

**THE CONSTITUTION OF KENYA (AMENDMENT)
ACT, 1966**

No. 16 of 1966

Date of Assent: 5th April 1966

Date of Commencement: 12th April 1966

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

ENACTED by the Parliament of Kenya, as follows:—

1. (1) This Act may be cited as the Constitution of Kenya (Amendment) Act, 1966.

Short title and construction.

(2) This Act shall be read and construed as one with the Constitution and the Constitution of Kenya (Amendment) Act, 1965, in so far as it makes amendments to that Constitution or that Act.

14 of 1965.

2. (1) In this Act, unless the context otherwise requires, "the Constitution" means the Constitution of the Republic of Kenya contained in Schedule 2 of the Kenya Independence Order in Council 1963, as amended by the Constitution of Kenya (Amendment) Act, 1964, the Constitution of Kenya (Amendment) (No. 2) Act, 1964, and the Constitution of Kenya (Amendment) Act, 1965.

Interpretation.
L.N. 718/1963.
28 of 1964.
38 of 1964.

(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 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 Constitution.

4. The provisions of the Constitution of Kenya (Amendment) Act, 1965, 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 the Constitution of Kenya (Amendment) Act, 1965.

5. The provisions of the Kenya Independence Order in Council 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.

Amendment of Kenya Independence Order in Council 1963.

General scheme of retirement not to apply to citizens in the public service. Cap. 189. 10 of 1965.

6. The general scheme of retirement referred to in section 21 of the Pensions Act as amended by the Pensions (Amendment) Act, 1965, shall have no application to an officer in the public service who is a citizen of Kenya, and shall be deemed to have ceased to apply to any such officer after 18th January 1966.

FIRST SCHEDULE

(s. 3)

AMENDMENTS TO THE CONSTITUTION

<i>Provision</i>	<i>Amendment</i>
Chapter I. Section 6.	<p>(a) In subsection (1)—</p> <p>(i) substitute for the word "entitled" the word "eligible";</p> <p>(ii) insert immediately after the words "citizen of Kenya" the words "and the Minister may cause any such person who so applies to be so registered".</p> <p>(b) In subsection (2)—</p> <p>(i) substitute for the word "entitled" the word "eligible";</p> <p>(ii) insert immediately after the words "parents is a citizen of Kenya" the words "and the Minister may cause any such person who so applies to be so registered".</p> <p>(c) In the marginal note substitute for the word "entitled" the word "eligible".</p>
Chapter II. Section 24 (2).	<p>(a) In paragraph (c) substitute for the word "officers," the words "officers or members of any disciplined force; or".</p> <p>(b) Immediately after paragraph (c) insert a new paragraph as follows—</p> <p>(d) for the registration of trade unions and associations of trade unions in a register established by or under any law, and for imposing reasonable conditions relating to the requirements for entry on such a register (including conditions as to the minimum number of persons necessary to constitute a trade union qualified for registration, or of members necessary to constitute an association of trade unions qualified for registration, and conditions whereby registration may be refused on the grounds that any other trade union already registered or association of trade unions already registered, as the case may be, is sufficiently representative of the whole or of a substantial proportion of the interests in respect of which registration of a trade union or association of trade unions is sought),</p>
Section 30 (1).	<p>In the definition of "disciplined force"—</p> <p>(i) delete the word "or" at the end of paragraph (b);</p> <p>(ii) insert the word "or" at the end of paragraph (c);</p>

FIRST SCHEDULE—(Contd.)

<i>Provision</i>	<i>Amendment</i>
	(iii) insert immediately after paragraph (c) a new paragraph as follows—
	(d) the National Youth Service;
Section 41.	(a) In subsection (1) (b) insert immediately after the word "Kenya" the words "or under sentence of imprisonment (by whatever name called) exceeding six months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court".
	(b) Immediately after subsection (6) insert a new subsection as follows—
	(6A) For the purpose of subsection (1) (b) of this section—
	(a) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds six months, and if any one of such sentences exceeds that term they shall be regarded as one sentence; and
	(b) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.
Section 42.	(a) Insert immediately after subsection (1) a new subsection as follows—
	(1A) A member of either House of the National Assembly shall vacate his seat therein if, without having obtained the permission of the Speaker of that House, he fails to attend that House on eight consecutive days in any session:
	Provided that the President may in any case if he thinks fit direct that a member shall not be required to vacate his seat by reason of his failure to attend a House of the National Assembly as aforesaid.
	(b) In subsection (2) insert immediately after the word "death" the words "or imprisonment".
Section 56 (2).	Delete whole subsection and substitute a new subsection as follows—
	(2) On any question proposed for decision in either House of the National Assembly the person presiding in that House shall—
	(a) if he is the Speaker, have a casting vote but not an original vote; or
	(b) if he is a person other than the Speaker, have both an original vote and a casting vote.
Section 87.	(a) Delete whole section and substitute a new section as follows—
Constitution of offices.	87. Subject to the provisions of this Constitution and of any other law, the powers of constituting and abolishing offices for the Republic of Kenya, of making appointments to any such office and terminating any such appointment, shall vest in the President.

FIRST SCHEDULE—(Contd.)

