court of Appeal and those provisions shall apply in relation to officers and servants of the court only in so far as it may be agreed between the Authority and the Government of the United Kingdom that they shall apply in relation thereto.

Article 46—Offices of the Organization

The Organization shall maintain a place of business in the capital of each Territory.

Article 47—Transitional Provisions

1. Until such time as other arrangements are made between the Authority and the Government of Zanzibar under Article 2 of this Constitution the arrangements made between the High Commission and that Government for the administration of services shall continue.

2. Until such time as other arrangements with respect to the administration of the Court of Appeal for Eastern Africa are made the Court shall be administered in connexion with the Organization in accordance with the provisions of the Eastern Africa Court of Appeal Order in Council, 1961, and of Article 45 of this

Constitution, and, subject thereto, as hitherto save that administrative matters formerly vested in the Government of Kenya shall be transferred to and vested in the Organization.

3. Until the Assembly makes rules of procedure in accordance with Article 28 of this Constitution, the Standing Orders of the former Central Legislative Assembly shall apply for regulating the procedure of the Assembly, with such modifications as the Authority may prescribe by order published in the Gazette of the Organization.

4. Until other provision is made by Act of the Organization for the purposes of paragraph 2 of Article 36 of this Constitution, the procedure to be followed for authorizing expenditure out of the Contingencies Fund shall be the procedure prescribed by the Standing Orders of the former Central Legislative Assembly.

5. The following provisions shall apply with respect to the Distributable Pool Fund—

(a) the amount standing to the credit of the Distributable Pool Fund of the High Commission at the date of the coming into force of this Constitution shall be transferred to the Distributable Pool Fund of the Organization;

(b) the agreement dated the 22nd day of November, 1961, made between the Governments of the Territories in pursuance of section 42A of the East Africa (High Commission) Order in Council, 1947, with respect to payments into and out of the Distributable Pool Fund of the High Commission shall continue in force and shall have effect, from the date on which this Constitution comes into force, as if it had been made in pursuance of Article 37 of this Constitution and related to payments into and out of the Distributable Pool Fund of the Organization;

(c) the Commissioner of Income Tax and the Commissioner of Customs and Excise may make any adjustments in the amounts payable to the Distributable Pool Fund of the Organization and to the Governments of the Territories, under the provisions of this Constitution or other arrangements between the Governments of the Territories, out of the proceeds of income tax and customs and excise duties that are necessary to give effect to the provisions of the said agreement and of Article 37 of this Constitution.

6. A Public Service Commission established by Article 40 of this Constitution shall assume its functions under this Constitution on such date as may be appointed by the Authority by notice published in the Gazette of the Organization and until that date those functions shall be performed—

(a) in the case of the Public Service Commission for the services, other than the self-contained services, by the Secretary-General;

- (b) in the case of the self-contained service included in the East African Railways and Harbours Administration, by the General Manager of that Administration ; and
- (c) in the case of the self-contained service included in the East African Posts and Telecommunications Administration, by the Postmaster General.

7. Until a person is appointed to hold the office of Secretary-General the person holding the office of Administrator of the High Commission immediately before the coming into force of this Constitution shall perform the functions of that office as if he had been appointed under paragraph 1 of Article 42 of this Constitution and that person shall, in respect of the period that he is discharging the functions of the office of Secretary-General and (if he is not appointed to another office in the service of the Organization) the period of any leave which he may thereafter be granted, be deemed, for the purposes of the pensions law applicable to him in accordance with Article 44 of this Constitution, to be the holder of a pensionable office in the service of the Organization to which is attached the same pensionable emoluments as attach to the office of Administrator of the High Commission immediately before the coming into force of this Constitution.

8. Until provision is made by Act of the Organization for the salary or allowances of an office to which Article 39 of this Constitution applies, there shall be paid to the holder of that office the salary and allowances that were payable in respect thereof immediately before the commencement of this Constitution.

9. If at the date of commencement of this Constitution the Royal East African Navy has not been taken over by the Government of any Territory, the Organization shall take over the administration of that service and wind it up in accordance with such arrangements as may be agreed between the Government of the United Kingdom and the Authority.

Article 48—Interpretation

1. In this Constitution, unless it is otherwise expressly provided or required by the context—

“Act of the Organization” means an Act of the Organization enacted in accordance with this Constitution and includes an Act of the High Commission ;

“the Authority” means the East African Common Services Authority established by Article 3 of this Constitution ;

“the Assembly” means the East African Central Legislative Assembly established by Article 16 of this Constitution ;

“the Distributable Pool Fund” means the fund established by Article 37 of this Constitution ;

“the High Commission” means the East Africa High Commission ;

“the former Central Legislative Assembly” means the Central Legislative Assembly established by the East Africa (High Commission) Order in Council, 1947 ;

"legislative house" in relation to a Territory means the chamber (by whatever name called) of the legislature of the Territory established by the Constitution of that Territory;

"financial year" means any period of twelve months beginning on the first day of July in any year;

"meeting", in relation to the Assembly, means any sitting or sittings of the Assembly commencing when the Assembly first meets after being summoned at any time and terminating when the Assembly is adjourned *sine die* or adjourned until the date appointed by the Authority for the next meeting of the Assembly;

"the Organization" means the East African Common Services Organization;

"the principal elected Minister" means the Prime Minister or Chief Minister or, if there is no office of Prime Minister or Chief Minister established for a Territory, the member of the Council of Ministers of the Territory, designated by the Government as the principal elected Minister;

"self-contained service" means a service maintained by the Organization that operates revenue-earning services and which maintains its own capital account;

"sitting" means any period during which the Assembly is sitting continuously without adjournment and includes any period during which the Assembly is in committee;

"Territory" means Tanganyika, Kenya or Uganda.

