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MALAYSIA ACT

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LAWS OF MALAYSIA

Act No. 26 of 1963

MALAYSIA ACT

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LAWS OF MALAYSIA

Act No. 26 of 1963

MALAYSIA ACT

An Act for Malaysia.

[16 September 1963; L.N. 214/1963]

WHEREAS on behalf of the Federation it has been agreed, among other things, that the British colonies of North Borneo and Sarawak and the State of Singapore shall be federated with the existing States of the Federation as the States of Sabah, Sarawak and Singapore, and that the name of the Federation should thereafter be Malaysia;

AND WHEREAS, to give effect to the agreement, it is necessary to amend the Constitution of the Federation so as to provide for the admission of those States and for matters connected therewith;

AND WHEREAS the Conference of Rulers has consented to the passing of this Act insofar as it amends Articles 38 and 153 of the Constitution or otherwise affects the privileges, position, honours or dignities of their Highnesses:

NOW, THEREFORE, be it enacted by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

PART I

PRELIMINARY

Citation

1. This Act may be cited as the Malaysia Act.

Commencement

2. Except insofar as the contrary intention appears, this Act shall come into operation on the *sixteenth day of September, 1963, have been specified for the purpose by proclamation of the Yang di-Pertuan Agong; and in this Act and in any other written law “Malaysia Day” shall mean the day on which this Act comes into operation.

Sections of Act inserted in Constitution

3. The Constitution shall be amended as shown in the First Schedule to this Act, by inserting as Articles of the Constitution in accordance with that Schedule the sections of this Act specified in the second column, and those sections shall be read and have effect accordingly:

Provided that any Article so inserted shall have effect subject to the transitional provisions contained in Part IV of this Act.

PART II**THE STATES OF THE FEDERATION****The name, States and territories of the Federation (Article 1)**

4. (1) The Federation shall be known, in Malay and in English, by the name Malaysia.

(2) The States of the Federation shall be—

(a) the States of Malaya, namely, Johore, Kedah, Kelantan, Malacca, Negeri Sembilan, Pahang, Penang, Perak, Perlis, Selangor and Terengganu; and

(b) the Borneo States, namely, Sabah and Sarawak; and

(c) the State of Singapore.

*Note—See L.N. 214/63.

(3) The territories of each of the States mentioned in Clause (2) are the territories comprised therein immediately before Malaysia Day.

PART III

GENERAL CONSTITUTIONAL ARRANGEMENTS

TITLE I

GENERAL PROVISIONS AS TO FEDERAL AND STATE INSTITUTIONS

Chapter 1—Preliminary

Interpretation of constitutional terms

5. In Article 160 of the Constitution, in Clause (2), there shall be inserted (in the places required by the alphabetical order and in substitution for the existing definition, if any, of the same term) the following definitions:

“Attorney General” means the Attorney General of the Federation;

“Chief Minister” and “Menteri Besar” both mean the president, by whatever style known, of the Executive Council in a State (and in particular “Chief Minister” includes the Prime Minister in Singapore);

“Executive Council” means the Cabinet or other body, however called, which in the government of a State corresponds, whether or not the members of it are Ministers, to the Cabinet of Ministers in the government of the Federation (and in particular includes the Supreme Council in Sarawak);

“Governor” means the Head of State, by whatever style known, in a State not having a Ruler (and in particular includes the Yang di-Pertua Negara in Sabah and the Yang di-Pertuan Negara in Singapore);

“Legislative Assembly” means the representative assembly, however called, in the Legislature of a State (and in particular includes the Council Negri in Sarawak), but except in the Eighth Schedule includes also a Legislative Council, however called;

“member of the administration” means, in relation to the Federation, a person holding office as Minister or Assistant Minister and, in relation to a State, a person holding a corresponding office in the State or holding office as member (other than an official member) of the Executive Council, and includes in Singapore political secretaries as well as parliamentary secretaries;

“office of profit” means any whole time office in any of the public services, and includes—

- (a) the office of any judge of the Federal Court or of a High Court; and
- (b) the office of Auditor General; and
- (c) the office of a member of the Election Commission, of a member (other than an *ex officio* member) of a Commission to which Part X applies, or of a member (other than an *ex officio* member) of any corresponding Commission established by the Constitution of a State; and
- (d) any other office not specified in Clause (3) of Article 132 which may be declared by Act of Parliament to be an office of profit.

Chapter 2—Heads of State

Conference of Rulers

6. The Governors of Sabah, Sarawak and Singapore shall be members of the Conference of Rulers except for those purposes for which the Governors of Malacca and Penang are not members, and accordingly in the Fifth Schedule to the Constitution, in sections 1 and 7, for the words “Malacca and Penang” there shall, in each case, be substituted the words “States not having a Ruler”.

Religious functions

7. (1) In Article 3 of the Constitution, in Clause (2) (which relates to the position of the Ruler as Head of the Muslim religion in States other than Malacca and Penang), for the words “Malacca and Penang” there shall be substituted the words “States not having a Ruler”.

(2) In Clause (3) of that Article and Clause (10) of Article 42 (which provide for the Yang di-Pertuan Agong to be Head of the Muslim religion in Malacca and in Penang, and to exercise in those States the power of pardon in respect of offences tried by Muslim courts) for the words “and Penang” there shall be substituted the words “Penang and Singapore” or, as the case may be, for the words “or Penang” there shall be substituted the words “Penang or Singapore”.

(3) At the end of Article 38 of the Constitution there shall be added as Clause (7)—

“(7) The function of the Conference of Rulers of agreeing or disagreeing to the extension of any religious acts, observances or ceremonies to the Federation as a whole shall not extend to Sabah or Sarawak, and accordingly those States shall be treated as excluded from the references in Clause (2) of Article 3 and in this Article to the Federation as a whole.”

*Chapter 3—Parliament, Legislative Assemblies and State
Constitutions*

Increase in appointed members of Senate

8. In Article 45 of the Constitution, in paragraph (b) of Clause (1) (which provides for sixteen members of the Senate to be appointed by the Yang di-Pertuan Agong), for the word “sixteen” there shall be substituted the words “twenty-two”.

Composition of House of Representatives (Article 46)

9. (1) The House of Representatives shall consist of one hundred and fifty-nine elected members.

(2) There shall be—

(a) one hundred and four members from the States of Malaya;

(b) sixteen members from Sabah;

(c) twenty-four members from Sarawak;

(d) fifteen members from Singapore.

Election Commission, and delimitation of constituencies

10. (1) The membership of the Election Commission shall be increased by one, and accordingly in Clause (1) of Article 114 of the Constitution for the word “two” there shall be substituted the word “three”.

(2) In Article 113 of the Constitution there shall be omitted in Clause (2) the words “After the first delimitation of constituencies in accordance with Article 171”, and there shall be added at the end the following Clauses:

“(6) There shall be separate reviews under Clause (2) for the States of Malaya, for each of the Borneo States and for the State of Singapore, and for the purposes of this Part the expression ‘unit of review’ shall mean, for federal constituencies, the area under review and, for State constituencies, the State.

(7) Subject to Clause (3), the period for the first reviews under Clause (2) for any unit of review shall be calculated from the first delimitation of constituencies for that unit under this Constitution or under the Malaysia Act.”

Decisions as to disqualification of member of either House or of Legislative Assembly

11. (1) At the end of Article 53 of the Constitution (which requires that on any question whether a member of either House of Parliament has become disqualified the decision of the House shall be taken) there shall be added—

“Provided that this Article shall not be taken to prevent the practise of the House postponing a decision in order to allow for the taking or determination of any proceedings that may affect the decision (including proceedings for the removal of the disqualification)”;

and in Article 54 (which requires a casual vacancy to be filled within sixty days from the date on which it occurs) for the word “occurs” there shall be substituted the words “is established that there is a vacancy”.

(2) In the Eighth Schedule to the Constitution (which by section 8 and subsection 9(5) requires the inclusion in a State constitution of provisions like Articles 53 and 54) there shall be added at the end of section 8—

“Provided that this section shall not be taken to prevent the practise of the Assembly postponing a decision in order to allow for the taking or determination of any proceedings that may affect the decision (including proceedings for the removal of the disqualification)”;

and in subsection 9(5) for the word “occurs” there shall be substituted the words “is established that there is a vacancy”.

State Constitutions

12. (1) In Article 71 of the Constitution (in which Clauses (4) to (6) make provision as to the inclusion in State Constitutions of certain essential provisions set out in the Eighth Schedule) there shall be added at the end as Clauses (7) and (8):

“(7) In relation to a Borneo State—

- (a) Clause (5) shall not apply; but
- (b) until the end of August, 1975, or such earlier date as the Yang di-Pertuan Agong with the concurrence of the Governor may by order direct, Clause (4) shall apply as if the reference to the modifications allowed under Clause (5) were a reference to the modifications made by the Constitution of the State as in force on Malaysia Day.

(8) In relation to Singapore, Clauses (4) to (6) shall not apply, but no enactment of the Legislature of Singapore making in the Constitution of the State amendments relating to any matter dealt with by the provisions set out in Part I of the Eighth Schedule (as it applies to Singapore) shall have effect unless—

- (a) the amendments do not materially affect the operation of the Constitution in relation to those matters; or
- (b) the effect of the amendments is confined to inserting provisions so set out or provisions substantially to the same effect (whether or not in substitution for other provisions) or to removing provisions inconsistent with the provisions so set out; or
- (c) the enactment is approved by Act of Parliament”.

(2) In Clause (4) of Article 71 of the Constitution, the words “it appears to Parliament that” shall be omitted.

(3) At the end of the Eighth Schedule to the Constitution there shall be added as section 23 the section set out in the Second Schedule to this Act.