Provision

Amendment

(b) Immediately after section 87 insert a new section 87A as follows—

Tenure of office in the service of the Republic.

87A. (1) Save in so far as may be otherwise provided by this Constitution or by any other law, every person who holds office in the service of the Republic of Kenya shall hold such office during the pleasure of the President:

Provided that this subsection shall not apply in the case of any person who enters into a contract of service in writing with the Government of Kenya by which he undertakes to serve the Government for a period which does not exceed three years.

(2) In this section "office in the service of the Republic of Kenya" means office in or membership of the public service, the armed forces of Kenya, the National Youth Service or any other force or service established for the Republic of Kenya.

Chapter VIII.
Section 121.

Delete whole section and substitute two new sections as follows—

Consolidated Fund and other funds of the Government of Kenya.

121. (1) Subject to the provisions of subsection (2) of this section, all revenues or other moneys raised or received for the purposes of the Government of Kenya shall be paid into and form a Consolidated Fund from which no moneys shall be withdrawn except as may be authorized by this Constitution or by an Act of Parliament (including an Appropriation Act) or by a vote on account passed by the National Assembly under section 124 of this Constitution.

(2) Provision may be made by or under an Act of Parliament for any revenues or other moneys received for the purposes of the Government of Kenya to be paid into some public fund (other than the Consolidated Fund) established for any specific purpose, or to be retained by the authority that received them for the purpose of defraying the expenses of that authority, but no moneys shall be withdrawn from any such public fund unless the issue of those moneys has been authorized by or under any law.

(3) Where any moneys are charged by this Constitution or any Act of Parliament upon the Consolidated Fund or any other public fund of the Government of Kenya, they shall be paid out of that fund by the Government of Kenya to the person or authority to whom payment is due

(4) Parliament may prescribe the manner in which withdrawals may be made from the Consolidated Fund or any other fund of the Government of Kenya.

Authorization of expenditure from Consolidated Fund by appropriation.

122. (1) The Minister for the time being responsible for finance shall cause to be prepared and laid before the National Assembly in each financial year estimates of the revenues and expenditure of the Government of Kenya for the next following financial year.

FIRST SCHEDULE—(Contd.)

Provision

Amendment

(2) When the estimates of expenditure (other than expenditure charged upon the Consolidated Fund by this Constitution or by any Act of Parliament) have been approved by the National Assembly, a Bill, to be known as an Appropriation Bill, shall be introduced into the Assembly, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums, under separate votes for the several services required, to the purposes specified therein.

(3) If in respect of any financial year it is found—

- (a) that the amount appropriated by the Appropriation Act to any purpose is insufficient or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by that Act; or
- (b) that any moneys have been expended for any purpose in excess of the amount appropriated to that purpose by the Appropriation Act or for a purpose to which no amount has been appropriated by that Act,

a supplementary estimate or, as the case may be, a statement of excess showing the sums required or spent shall be laid before the National Assembly and, when the supplementary estimate or statement of excess has been approved by the Assembly, a supplementary Appropriation Bill shall be introduced into the Assembly, providing for the issue of such sums from the Consolidated Fund and appropriating them to the purposes specified therein.

Section 124

Immediately after section 124 insert a new section as follows—

Contingencies
Fund.

125. (1) Parliament may make provision for the establishment of a Contingencies Fund and for authorizing the Minister for the time being responsible for finance, if he is satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.

(2) Where any advance is made from 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 so advanced.

Chapter XII.

Section

209 (1).

(a) Delete the words "and vested in the Government of Kenya".

(b) Immediately after paragraph (b) insert a new paragraph as follows—

(bb) the purposes of any body corporate, being a company registered under the law relating to companies in which shares are held by or on behalf of the Government of Kenya;

FIRST SCHEDULE—(Contd.)

<i>Provision</i>	<i>Amendment</i>
Chapter XV.	
Section 247 (3).	(a) In paragraph (d) substitute for the word "force." the words "force; or".
	(b) Insert immediately after paragraph (d) a new paragraph as follows—
	(e) save in so far as may be otherwise provided by Parliament, references to an office in the National Youth Service.

SECOND SCHEDULE

(s. 4)

AMENDMENTS TO THE CONSTITUTION OF KENYA (AMENDMENT) ACT, 1965

<i>Provision</i>	<i>Amendment</i>
Section 6.	(a) In subsections (4) and (5) substitute for the expression "12th December 1965" the expression "12th December 1966".
	(b) In subsection (7) substitute for the expression "12th December 1965" the expression "12th December 1967".
Section 10 (6).	Substitute for the expression "12th December 1965" the expression "12th December 1966".
Section 19 (2).	Substitute for the expression "12th December 1965" the expression "12th December 1967".

THIRD SCHEDULE

(s. 5)

AMENDMENTS TO THE KENYA INDEPENDENCE ORDER IN COUNCIL 1963

<i>Provision</i>	<i>Amendment</i>
Section 19.	(a) In subsection (1) insert immediately after the words "North-Eastern Province" the words "and the Districts of Marsabit, Isiolo, Tana River and Lamu,".
	(b) In subsection (3) (b) insert immediately after the words "North-Eastern Province" the words "and the Districts of Marsabit, Isiolo, Tana River and Lamu".