2. References in this Constitution to the date on which this Constitution comes into force are references to the date referred to in Article 2 of the Agreement to which this Constitution is annexed.

3. References in this Constitution to the holder of any office include a reference to any person who is for the time being performing the functions of that office, and, in the case of the Governor of a Territory, any person appointed as a deputy to that officer to the extent that he is authorized to discharge the functions of the officer administering the Government.

4. Save as otherwise provided in Article 19 of this Constitution, any person who is appointed to or to act in any office established by this Constitution may resign from that office by writing under his hand addressed to the person by whom he was appointed; and the resignation of any person from any such office (including any seat in the Assembly) by writing under his hand addressed in accordance with this Constitution to any other person shall take effect when the writing signifying the resignation is received by that other person.

Article I (1) (a)

FIRST SCHEDULE

SERVICES TO BE ADMINISTERED BY THE ORGANIZATION

1. The East African Railways and Harbours Administration.
2. The East African Posts and Telecommunications Administration.
3. The East African Directorate of Civil Aviation.
4. The East African Meteorological Department.

FIRST SCHEDULE—(Contd.)

5. The Desert Locust Survey.
6. The East African Customs and Excise Department.
7. The East African Income Tax Department.
8. The East African Research Services.
9. The East Africa Office in London.
10. The East African Industrial Council.
11. The East African Statistical Department.
12. The East African Literature Bureau.
13. The East African Accountant-General's Department.
14. The East African Auditor-General's Department.
15. Interterritorial services arising from the operations of the East African Currency Board.
16. The Thika Road House.
17. The East African Hides and Leather Bureau.
18. Services arising out of the functions of the Authority as East African Air Authority.
19. Interterritorial services financed in part or whole by means of grants made to the Organization from the East African Regional Allocation under the Colonial Development and Welfare Acts.
20. Services for the administration of such grants made by the Government of any country, any international organization or any authority, for the purposes of interterritorial projects as are agreed between the Authority and the Governments of the Territories.
21. Services for the purposes of co-ordinating the economic activities of the Governments of the Territories.
22. Services for the purposes of any body or authority established in pursuance of subparagraph (b) of paragraph 1 or subparagraph (d) of paragraph 2 of Article 1 of this Constitution.
23. The Secretariat of the Organization.
24. Services for the purposes of the performance of the functions of the Assembly, the Public Service Commissions or any officer of the Organization under Part III, IV or V of this Constitution.
25. Such other services as may, with the consent of the Government of the United Kingdom and the Governments of the Territories, be designated by the Authority by order published in the Gazette of the Organization.

Article 1 (I) (c)

SECOND SCHEDULE

MATTERS WITH RESPECT TO WHICH ACTS OF THE ORGANIZATION
MAY BE ENACTED

1. Accounts of the Organization and the officers and authorities thereof, including audit of accounts; management and control of the funds of the Organization.

SECOND SCHEDULE—(Contd.)

2. Appropriations out of the funds of the Organization (other than the Distributable Pool Fund).
3. Civil Aviation.
4. Customs and Excise—administrative and general provisions (but not including tariff rates).
5. Income Tax—administrative and general provisions (but not including rates of tax and allowances).
6. Powers, privileges and immunities of the Central Legislative Assembly and the members thereof.
7. Interterritorial Research.
8. Makerere College; the University College of Dar es Salaam; the Royal College, Nairobi, and other institutions of a university character.
9. Meteorology.
10. Pensions, gratuities and other like benefits payable out of the funds of the Organization.
11. Staff of the Organization, including Public Service Commissions of the Organization.
12. Posts and telegraphs, telephones and radio communications.
13. Railways, harbours and inland water transport.
14. Borrowing for the purposes of the Organization.
15. Merchant shipping.
16. Legal proceedings by or against the Organization, the Authority, the Ministerial Committees, or any offices or authority of the Organization.
17. Statistics, including census.
18. The matters with respect to which the Organization is empowered to make provision by paragraph 2 of Article 1 and by Articles 34 and 36 of this Constitution.
19. Any matter, not mentioned elsewhere in this Schedule, that is incidental to the execution, performance or enforcement of any function conferred by this Constitution, or by an Act of the Organization enacted in accordance with the provisions of this Constitution, upon the Organization or any authority, officer or servant of the Organization.

Article 33

THIRD SCHEDULE

The following stock of the East Africa High Commission issued and registered in London in accordance with the provisions of the Colonial Stock Acts, 1877 to 1948:—

- 3½% Stock 1966-68.
- 3½% Stock 1968-70.
- 4% Stock 1968-71.
- 4% Stock 1972-74.
- 4% Stock 1973-76.
- 4½% Stock 1964-69.
- 5½% Stock 1980-84.
- (Railways and Harbours) 5¼% Stock 1977-83.
- (Posts and Telecommunications) 5¼% Stock 1977-83.