Chapter 4—The Judiciary

Judicial power of the Federation (Article 121)

13. (1) Subject to Clause (2) the judicial power of the Federation shall be vested in three High Courts of co-ordinate jurisdiction and status, namely—

- (a) one in the States of Malaya, which shall be known as the High Court in Malaya and shall have its principal registry in Kuala Lumpur; and

- (b) one in the Borneo States, which shall be known as the High Court in Borneo and shall have its principal registry at such place in the Borneo States as the Yang di-Pertuan Agong may determine; and
- (c) one in the State of Singapore, which shall be known as the High Court in Singapore;

and in such inferior courts as may be provided by federal law.

(2) The following jurisdiction shall be vested in a court which shall be known as the Federal Court and shall have its principal registry in Kuala Lumpur, that is to say,—

- (a) exclusive jurisdiction to determine appeals from decisions of a High Court or a judge thereof (except decisions of a High Court given by a registrar or other officer of the court and appealable under federal law to a judge of the Court); and
- (b) such original or consultative jurisdiction as is specified in Articles 128 and 130.

(3) Subject to any limitations imposed by or under federal law, any order, decree, judgment or process of the courts referred to in Clause (1) or of any judge thereof shall (so far as its nature permits) have full force and effect according to its tenor throughout the Federation, and may be executed or enforced in any part of the Federation accordingly; and federal law may provide for courts in one part of the Federation or their officers to act in aid of courts in another part.

(4) In determining where the principal registry of the High Court in Borneo is to be, the Yang di-Pertuan Agong shall act on the advice of the Prime Minister, who shall consult the Chief Ministers of the Borneo States and the Chief Justice of the High Court.

Jurisdiction of Federal Court (Article 128)

14. (1) The Federal Court shall, to the exclusion of any other court, have jurisdiction to determine—

- (a) any question whether a law made by Parliament or by the Legislature of a State is invalid on the ground that it makes provision with respect to a matter with respect to which Parliament or, as the case may be, the Legislature of the State has no power to make laws; and
- (b) disputes on any other question between States or between the Federation and any State.

(2) Without prejudice to any appellate jurisdiction of the Federal Court, where in any proceedings before another court a question arises as to the effect of any provision of this Constitution, the Federal Court shall have jurisdiction (subject to any rules of court regulating the exercise of that jurisdiction) to determine the question and remit the case to the other court to be disposed of in accordance with the determination.

(3) The jurisdiction of the Federal Court to determine appeals from a High Court or a judge thereof shall be such as may be provided by federal law.

Constitution of Federal Court (Article 122)

15. (1) The Federal Court shall consist of a president of the Court (to be styled “the Lord President of the Federal Court”), of the Chief Justices of the High Courts and, until Parliament otherwise provides, of two other judges.

(2) A judge of a High Court other than the Chief Justice may sit as a judge of the Federal Court where the Lord President considers that the interests of justice so require, and the judge shall be nominated for the purpose (as occasion requires) by the Lord President.

Constitution of High Courts (Article 122A)

16. (1) Each of the High Courts shall consist of a Chief Justice and not less than four other judges; but the number of other judges shall not, until Parliament otherwise determines, exceed—

(a) in the High Court in Malaya, twelve; and

(b) in the High Court in Borneo, eight; and

(c) in the High Court in Singapore, eight.

(2) Any person qualified for appointment as a judge of a High Court may sit as a judge of that court, if designated for the purpose (as occasion requires) in accordance with Article 122B.

(3) For the despatch of business of the High Court in Borneo in an area in which a judge of the court is not for the time being available to attend to business of the court, the Yang di-Pertuan Agong acting on the advice of the Lord President of the Federal Court, or for an area in either State the Governor of the State acting on the advice of the Chief Justice of the court, may by order appoint to be judicial commissioner in that area for such period or for such purposes as may be specified in the order an advocate or person professionally qualified to be admitted an advocate of the court.

(4) Subject to any limitations or conditions imposed by the order appointing him, a judicial commissioner shall have power, in the area for which he is appointed, to perform such functions of a judge of the High Court in Borneo as appear to him to require to be performed without delay; and anything done by a judicial commissioner when acting in accordance with his appointment shall have the same validity and effect as if done by a judge of that court, and in respect thereof he shall have the same powers and enjoy the same immunities as if he had been a judge of that court.

**Appointment of judges of Federal Court and of High Courts
(Article 122B)**

17. (1) The Lord President of the Federal Court, the Chief Justices of the High Courts and (subject to Article 122c) the other judges of the Federal Court and of the High Courts shall be appointed by the Yang di-Pertuan Agong, acting on the advice of the Prime Minister, after consulting the Conference of Rulers.

(2) Before tendering his advice as to the appointment under Clause (1) of a judge other than the Lord President of the Federal Court, the Prime Minister shall consult the Lord President.

(3) Before tendering his advice as to the appointment under Clause (1) of the Chief Justice of a High Court, the Prime Minister shall consult the Chief Justice of each of the High Courts and, if the appointment is to the High Court in Borneo or in Singapore, the Chief Minister of each of the Borneo States or of Singapore, as the case may be.

(4) Before tendering his advice as to the appointment under Clause (1) of a judge other than the Lord President or a Chief Justice, the Prime Minister shall consult, if the appointment is to the Federal Court, the Chief Justices of all the High Courts and, if the appointment is to one of the High Courts, the Chief Justice of that court.

(5) This Article shall apply to the designation of a person to sit as judge of a High Court under Clause (2) of Article 122A as it applies to the appointment of a judge of that court other than the Chief Justice.

Transfer of judge of one High Court to another (Article 122c)

18. Article 122B shall not apply to the transfer to a High Court, otherwise than as Chief Justice, of a judge of another High Court other than the Chief Justice; and such a transfer may be made by the Yang di-Pertuan Agong, on the recommendation of the Lord President of the Federal Court, after consulting the Chief Justices of the two High Courts.

Qualifications of judges of Federal Court and of High Courts (Article 123)

19. A person is qualified for appointment under Article 122B as a judge of the Federal Court or as a judge of any of the High Courts if—

- (a) he is a citizen; and
- (b) for the ten years preceding his appointment he has been an advocate of those courts or any of them or a member of the judicial and legal service of the Federation or of the legal service of a State, or sometimes one and sometimes another.

Oath of office of judges (Article 124)

20. (1) The Lord President of the Federal Court shall before exercising the functions of his office take and subscribe the oath of office and allegiance set out in the Sixth Schedule, and shall do so in the presence of the Yang di-Pertuan Agong.

(2) A judge of the Federal Court or a High Court, other than the Lord President of the Federal Court, shall before exercising the functions of a judge take and subscribe that oath in relation to his judicial duties in whatever office, and, having done so, shall not be required to take that oath again on appointment or transfer to another judicial office, not being that of Lord President.

(3) A person taking the oath on becoming Chief Justice of a High Court shall do so in the presence of the senior judge available of that High Court, unless he takes it in accordance with Clause (4) as a judge of the Federal Court.

(4) Subject to Clause (3), a person taking the oath on becoming a judge of the Federal Court shall do so in the presence of the Lord President or, in his absence, the next senior judge available of the Federal Court.

(5) A person taking the oath on becoming a judge of a High Court (but not Chief Justice) shall do so in the presence of the Chief Justice of that court or, in his absence, the next senior judge available of that Court.

Provision for incapacity, etc. of Lord President or Chief Justice (Article 131A)

21. (1) Any provision made by federal law for the functions of the Lord President of the Federal Court to be performed, in the event of a vacancy in the office or of his inability to act, by another judge of the Federal Court may extend to his functions under this Constitution.

(2) Any provision made by federal law for the functions of the Chief Justice of a High Court to be performed, in the event of a vacancy in the office or of his inability to act, by another judge of that court may extend to his functions under this Constitution other than functions as judge of the Federal Court.

Application to new courts of Articles 125 to 127, 130 and 131

22. (1) Articles 125 to 127, 130 and 131 of the Constitution shall be amended in accordance with the following subsections.

(2) In Article 125 (tenure of office and remuneration of judges)—

(a) there shall, in all places except in Clause (4), for the words “Supreme Court” and the words “Chief Justice” respectively be substituted the words “Federal Court” and the words “Lord President”;

(b) in Clause (4)—

(i) after the word “judge” there shall be inserted the words “of the Federal Court or a High Court, or have before Malaysia Day held office as judge”; and

(ii) for the words from “and shall” onwards there shall be substituted the words “and shall be presided over by the member first in the following order, namely, the Lord President of the Federal Court, the Chief Justices according to their precedence among themselves, and other members according to the order of their appointment to an office qualifying them for membership (the older coming before the younger of two members with appointments of the same date)”;

- (c) in Clause (5) for the words “or the Prime Minister” there shall be substituted the words “and, in the case of any other judge”.

(3) At the end of Article 125 there shall be added as a new Clause (9)—

“(9) This Article shall apply to a judge of a High Court as it applies to a judge of the Federal Court, except that the Yang di-Pertuan Agong before suspending under Clause (5) a judge of a High Court other than the Chief Justice shall consult the Chief Justice of that Court instead of the Lord President of the Federal Court.”

(4) In Article 126 (power to punish for contempt) and in Article 127 (restriction on Parliamentary discussion) for the words “Supreme Court” there shall, in each case, be substituted the words “Federal Court or a High Court”.

(5) In Article 130 (advisory jurisdiction of Supreme Court as to interpretation of Constitution) for the words “Supreme Court” there shall, in both places, be substituted the words “Federal Court”.

(6) In Article 131 (appeals from Supreme Court) in Clause (1) for the words “Supreme Court” there shall be substituted the words “Federal Court”.

TITLE II

CITIZENSHIP

Chapter 1—Citizenship by operation of law

Citizenship by operation of law (Article 14)

23. (1) Subject to the provisions of this Part, the following persons are citizens by operation of law, that is to say:

- (a) every person born before Malaysia Day who is a citizen of the Federation by virtue of the provisions contained in Part I of the Second Schedule; and

(b) every person born before on or after Malaysia Day, and having any of the qualifications specified in Part II of the Second Schedule; and

(c) every citizen of Singapore.

(2) Subject to the provisions of this Part, provision with respect to citizenship of Singapore may be made by the constitution of that State, and may be amended by laws passed by the Legislature of that State and approved by Act of Parliament.

(3) Citizenship of Singapore shall not be severable from citizenship of the Federation, but a Singapore citizen by the loss of either shall lose the other also (subject to the provision made by this Part for the enrolment of a Singapore citizen as a citizen who is not a Singapore citizen).

Supplementary amendments as to citizenship by operation of law

24. (1) At the beginning of the Second Schedule to the Constitution there shall be inserted as Parts I and II respectively the provisions contained in Parts I and II of the Third Schedule to this Act; and accordingly—

(a) sections 1 to 21 of the Second Schedule to the Constitution shall become Part III of it, and (save as otherwise provided by this Act) after the words “Part III”, wherever occurring in those sections, there shall be inserted the words “of this Constitution”; and

(b) in Article 31 of the Constitution before the words “the Second Schedule” there shall be inserted the words “Part III of”, and in Article 159, in Clause (4)(a), for the words “the Second” there shall be substituted the words “Part III of the Second or to the”.

(2) In the Second Schedule to the Constitution, after section 19 in Part III, there shall be inserted as sections 19A, 19B and 19C the sections so numbered in Part III of the Third Schedule to this Act.

(3) In Article 30 of the Constitution, in Clause (2), for the words “this Article” there shall be substituted the words “Clause (1)”, and at the end of the Article there shall be added as Clauses (3) and (4)—

“(3) For the purpose of determining whether a person was born a citizen of the Federation, any question whether he was born a citizen of another country shall be decided by the Federal Government, whose certificate thereon (unless proved to have been obtained by means of fraud, false representation or concealment of a material fact) shall be conclusive; and this Clause shall apply to questions arising under the Constitution of the State of Singapore as well as to questions arising under this Constitution.

(4) Any certificate issued under Clause (1) may state that the person to whom it relates is or is not a Singapore citizen, and Clause (2) shall apply accordingly; and if the Constitution of the State of Singapore provides for the government of the State to issue certificates of Singapore citizenship, Clause (2) shall apply in relation to a certificate issued under that provision as it applies to a certificate issued under Clause (1).”

*Chapter 2—Citizenship by registration or naturalization,
and transfer to or from Singapore*

**Citizenship by registration (wives and children of citizens)
(Article 15)**

25. (1) Subject to Article 18, any married woman whose husband is a citizen, but not a Singapore citizen, is entitled, upon making application to the Federal Government, to be registered as a citizen if the marriage was subsisting and the husband a citizen at the beginning of October, 1962, or if she satisfies the Federal Government—

(a) that she has resided in the Federation outside Singapore throughout the two years preceding the date of the application, and intends to do so permanently; and

(b) that she is of good character.

(2) Subject to Article 18, the Federal Government may cause any person under the age of twenty-one years of whose parents one at least is (or was at death) a citizen, but not a Singapore citizen, to be registered as a citizen upon application made to the Federal Government by his parent or guardian.

(3) Subject to Article 18, a person under the age of twenty-one years who was born before the beginning of October, 1962, and whose father is (or was at his death) a citizen, but not a Singapore citizen, and was also a citizen at the beginning of that month (if then alive), is entitled upon application made to the Federal Government by his parent or guardian, to be registered as a citizen if the Federal Government is satisfied that he is ordinarily resident in the Federation outside Singapore and is of good character.

(4) For the purposes of Clause (1), residence before Malaysia Day in the territories comprised in the Borneo States shall be treated as residence in the Federation outside Singapore.

(5) The reference in Clause (1) to a married woman is a reference to a woman whose marriage has been registered in accordance with any written law in force in the Federation, including any such law in force before Merdeka Day, or with any written law in force before Malaysia Day in the territories comprised in the Borneo States or Singapore:

Provided that this Clause shall not apply where the woman applies to be registered as a citizen before the beginning of September, 1965, or such later date as may be fixed by order of the Yang di-Pertuan Agong, and is at the date of the application ordinarily resident in the Borneo States or Singapore.

(6) In Clause (1), the words “outside Singapore” shall not have effect in the case of a woman whose husband is a citizen by naturalization under Clause (2) of Article 19.

Citizenship by registration (persons resident in Borneo States on Malaysia Day) (Article 16A)

26. Subject to Article 18, any person of or over the age of eighteen years who is on Malaysia Day ordinarily resident in a Borneo State is entitled, upon making application to the Federal Government before September, 1971, to be registered as a citizen if he satisfies the Federal Government—

- (a) that he has resided before Malaysia Day in the territories comprised in those States and after Malaysia Day in the Federation outside Singapore for periods which amount in the aggregate to not less than seven years in the ten years immediately preceding the date of the application, and which include the twelve months immediately preceding that date;
- (b) that he intends to reside permanently in the Federation outside Singapore;
- (c) that he is of good character; and
- (d) except where the application is made before September, 1965, and the applicant has attained the age of forty-five years at the date of the application, that he has a sufficient knowledge of the Malay language or the English language or, in the case of an applicant ordinarily resident in Sarawak, the Malay language, the English language or any native language in current use in Sarawak.

Citizenship by naturalization (Article 19)

27. (1) Subject to Clauses (7) and (9), the Federal Government may, upon application made by any person of or over the age of twenty-one years who is not a citizen, grant a certificate of naturalization to that person if satisfied—

- (a) that—
 - (i) he has resided in the Federation outside Singapore for the required periods and intends, if the certificate is granted, to do so permanently; or

- (ii) he has resided in Singapore for the required periods and intends, if the certificate is granted, to do so permanently;

(b) that he is of good character; and

(c) that he has an adequate knowledge of the Malay language.

(2) Subject to Clause (9), the Federal Government may, in such special circumstances as it thinks fit, upon application made by any person of or over the age of twenty-one years who is not a citizen, grant a certificate of naturalization to that person if satisfied—

- (a) that he has resided in the Federation for the required periods and intends, if the certificate is granted, to do so permanently;

(b) that he is of good character; and

(c) that he has an adequate knowledge of the Malay language.

(3) The periods of residence in the Federation or the relevant part of it which are required for the grant of a certificate of naturalization are periods which amount in the aggregate to not less than ten years in the twelve years immediately preceding the date of the application for the certificate, and which include the twelve months immediately preceding that date.

(4) For the purposes of Clauses (1) and (2) residence before Malaysia Day in the territories comprised in the Borneo States shall be treated as residence in the Federation outside Singapore; and for purposes of Clause (2) residence before Malaysia Day in Singapore shall be treated as residence in the Federation.

(5) A person to whom a certificate of naturalization is granted shall be a citizen by naturalization from the date on which the certificate is granted.

(6) A person to whom a certificate of naturalization is granted shall be a Singapore citizen if but only if the certificate is granted by virtue of paragraph (a)(ii) of Clause (1).

(7) A certificate of naturalization as a Singapore citizen shall not be granted without the concurrence of the government of Singapore.

(8) Any application for naturalization as a citizen of Singapore which has been made but not disposed of before Malaysia Day shall as from that day be treated as if it had been an application duly made for naturalization under this Article, and as if anything done in connection therewith before that day under or for the purposes of the law of Singapore had been duly done under or for the purposes of this Article.

(9) No certificate of naturalization shall be granted to any person until he has taken the oath set out in the First Schedule.

Transfer of citizenship to or from Singapore (Article 19A)

28. (1) The Federal Government may, upon application made by any Singapore citizen of or over the age of twenty-one years, enrol him as a citizen who is not a Singapore citizen, if the Federal Government is satisfied that, had his application been for the grant under Article 19 of a certificate of naturalization as a citizen who is not a Singapore citizen, the conditions of paragraphs (a)(i), (b) and (c) of Clause (1) of that Article for the grant of the certificate would be fulfilled.

(2) In relation to Singapore citizens Article 15 and 15A shall apply to entitle or allow them to be enrolled as citizens who are not Singapore citizens, in the same way as those Articles apply, in relation to persons who are not citizens, to entitle or allow them to be registered as citizens, except that references to Article 18 shall not apply, nor shall Clause (6) of Article 15.

(3) A citizen enrolled as being or not being a Singapore citizen by virtue of this Article or by virtue of any corresponding provision in the Constitution of the State of Singapore shall be or not be a Singapore citizen accordingly from the day on which he is so enrolled.

(4) Where a person has been enrolled under this Article as a citizen who is not a Singapore citizen, and the Federal Government is satisfied that the enrolment—

(a) was obtained by means of fraud, false representation or the concealment of any material fact; or

(b) was effected by mistake;

the Federal Government may cancel the enrolment:

Provided that Article 27 shall apply in relation to the cancellation as it applies in relation to an order under Article 24, 25 or 26 depriving a person of citizenship.

(5) Where a person's enrolment as a citizen who is not a Singapore citizen is cancelled under paragraph (a) of Clause (4), and in consequence of that enrolment a child of that person had also been enrolled as such a citizen pursuant to Clause (2) of Article 15 as applied by this Article, the Federal Government may also cancel the child's enrolment unless the child has attained the age of twenty-one.

(6) Where under this Article or under any provision of the Constitution of the State of Singapore a person's enrolment as a citizen of either description is cancelled, that shall not discharge him from liability in respect of anything done or omitted before the cancellation, but except as regards anything so done or omitted he shall revert to his former status as a citizen.

Miscellaneous amendments as to citizenship by registration or naturalization

29. (1) In Article 16 of the Constitution (which provides for the registration as citizens of certain persons born in the Federation before Merdeka Day) in paragraph (a) after the words "resided in the Federation" there shall be inserted the words "outside Singapore", and in paragraph (b) for the words "to reside permanently therein" there shall be substituted the words "to do so permanently".

(2) Article 18 of the Constitution (which makes general provision as to registering persons as citizens under Article 15 or 16) shall be amended as follows:

(a) in Clause (1) for the words “Article 15 or 16” and in Clauses (2) and (3) for the words “either of the said Articles” there shall in each case be substituted the words “this Constitution”; and

(b) in Clause (2) after the words “deprived of citizenship under this Constitution” there shall be inserted the words “or the Constitution of the State of Singapore”.

(3) In Article 20 of the Constitution (which, until the end of January, 1964, makes special provision for the naturalization of members of the Federation forces), in the words “to reside permanently in the Federation” in paragraph (b) of Clause (1), the words “States of Malaya” shall be substituted for the word “Federation”.

(4) In Article 26A of the Constitution (under which a child may be deprived of citizenship on his parent losing citizenship if the child was registered as a citizen pursuant to Clause (2) of Article 15) for the words “Clause (2) of Article 15” there shall be substituted the words “this Constitution or the Constitution of the State of Singapore, and was so registered as being the child of that person or of that person’s wife or husband”.

Chapter 3—Miscellaneous

Deprivation of citizenship (Singapore citizens and persons becoming citizens on Malaysia Day) (Article 28A)

30. (1) For the purposes of Articles 24, 25, 26 and 26A a person who is a citizen by operation of law as having the status of a Singapore citizen shall be treated—

(a) as a citizen by registration, if he acquired that status by registration, or if he acquired it by enrolment when he was (or for those purposes was to be treated as being) a citizen of the Federation by registration; and

- (b) as a citizen by naturalization, if he acquired that status by naturalization, or if he acquired it by enrolment when he was (or for those purposes was to be treated as being) a citizen of the Federation by naturalization;

and references in those Articles to the registration or naturalization of a citizen shall be construed accordingly.

(2) For the purposes of Articles 24, 25, 26 and 26A a person who on Malaysia Day becomes a citizen by operation of law because immediately before that day he has the status of a citizen of the United Kingdom and colonies shall be treated—

- (a) as a citizen by registration if he acquired that status by registration; and
- (b) as a citizen by naturalization if he acquired that status by or in consequence of naturalization;

and references in those Articles to the registration or naturalization of a citizen shall be construed accordingly.

(3) Where a woman is under this Article to be treated as a citizen by registration, and the status in consequence of which she is to be so treated was acquired by her by virtue of marriage, then for purposes of Clause (4) of Article 24 and Clause (2) of Article 26 she shall be treated as a citizen by registration under Clause (1) of Article 15.

(4) Where a person born before Malaysia Day is under this Article to be treated as a citizen by registration by virtue of a connection with a Borneo State or with Singapore and he was not born in the territories comprised in the Borneo States or, as the case may be, in the State of Singapore, Article 25 shall apply to him as if he were a citizen by registration under Article 16A or 17.

(5) Notwithstanding that a person is under this Article to be treated as a citizen by naturalization, he shall not be deprived of his citizenship under Article 25 if he was born before Malaysia Day in the territories comprised in the Borneo States and is to be so treated by virtue of a status acquired by or in consequence of naturalization in those territories.

(6) Without prejudice to the foregoing Clauses, where on Malaysia Day a person becomes a citizen by operation of law in virtue of any status possessed by him immediately before that day, but he was liable in respect of things done before that day to be deprived of that status under the law relating thereto, then the Federal Government may by order deprive him of his citizenship, if proceedings for that purpose are begun before September, 1965; but Clause (2) of Article 26B and, subject to Clause (7), Article 27 shall apply to an order under this Clause as they apply to an order under Article 25.

(7) Where a person is liable to be deprived of citizenship under Clause (6) and proceedings had before Malaysia Day been begun to deprive him of the status in virtue of which he acquired his citizenship, those proceedings shall be treated as proceedings to deprive him of citizenship under that Clause, and shall be continued as such; but they shall be continued in accordance with the law relating to that status immediately before Malaysia Day, and the functions of the Federal Government in relation thereto shall be delegated to such authority of the State in question as the Federal Government may determine.

**Franchise, etc., of Singapore citizens and other citizens
(Article 30A)**

31. (1) Notwithstanding anything in Article 47, a Singapore citizen is not qualified to be an elected member of either House of Parliament except as a member for or from Singapore; and a citizen who is not a Singapore citizen is not qualified to be a member of either House for or from Singapore.

(2) A Singapore citizen shall not be qualified to be an elected member of the Legislative Assembly of any State other than Singapore; and a citizen who is not a Singapore citizen shall not be qualified to be a member of the Legislative Assembly of Singapore.

(3) Notwithstanding anything in Article 119, a citizen is not entitled to vote in a constituency in any election to the House of Representatives or a Legislative Assembly if—

- (a) the constituency is not in the State of Singapore and he is on the qualifying date (as defined in that Article) a Singapore citizen; or
- (b) if the constituency is in the State of Singapore and he is not on that date a Singapore citizen.

(4) Any election of a person to either House of Parliament or to a Legislative Assembly contrary to Clause (1) or (2) shall be void; and if a member of either House or of a Legislative Assembly (not being an appointed member) changes his status as being or not being a Singapore citizen, his seat shall become vacant.

Liaison as to citizenship between governments of Federation and of Singapore (Article 30B)

32. (1) Where under this Constitution a person becomes a Singapore citizen by naturalization, or is enrolled as a citizen who is not a Singapore citizen, or being a Singapore citizen renounces or is deprived of his citizenship, or where a certificate of citizenship or other certificate is issued under Article 30 in relation to citizenship of Singapore, the Federal Government shall notify the government of Singapore of the fact.

(2) Where under the Constitution of the State of Singapore a person becomes a Singapore citizen by registration, or is enrolled as a Singapore citizen, or is deprived of his citizenship, or where a certificate of citizenship is issued under that Constitution, the government of Singapore shall notify the Federal Government of that fact.

Minor amendments

33. (1) In Article 24 of the Constitution the words “at any time after Merdeka Day” in both places, and in Article 25 the words “whether beginning before, on or after Merdeka Day” in Clause (2), shall be omitted; and in Article 28 (which makes

special provision as to the termination of citizenship of persons becoming citizens on Merdeka Day) there shall be added at the end as a new Clause (3)—

“(3) A person who on Merdeka Day became a citizen by operation of law as having been a citizen of the Federation immediately before that day shall not be deprived of citizenship under Clause (1) or (2) of Article 24 by reason of anything done on or before that day; but in the case of any such person Clause (2) of Article 25 shall apply equally in relation to a period of residence in foreign countries beginning before Merdeka Day and in relation to such a period beginning on or after that day.”

(2) Article 25 of the Constitution (which provides for deprivation of citizenship for disloyalty, etc.) shall be amended as follows:

(a) for the words “Article 17” there shall in all places be substituted the words “Article 16A or 17”;

(b) in Clause (1A) the words from “after” to “later, and” shall be omitted, and there shall be added at the end of the Clause the proviso—

“Provided that a person shall not be deprived of citizenship under this Clause by reason of anything done before the beginning of October, 1962, notwithstanding that he was at the time a citizen”;

(c) in Clause (2) for the words “Malayan consulate” in paragraph (b) there shall be substituted the words “consulate of the Federation”.

(3) In the Second Schedule to the Constitution there shall be made, in the provisions which by virtue of this Act constitute Part III of that Schedule, the amendments provided for by Part IV of the Third Schedule to this Act.

Exclusion, as respects Borneo States and Singapore, of Article 22

34. In Article 22 of the Constitution (which enables Parliament by law to determine what persons are to be citizens by reason of a connection with a territory admitted to the Federation in pursuance of Article 2) after the words “admitted to the Federation” there shall be inserted the words “after Malaysia Day”.

TITLE III

LEGISLATIVE POWERS AND ADMINISTRATIVE ARRANGEMENTS

Modifications for Borneo States and Singapore of distribution of legislative powers (Article 95B)

35. (1) In the case of the Borneo States and Singapore—

- (a) the appropriate supplement to List II set out in the Ninth Schedule shall be deemed to form part of the State List, and the matters enumerated therein shall be deemed not to be included in the Federal List or Concurrent List; and
- (b) the appropriate supplement to List III set out in the Ninth Schedule shall, subject to the State List, be deemed to form part of the Concurrent List, and the matters enumerated therein shall be deemed not to be included in the Federal List (but not so as to affect the construction of the State List, where it refers to the Federal List).

(2) Where by virtue of Clause (1) an item is included in the Concurrent List for a State for a period only, the expiration or termination of that period shall not affect the continued operation of any State law passed by virtue of the item, save as provided by federal or State law.

(3) The Legislature of a Borneo State may also make laws for imposing sales taxes, and any sales tax imposed by State law in a Borneo State shall be deemed to be among the matters enumerated in the State List and not in the Federal List; but—

- (a) there shall not in the charging or administration of a State sales tax be any discrimination between goods of the same description according to the place in which they originate; and
- (b) the charge for any federal sales tax shall be met out of sums collected from a person liable for that tax before the charge for a State sales tax.

Supplements to Legislative Lists referred to in section 35

36. The Ninth Schedule to the Constitution shall be amended by inserting at the end of Lists II and III respectively the supplements to those Lists set out in the Fourth Schedule to this Act.

Power of Parliament to extend legislative powers of States (Article 76A)

37. (1) It is hereby declared that the power of Parliament to make laws with respect to a matter enumerated in the Federal List includes power to authorize the Legislatures of the States or any of them, subject to such conditions or restrictions (if any) as Parliament may impose, to make laws with respect to the whole or any part of that matter.

(2) Notwithstanding Article 75, a State law made under authority conferred by Act of Parliament as mentioned in Clause (1) may, if and to the extent that the Act so provides, amend or repeal (as regards the State in question) any federal law passed before that Act.

(3) Any matter with respect to which the Legislature of a State is for the time being authorized by Act of Parliament to make laws shall for purposes of Articles 79, 80 and 82 be treated as regards the State in question as if it were a matter enumerated in the Concurrent List.

(4) Subsections (1), (2) and (3) of this section shall be deemed to have come into operation on Merdeka Day.

Power by order to extend legislative or executive powers of Borneo States (Article 95C)

38. (1) Subject to the provisions of any Act of Parliament passed after Malaysia Day, the Yang di-Pertuan Agong may by order make as respects a Borneo State any such provision as may be made by Act of Parliament—

- (a) for authorizing the Legislature of the State to make laws as mentioned in Article 76A; or
- (b) for extending the executive authority of the State, and the powers or duties of any authority of the State, as mentioned in Clause (4) of Article 80.

(2) An order made by virtue of paragraph (a) of Clause (1) shall not authorize the Legislature of a State to amend or repeal an Act of Parliament passed after Malaysia Day, unless the Act so provides.

(3) Clause (3) of Article 76A and Clause (6) of Article 80 shall apply in relation to an order under paragraph (a) and paragraph (b) respectively of Clause (1) of this Article as they apply in relation to an Act of Parliament.

(4) Where an order under this Article is revoked by a later order, the later order may include provision for continuing in force (generally or to such extent or for such purposes as the order specify) any State law passed by virtue of the earlier order or any subsidiary legislation made or thing done under any such State law, and from the coming into operation of the later order any State law thereby continued in force shall have effect as federal law:

Provided that no provision shall be continued in force by virtue of this Clause if or insofar as it could not have been made by Act of Parliament.

(5) Any order of the Yang di-Pertuan Agong under this Article shall be laid before each House of Parliament.

Emergency laws

39. (1) In Article 150 of the Constitution (which makes special provision for legislation in the event of the Yang di-Pertuan Agong being satisfied of the existence of a grave emergency whereby the security or economic life of the Federation or of any part thereof is threatened, whether by war or external aggression or internal disturbance) there shall be omitted in Clause (1) the words “whether by war or external aggression or by internal disturbance”.

(2) In that Article for Clauses (5) and (6) there shall be substituted the following Clauses (5), (6) and (6A):

“(5) Subject to Clause (6A), while a Proclamation of Emergency is in force, Parliament may, notwithstanding anything in this Constitution, make laws with respect to any matter, if it appears to Parliament that the law is required by reason of the emergency; and Article 79 shall not apply to a Bill for such a law or an

amendment to such a Bill, nor shall any provision of this Constitution or of any written law which requires any consent or concurrence to the passing of a law or any consultation with respect thereto, or which restricts the coming into operation of a law after it is passed or the presentation of a Bill to the Yang di-Pertuan Agong for his assent.

(6) Subject to Clause (6A), no provision of any ordinance promulgated under this Article, and no provision of any Act of Parliament which is passed while a Proclamation of Emergency is in force and which declares that the law appears to Parliament to be required by reason of the emergency, shall be invalid on the ground of inconsistency with any provision of this Constitution.

(6A) Clause (5) shall not extend the powers of Parliament with respect to any matter of Muslim law or the custom of the Malays, or with respect to any matter of native law or custom in a Borneo State; nor shall Clause (6) validate any provision inconsistent with the provisions of this Constitution relating to any such matter or relating to religion, citizenship, or language.”

Proceedings for questioning validity of federal or State law

40. In Article 4 of the Constitution, in Clause (3) (under which a law may not be questioned as going beyond the powers of Parliament or of the State Legislature as the case may be, except in proceedings between the Federation and a State or States) after the word “except” there shall be inserted the words “in proceedings for a declaration that the law is invalid on that ground or”; and at the end of the Article there shall be added as a new Clause (4)—

“(4) Proceedings for a declaration that a law is invalid on the ground mentioned in Clause (3) (not being proceedings falling within paragraph (a) or (b) of the Clause) shall not be commenced without the leave of a judge of the Federal Court; and the Federation shall be entitled to be a party to any such proceedings, and so shall any State that would or might be a party to proceedings brought for the same purpose under paragraph (a) or (b) of the Clause.”

Power of Parliament to give effect to existing treaties, etc. for Borneo States and Singapore

41. In Article 169 of the Constitution (which extends to certain pre-Merdeka obligations of the United Kingdom the power of Parliament to legislate for implementing international obligations of the Federation) there shall be added at the end as paragraph (c)—

“(c) in relation to the Borneo States and to Singapore paragraphs (a) and (b) shall apply with the substitution of references to Malaysia Day for the references to Merdeka Day and of references to the territories comprised in those States or any of them for the references to the Federation or any part thereof.”

Exclusion for Borneo States and Singapore of Parliament’s power to pass uniform laws about land or local government (Article 95D)

42. In relation to a Borneo State and in relation to Singapore, Clause (4) of Article 76 shall not apply, nor shall paragraph (b) of Clause (1) of that Article enable Parliament to make laws with respect to any of the matters mentioned in Clause (4) of that Article.

Exclusion of Borneo States and Singapore from national plans for land utilization, local government, development, etc. (Article 95E)

43. (1) In relation to a Borneo State and in relation to Singapore, Articles 91, 92, 94 and 95A shall have effect subject to the following Clauses.

(2) Subject to Clause (5), under Article 91 and under Article 95A, the State government shall not be required to follow the policy formulated by the National Land Council or by the National Council for Local Government, as the case may be, but the representative of the State shall not be entitled to vote on questions before the Council.

(3) Under Article 92, no area in the State shall be proclaimed a development area for the purposes of any development plan without the concurrence of the Governor.

(4) Under Clause (1) of Article 94 (under which in respect of matters in the State List the Federation may conduct research, give advice and technical assistance, etc.) the agricultural and forestry officers of a Borneo State shall consider, but shall not be required to accept, professional advice given to the government of the State.

(5) Clause (2) shall cease to apply to a State—

- (a) as regards Article 91, if Parliament so provides with the concurrence of the Governor; and
- (b) as regards Article 95A, if Parliament so provides with the concurrence of the Legislative Assembly;

but for each representative of a Borneo State or of Singapore becoming entitled, by virtue of this Clause, to vote on questions before the National Land Council or National Council of Local Government, one shall be added to the maximum number of representatives of the Federal Government on that Council.

Application of Articles 83 to 87 to States not having a Ruler (Article 88)

44. In their application to any of the States not having a Ruler, Articles 83 to 87 shall have effect—

- (a) subject to such adaptations (if any) as Parliament may by law provide, being adaptations required to secure that they apply (as nearly as practicable having regard to differences in the system of land tenure) in the same manner as they apply to other States; and
- (b) in the case of the Borneo States and Singapore with the omission in Article 83 of paragraph (a) of Clause (5).

TITLE IV

FINANCIAL PROVISIONS

*Chapter 1—Borneo States***Amendments of Tenth Schedule for Borneo States**

45. (1) For the Borneo States there shall be added to the Tenth Schedule to the Constitution as Parts IV and V of that Schedule (with such effect as is provided by the next following section of this Act) the provisions set out as such in the Fifth Schedule to this Act.

(2) At the end of Part II of the Tenth Schedule to the Constitution there shall be added as a new section 6—

“6. (1) The State road grant payable to Sabah or Sarawak shall, in each of the years 1964 and 1965, be payable at the rate of RM4,500 a mile in respect of a mileage in Sabah of 1,151 miles and in Sarawak of such amount as may be agreed between the Federal and State Governments.

(2) Thereafter sections 2 to 5 shall apply to the State road grant so payable with the following modifications:

- (a) the average cost and minimum standard mentioned in section 2(a) shall be respectively the average in the State and the minimum standard determined for State roads in the State; and
- (b) any length of road maintained by a local authority at the expense of the State shall be treated as maintained by the Public Works Department of the State.”

Special grants and assignments of revenue to Borneo States (Article 112c)

46. (1) Subject to the provisions of Article 112D and to any limitation expressed in the relevant section of the Tenth Schedule—

- (a) the Federation shall make to the Borneo States in respect of each financial year the grants specified in Part IV of that Schedule; and

- (b) each of those States shall receive all proceeds from the taxes, fees and dues specified in Part V of that Schedule, so far as collected, levied or raised within the State, or such part of those proceeds as is so specified.

(2) The amounts required for making the grants specified in the said Part IV, and the amounts receivable by a Borneo State under section 3 or 4 of the said Part V, shall be charged on the Consolidated Fund; and the amounts otherwise receivable by a Borneo State under the said Part V shall not be paid into the Consolidated Fund.

(3) In Article 110, Clauses (3A) and (4) shall not apply to a Borneo State.

(4) Subject to Clause (5) of Article 112D, in relation to a Borneo State, Clause (3B) of Article 110—

- (a) shall apply in relation to all minerals, including mineral oils; but
- (b) shall not authorize Parliament to prohibit the levying of royalties on any mineral by the State or to restrict the royalties that may be so levied in any case so that the State is not entitled to receive a royalty amounting to ten per cent *ad valorem* (calculated as for export duty).

Reviews of special grants to Borneo States (Article 112D)

47. (1) The grants specified in section 1 and subsection (1) of section 2 of Part IV of the Tenth Schedule, and any substituted or additional grant made by virtue of this Clause, shall at the intervals mentioned in Clause (4) be reviewed by the governments of the Federation and the States or State concerned, and if they agree on the alteration or abolition of any of those grants, or the making of another grant instead of or as well as those grants or any of them, the said Part IV and Clause (2) of Article 112C shall be modified by order of the Yang di-Pertuan Agong as may be necessary to give effect to the agreement:

Provided that on the first review the grant specified in subsection (2) of section 1 of the said Part IV shall not be brought into question except for the purpose of fixing the amounts for the ensuing five years.

(2) Any review under this Article shall take into account the financial position of the Federal Government, as well as the needs of the States or State concerned, but (subject to that) shall endeavour to ensure that the State revenue is adequate to meet the cost of State services as they exist at the time of the review, with such provision for their expansion as appears reasonable.

(3) The period for which provision is to be made on a review shall be a period of five years or (except in the case of the first review) such longer period as may be agreed between the Federation and the States or State concerned; but any order under Clause (1) giving effect to the results of a review shall continue in force after the end of that period, except insofar as it is superseded by a further order under that Clause.

(4) A review under this Article shall not take place earlier than is reasonably necessary to secure that effect can be given to the results of the review from the end of the year 1968 or, in the case of a second or subsequent review, from the end of the period provided for by the preceding review; but, subject to that, reviews shall be held as regards both Borneo States for periods beginning with the year 1969 and with the year 1974, and thereafter as regards either of them at such time (during or after the period provided for on the preceding review) as the Government of the Federation or of the State may require.

(5) If on the occasion of any review under this Article the Government of the Federation give notice to the States or State concerned of their intention to vary any of the assignments of revenue under Part V of the Tenth Schedule (including any substituted or additional assignment made by virtue of this Clause), or to vary Clause (4) of Article 112c, the review shall take the variation into account, and provision shall be made by order of the Yang di-Pertuan Agong so as to give effect to the variation from the beginning of the period provided for on the review:

Provided that this Clause shall not apply to the assignments under sections 4, 7 and 8, and shall not apply to that under section 5 or 6 until the second review.

(6) If on any review the Federal Government and the government of a State are unable to reach agreement on any matter, it shall be referred to an independent assessor, and his recommendations thereon shall be binding on the governments concerned and shall be given effect as if they were the agreement of those governments.

(7) Clause (4) of Article 108 shall not apply to require the Federal Government to consult the National Finance Council in respect of matters arising under this Article.

(8) Any order of the Yang di-Pertuan Agong under this Article shall be laid before each House of Parliament.

Chapter 2—Singapore

Financial arrangements with Singapore (Article 112E)

48. (1) The Federal Government and the government of Singapore may from time to time enter into agreements providing for all or any of the following matters:

- (a) the manner in which the revenue derived by the Federation from Singapore or any part of that revenue is to be collected and accounted for, and the division of it between the Federation and the State;
- (b) the exercise by the State government or other authority of the State in relation to any such revenue of powers conferred by laws relating thereto, or the concurrence of that government or any such authority in the exercise of any of those powers;
- (c) the inclusion of Singapore in a common market with the rest of the Federation, the establishment of a Tariff Advisory Board and the laying down of conditions for the levying of import and export duties in relation to goods imported into or exported from Singapore;
- (d) excluding or modifying in relation to the State all or any of the provisions of Articles 109 and 110 and the Tenth Schedule;

- (e) the making of payments (by way of loan or otherwise) by the Federation to the State or by the State to the Federation;
- (f) determining the revenue which is to be treated for the purposes of any such agreement as derived from Singapore, reviewing the operation of any such agreement and referring to the decision of an independent assessor matters arising on such a review and not settled by agreement, and other matters arising out of or incidental to any such agreement.

(2) The Yang di-Pertuan Agong shall by order make such provision as may be necessary to give effect to any such agreement as is mentioned in Clause (1), including provision modifying in relation to Singapore any law relating to any federal revenue; and any such order shall be laid before each House of Parliament.

(3) An order under Clause (2) may provide that the executive authority of the State shall extend to the administration of any specified provisions of the law relating to any federal revenue, and may for that purpose confer powers and impose duties on any authority of the State.

(4) In relation to Singapore, Part III of the Tenth Schedule shall have effect as if the source of revenue specified in section 7 included the property tax levied for local purposes by the State.

(5) The decision of an independent assessor on any matter referred to him on the review of an agreement under this Article shall be binding on the governments concerned and shall be treated for purposes of this Article as the agreement of those governments.

(6) Clause (4) of Article 108 shall not apply to require the Federal Government to consult the National Finance Council in respect of any agreement under this Article.

(7) An agreement made before Malaysia Day shall have effect for the purposes of this Article.

(8) This Article shall cease to have effect as regards the making of any further agreement thereunder—

- (a) if at any time there is no agreement in force under this Article; and
- (b) in such other circumstances as may be provided by any agreement thereunder:

Provided that it shall not under paragraph (a) so cease to have effect pending the completion of a review of the operation of such an agreement (including any reference to an independent assessor).

Chapter 3—General

Borrowing powers of Borneo States and Singapore (Article 112B)

49. Clause (2) of Article 111 shall not restrict the power of a Borneo State or of Singapore to borrow under the authority of State law within the State, if the borrowing has the approval of the Central Bank for the time being of the Federation, nor the power of Singapore to borrow under the authority of State law otherwise than within the State, if the borrowing has the approval of the Federal Government.

State audits in Borneo States and Singapore (Article 112A)

50. (1) The Auditor General shall submit his reports relating to the accounts of a Borneo State of Singapore, or to the accounts of any public authority exercising powers vested in it by the State law in any of those State, to the Yang di-Pertuan Agong (who shall cause them to be laid before the House of Representatives) and to the Governor of the State; and accordingly Clause (2) of Article 107 shall not apply to those reports.

(2) The Governor shall cause any such report submitted to him to be laid before the Legislative Assembly.

(3) The powers and duties of the Auditor General in relation to the accounts mentioned in Clause (1) for any period ending before the year 1969 shall, in a Borneo State, be exercised and discharged on his behalf by the senior officer of his department for the time being stationed in the State in question:

Provided that during the absence or incapacity of that officer, or a vacancy in his post, those powers and duties shall be exercised and discharged by the Auditor General or such officer of his department as he may designate.

State road grant in States of Malaya

51. The rules for determining the rate at which the State road grant is payable by the Federation to the States of Malaya shall be the same as if this Act had not been passed, and accordingly Part II of the Tenth Schedule to the Constitution shall be amended as follows:

- (a) in section 2 for the words “each State” and for the words “such roads” there shall respectively be substituted the words “each of the States of Malaya” and the words “State roads in those States”; and
- (b) in section 3 for the words “throughout the Federation” there shall be substituted the words “throughout the States of Malaya”.

TITLE V

PUBLIC SERVICES

Judicial and Legal Service Commission (Article 138)

52. (1) There shall be a Judicial and Legal Service Commission, whose jurisdiction shall extend to all members of the judicial and legal service.

(2) Subject to Article 146A, the Judicial and Legal Service Commission shall consist of—

- (a) the Chairman of the Public Services Commission, who shall be Chairman;
- (b) the Attorney General; and
- (c) one or more other members who shall be appointed by the Yang di-Pertuan Agong, after consultation with the Lord President of the Federal Court, from among persons who are or have been a judge of the Federal Court or a High Court or shall before Malaysia Day have been a judge of the Supreme Court.

(3) The person who is secretary to the Public Services Commission shall be secretary also to the Judicial and Legal Service Commission.

Amendments consequential on establishment of Judicial and Legal Service Commission

53. (1) In Article 135 of the Constitution there shall be added as a new Clause (3)—

“(3) No member of any of the services mentioned in paragraph (e), (f) or (g) of Clause (1) of Article 132 shall, without the concurrence of the Judicial and Legal Service Commission, be dismissed or reduced in rank or suffer any other disciplinary measure for anything done or omitted by him in the exercise of a judicial function conferred on him by law.”

(2) In Article 139, in Clause (1) (under which the Public Services Commission, by virtue of the reference to paragraph (b) of Clause (1) of Article 132, has jurisdiction over the judicial and legal service), there shall be omitted the “(b)” following the word “paragraphs”.

(3) In Article 144, in Clause (3) (which makes special provision for appointments to the posts of head or deputy head of a department and posts of similar status) after the word “status” there shall be inserted the words “other than posts in the judicial and legal service”.

(4) In the original Article 145, if still in force at the commencement of this Act, in Clause (1) (which provides for the appointment of the Attorney General to be made after consultation with the Public Services Commission) for the words “Public Services Commission” there shall be substituted the words “Judicial and Legal Service Commission”.

(5) In Article 148, in Clause (1) (which construes references to a Commission to which Part X applies as references to one of those established by Articles 139 to 141), for the words “139” there shall be substituted the words “138”.

Branches in Borneo States and in Singapore of Judicial and Legal Service Commission (Article 146A)

54. (1) In respect of members of the judicial and legal service who are employed in the Borneo States or in Singapore the functions to be discharged by the Judicial and Legal Service Commission shall, so long as this Article has effect, be discharged by a branch of that Commission established for the Borneo States or for Singapore, as the case may be.

(2) The branch of the Judicial and Legal Service Commission for the Borneo States shall consist of—

- (a) the Chief Justice of the High Court in Borneo, who shall be Chairman;
- (b) the legal advisers of the Borneo States;
- (c) the chairman of the State Public Service Commission (if any) in each of the Borneo States; and
- (d) two persons designated by the Federal Government from among the members of the main body of the Judicial and Legal Service Commission or Public Services Commission.

(3) The branch of the Judicial and Legal Service Commission for Singapore shall consist of—

- (a) the Chief Justice of the High Court in Singapore, who shall be Chairman;

- (b) the legal adviser of the State;
- (c) the chairman of the State Public Service Commission in Singapore;
- (d) a judge of the High Court in Singapore designated by the Chief Justice;
- (e) not more than two members of the Public Services Commission, being the member or members of the main body serving under Clause (3) of Article 146B on the branch for Singapore of that Commission or, if that Clause is not in operation, a member or members designated by the Federal Government.

(4) At any time when the branch of the Judicial and Legal Service Commission for the Borneo States includes among its members more than one chairman of a State Public Service Commission the following provisions shall apply:

- (a) not more than one of those chairmen shall attend any meeting of the branch, and the one entitled to attend and be summoned to any meeting shall be determined by or in accordance with the rules of the branch and (subject to the rules) any general or special directions of the chairman of the branch; and
- (b) the branch shall not make appointments to posts in the State of either of those chairmen at a meeting which he does not attend and has not been summoned to, unless he consents to their doing so.

(5) Notwithstanding Clause (2) of Article 134, so long as there is for the Borneo States or for Singapore a branch of the Judicial and Legal Service Commission under this Article, the jurisdiction of the Commission shall extend to members of the public service of a Borneo State or of Singapore, as the case may be, who are seconded to the judicial and legal service, and for purposes of the Judicial and Legal Service Commission they shall be deemed to be members of that service.

(6) This Article shall have effect until the end of August, 1968, and thereafter—

- (a) in relation to the Borneo States, until the Federal Government determines to the contrary; and
- (b) in relation to Singapore, until Parliament otherwise provides by an Act passed with the concurrence of the Governor.

Branches in each Borneo State and in Singapore of Public Services Commission (Article 146B)

55. (1) In respect of members of the general public service of the Federation who are employed in a federal department in a Borneo State or in Singapore, the functions to be discharged by the Public Services Commission shall, so long as this Clause has effect, be discharged by a branch of that Commission established for the State.

(2) Subject to Clause (3), the branch of the Public Services Commission established for a State under Clause (1) shall consist of such members of the main body of the Commission as may be designated by the Federal Government and such special members as the Yang di-Pertuan Agong may appoint; and the Yang di-Pertuan Agong in making any appointment under this Clause shall act in his discretion, after considering the advice of the Prime Minister and consulting the Governor of the State.

(3) So long as this Clause has effect, in any State in which there is for the time being a State Public Service Commission, the members of that Commission shall *ex officio* be members of the branch for the State of the Public Services Commission, and that branch shall consist of those members and not more than two members of the main body of the Public Services Commission designated by the Federal Government.

(4) Such member of a branch of the Public Services Commission established under Clause (1) as may be designated by the Chairman of the Commission shall be chairman of the branch.

(5) The number of members of the Public Services Commission required by Clause (4) of Article 139 shall be the number of the members of the main body, exclusive of those who are members of a branch but not of the main body.

(6) Where a post in a federal department in a Borneo State entails duties in or in respect of the other of those States, the branch of the Public Services Commission whose jurisdiction is to extend to that post shall be the branch for the State in which the head of the department is normally stationed or, in any case of doubt or difficulty, whichever branch the Federal Government may determine.

(7) Notwithstanding Clause (2) of Article 134, so long as there is for a Borneo State or Singapore a branch of the Public Services Commission under this Article and the branch is constituted in accordance with Clause (3), the jurisdiction of the Public Services Commission shall extend (except as regards the exercise of disciplinary control over them) to members of the public service of the State who are seconded to the general public service of the Federation, other than members in or below such grade as the Yang di-Pertuan Agong, with the concurrence of the Governor, may direct; and for purposes of the Public Services Commission they shall be deemed (except as regards the exercise of disciplinary control over them) to be members of the general public service of the Federation.

(8) Clauses (1) and (3) shall have effect until the end of August, 1968, and thereafter either shall continue to have effect—

- (a) in relation to a Borneo State, until the Federal Government determines to the contrary; and
- (b) in relation to Singapore, until Parliament otherwise provides by an Act passed with the concurrence of the Governor.

Supplementary provisions as to branches of Commissions (Article 146c)

56. (1) If provision is made by federal law for establishing a joint service common to the Federation and to a Borneo State or Singapore, or to two or more of those States with or without the Federation, and for conferring jurisdiction in respect of that service on the Judicial and Legal Service Commission or the Public Services Commission, federal law may provide for functions of the Commission in relation to that service to be exercised by any branch for the time being established under Article 146A or 146B for the State or any of the States in question.

(2) In Article 142, paragraph (b) of Clause (4) and, in Article 143, Clause (2) shall have effect in relation to members of a branch of the Judicial and Legal Service Commission or Public Services Commission established under Article 146A or 146B as if the references to federal law included references to State law.

(3) Clause (8) of Article 144 shall apply to a branch of the Judicial and Legal Service Commission or Public Services Commission established under Article 146A or 146B as if it were a separate Commission to which this Part applies; but nothing in those Articles shall be taken to require such a branch to make a separate annual report under Article 146.

Jurisdiction of Police Force Commission over seconded members of State service in Borneo States (Article 146D)

57. (1) Notwithstanding Clause (2) of Article 134, the jurisdiction of the Police Force Commission shall extend (except as regards the exercise of disciplinary control over them) to members of the public service of a Borneo State who are seconded to the police force; and for purposes of the Police Force Commission they shall be deemed (except as regards the exercise of disciplinary control over them) to be members of the police force.

(2) If in a Borneo State there is not a board exercising disciplinary control over the said persons and having the following membership, that is to say,—

- (a) the Chairman of a State Public Service Commission in the State; and
- (b) the legal adviser of the State; and
- (c) the senior officer of police in the State; and
- (d) a representative of the officer of police in general command of the police force;

then Clause (1) shall apply as if it made no exception for the exercise of disciplinary control.

(3) So much of Clause (2) of Article 139 as provides for extending the jurisdiction of the Public Services Commission in certain circumstances to members of the public service of a State shall not apply to members of the public service of a Borneo State who are seconded to the police force.

Offices not comprised in term “public service” or not subject to Commissions

58. In Article 132 of the Constitution, for Clauses (3) and (4) there shall be substituted—

“(3) The public service shall not be taken to comprise—

- (a) the office of any member of the administration in the Federation or a State; or
- (b) the office of President, Speaker, Deputy President, Deputy Speaker or member of either House of Parliament or of the Legislative Assembly of a State; or
- (c) the office of judge of the Federal Court or a High Court; or
- (d) the office of member of any Commission or Council established by this Constitution or any corresponding Commission or Council established by the Constitution of a State; or
- (e) such diplomatic posts as the Yang di-Pertuan Agong may by order prescribe, being posts which but for the order would be posts in the general public service of the Federation.

(4) References in this Part, except in Articles 136 and 147, to persons in the public service or to members of any of the public services shall not apply to—

- (a) the Clerk to either House of Parliament or any member of the staff of Parliament; or

- (b) the Attorney General or, if provision for the manner of his appointment and removal from office is specifically included in the Constitution of the State, or if he is appointed otherwise than from among the members of the judicial and legal service or of the public service of the State, the legal adviser of any State; or
- (c) a member of the personal staff of the Yang di-Pertuan Agong or of a Ruler or Governor.”

Supplementary

59. (1) In Article 139 of the Constitution, in Clause (4) (under which the membership of the Public Services Commission is limited to eight members in addition to the chairman and deputy chairman), for the word “eight” there shall be substituted the word “ten”, and at the beginning of that Clause there shall be inserted the words “Subject to Article 146B”.

(2) In Article 148 of the Constitution there shall be added at the end of Clause (2) the words “and ‘State Public Service Commission’ means, in relation to any State, a Commission exercising functions in respect of members of the public service of the State and corresponding in status and jurisdiction to the Public Services Commission”.

TITLE VI

PROTECTION OF SPECIAL INTERESTS

Chapter 1—General

Power to limit freedom of movement or of association, etc.

60. (1) In Article 9 of the Constitution, in Clause (2) (which guarantees to citizens the right of free movement throughout the Federation), for the words “Subject to any restriction imposed by any law relating to the security of the Federation”

there shall be substituted the words “Subject to Clause (3) and to any law relating to the security of the Federation or any part thereof”; and at the end of the Article there shall be added as Clause (3)—

“(3) So long as under this Constitution any other State is in a special position as compared with the States of Malaya, Parliament may by law impose restrictions, as between that State and other States, on the rights conferred by Clause (2) in respect of movement and residence:

Provided that no restriction on the right of movement between the State of Singapore and the States of Malaya shall be imposed by virtue of this Clause except by a law relating to labour or education or to any matter in respect of which, because of the special position of the State of Singapore, it appears to Parliament to be desirable to prevent the enjoyment of rights both in the State of Singapore and in the States of Malaya.”

(2) The said Clause (3) of Article 9 of the Constitution shall apply to laws passed before Malaysia Day so as to impose restrictions with effect from Malaysia Day.

(3) In Article 10 of the Constitution (which guarantees to citizens the rights of free speech, assembly and association, subject to any restrictions imposed in the interest of the security of the Federation, etc.), in Clause (2) after the words “the security of the Federation” there shall, in all places, be inserted the words “or any part thereof”.

(4) In the said Article 10, in Clause (1) for the words “Clause (2)” there shall be substituted the words “Clauses (2) and (3)”, and at the end of the Article there shall be added as Clause (3)—

“(3) Restrictions on the right to form associations conferred by paragraph (c) of Clause (1) may also be imposed by any law relating to labour or education.”

*Chapter 2—Borneo States***Use of English and of native languages in Borneo States
(Article 161)**

61. (1) No Act of Parliament terminating or restricting the use of the English language for any of the purposes mentioned in Clauses (2) to (5) of Article 152 shall come into operation as regards the use of the English language in any case mentioned in Clause (2) of this Article until ten years after Malaysia Day.

(2) Clause (1) applies—

- (a) to the use of the English language in either House of Parliament by a member for or from a Borneo State; and
- (b) to the use of the English language for proceedings in the High Court in Borneo or in a subordinate court in a Borneo State, or for such proceedings in the Federal Court as are mentioned in Clause (4); and
- (c) to the use of the English language in a Borneo State in the Legislative Assembly or for other official purposes (including the official purposes of the Federal Government).

(3) Without prejudice to Clause (1), no such Act of Parliament as is there mentioned shall come into operation as regards the use of the English language for proceedings in the High Court in Borneo or for such proceedings in the Federal Court as are mentioned in Clause (4), until the Act or the relevant provision of it has been approved by enactments of the Legislatures of the Borneo States; and no such Act shall come into operation as regards the use of the English language in a Borneo State in any other case mentioned in paragraph (b) or (c) of Clause (2), until the Act or the relevant provision of it has been approved by an enactment of the Legislature of that State.

(4) The proceedings in the Federal Court referred to in Clauses (2) and (3) are any proceedings on appeal from the High Court in Borneo or a judge thereof, and any proceedings under Clause (2) of Article 128 for the determination of a question which has arisen in proceedings before the High Court in Borneo or a subordinate court in a Borneo State.

(5) Notwithstanding anything in Article 152, in a Borneo State a native language in current use in the State may be used in native courts or for any code of native law and custom, and in the case of Sarawak, until otherwise provided by enactment of the Legislature, may be used by a member addressing the Legislative Assembly or any committee thereof.

Special position of natives of Borneo States (Article 161A)

62. (1) Subject to Clause (2), the provisions of Clauses (2) to (5) of Article 153, so far as they relate to the reservation of positions in the public service, shall apply in relation to natives of any of the Borneo States as they apply in relation to Malays.

(2) In a Borneo State Article 153 shall have effect with the substitution of references to natives of the State for the references to Malays, but as regards scholarships, exhibitions and other educational or training privileges and facilities Clause (2) of that Article shall not require the reservation of a fixed proportion for natives.

(3) Before advice is tendered to the Yang di-Pertuan Agong as to the exercise of his powers under Article 153 in relation to a Borneo State, the Chief Minister of the State in question shall be consulted.

(4) The Constitutions of the Borneo States may make provision corresponding (with the necessary modifications) to Article 153 with the changes made by Clause (2).

(5) Article 89 shall not apply to a Borneo State, and Article 8 shall not invalidate or prohibit any provision of State law in a Borneo State for the reservation of land for natives of the State or for alienation to them, or for giving them preferential treatment as regards the alienation of land by the State.

(6) In this Article “native” means—

(a) in relation to Sarawak, a person who is a citizen and either belongs to one of the races specified in Clause (7) as indigenous to the State or is of mixed blood deriving exclusively from those races; and

- (b) in relation to Sabah, a person who is a citizen, is the child or grandchild of a person of a race indigenous to Sabah, and was born (whether on or after Malaysia day or not) either in Sabah or to a father domiciled in Sabah at the time of the birth.

(7) The races to be treated for the purposes of the definition of “native” in Clause (6) as indigenous to Sarawak are the Bukitans, Bisayahs, Dusuns, Sea Dayaks, Land Dayaks, Kadayans, Kalabits, Kayans, Kenyahs (including Sabups and Sipengs), Kajangs (including Sekapans, Kejamans, Lahanans, Punans, Tanjongs and Kanowits), Lugats, Lisums, Malays, Melanos, Muruts, Penans, Sians, Tagals, Tabuns and Ukits.

Restriction on extension to non-residents of right to practise before courts in Borneo States (Article 161B)

63. (1) Insofar as any provision made by or under an Act of Parliament, by removing or altering a residence qualification, confers a right to practise before a court in the Borneo States or either of them on persons not previously having the right, that provision shall not come into operation until adopted in the States or State in question by an enactment of the Legislature.

(2) This Article shall apply to the right to practise before the Federal Court when sitting in the Borneo States and entertaining proceedings on appeal from the High Court in Borneo or a judge thereof or proceedings under Clause (2) of Article 128 for the determination of a question which has arisen in proceedings before the High Court in Borneo or a subordinate court in a Borneo State.

Muslim education in Borneo States (Article 161C)

64. (1) No Act of Parliament which provides as respects a Borneo State for special financial aid for the establishment or maintenance of Muslim institutions or the instruction in the Muslim religion of persons professing that religion shall be passed without the consent of the Governor.

(2) Where under any provision of federal law not having effect as respects Sabah, or not having effect as respects Sarawak, any such aid as aforesaid is given by way of grant out of public funds in any year, there shall be paid by the Federation to the Government of Sabah or Sarawak, as the case may be, and applied for social welfare purposes in that State, amounts which bear to the revenue derived by the Federation from that State in the year the same proportion as the grant bears to the revenue derived by the Federation from other States in that year.

(3) For the purposes of Clause (2) the revenue derived by the Federation from any State or States shall be the amount after deduction of any sums assigned to States under Article 110 or the Tenth Schedule; and there shall be disregarded any contributions received by the Federation out of the proceeds of lotteries conducted by the Social and Welfare Services Lotteries Board together with any amounts applied to such aid as aforesaid out of or by reference to those contributions.

Freedom of religion (Article 161D)

65. Notwithstanding Clause (4) of Article 11, there may be included in the Constitution of a Borneo State provision that an enactment of the State Legislature controlling or restricting the propagation of any religious doctrine or belief among persons professing the Muslim religion shall not be passed unless it is agreed to in the Legislative Assembly on second or third reading or on both by a specified majority, not being a majority greater than two-thirds of the total number of members of the Assembly.

Safeguards for constitutional position of Borneo States (Article 161E)

66. (1) As from the passing of the Malaysia Act no amendment to the Constitution made in connection with the admission to the Federation of a Borneo State shall be excepted from Clause (3) of Article 159 by Clause (4)(bb) of that Article; nor shall any modification made as to the application of the Constitution to a Borneo State be so excepted unless the modification is such as to equate or assimilate the position of that State under the Constitution to the position of the States of Malaya.

(2) No amendment shall be made to the Constitution without the concurrence of the Governor of the Borneo State or each of the Borneo States concerned, if the amendment is such as to affect the operation of the Constitution as regards any of the following matters:

- (a) the right of persons born before Malaysia day to citizenship by reason of a connection with the State, and (except to the extent that different provision is made by the Constitution as in force on Malaysia Day) the equal treatment, as regards their own citizenship and that of others, of persons born or resident in the State and of persons born or resident in the States of Malaya;
- (b) the constitution and jurisdiction of the High Court in Borneo and the appointment, removal and suspension of judges of that court;
- (c) the matters with respect to which the Legislature of the State may (or Parliament may not) make laws, and the executive authority of the State in those matters, and (so far as related thereto) the financial arrangements between the Federation and the State;
- (d) religion in the State, the use in the State or in Parliament of any language and the special treatment of natives of the State;
- (e) the allocation to the State, in any Parliament summoned to meet before the end of August, 1970, of a quota of members of the House of Representatives not less, in proportion to the total allocated to the other States which are members of the Federation on Malaysia Day, than the quota allocated to the State on that day.

(3) No amendment to the Constitution which affects its operation as regards the quota of members of the House of Representatives allocated to a Borneo State shall be treated for purposes of Clause (1) as equating or assimilating the position of that State to the position of the States of Malaya.

(4) In relation to any rights and powers conferred by federal law on the government of a Borneo State as regards entry into the State and residence in the State and matters connected therewith (whether or not the law is passed before Malaysia Day) Clause (2) shall apply, except insofar as the law provides to the contrary, as if the law had been embodied in the Constitution and those rights and powers had been included among the matters mentioned in paragraphs (a) to (e) of that Clause.

(5) In this Article “amendment” includes addition and repeal.

Chapter 3–Singapore

Use of unofficial languages in Singapore Assembly (Article 161F)

67. Notwithstanding anything in Article 152, until otherwise provided by enactment of the Legislature of Singapore, the English, Mandarin and Tamil languages may be used in the Legislative Assembly of Singapore, and the English language may be used for the authoritative texts of all Bills to be introduced or amendments thereto to be moved in that Assembly, and of all enactments of that Legislature, and of all subsidiary legislation issued by the government of Singapore.

Special position of Malays in Singapore (Article 161G)

68. Nothing in Clause (2) of Article 8 or Clause (1) of Article 12 shall prohibit or invalidate any provision of State law in Singapore for the advancement of Malays; but there shall be no reservation for Malays in accordance with Article 153 of positions in the public service to be filled by recruitment in Singapore, or of permits or licences for the operation of any trade or business in Singapore.

Safeguards for constitutional position of Singapore (Article 161H)

69. (1) No amendment shall be made to the Constitution without the concurrence of the Governor if the amendment is such as to affect the operation of the Constitution in relation to Singapore as regards any of the following matters:

- (a) citizenship of Singapore, and the restriction to citizens of Singapore of the right to be a member of either House of Parliament for or from Singapore, or to be a member of the Legislative Assembly of Singapore, or to vote at elections in Singapore;

- (b) the constitution and jurisdiction of the High Court in Singapore and the appointment, removal and suspension of judges of that court;
 - (c) the matters with respect to which the Legislature of the State may (or Parliament may not) make laws, the executive authority of the State in those matters, the borrowing powers of the State and the financial arrangements between the Federation and the State;
 - (d) the discharge of functions of the Public Services Commission or of the Judicial and Legal Service Commission by a branch established for the State, and the constitution of any such branch;
 - (e) religion in the State, the use in the State or in Parliament of any language and the special position of the Malays in Singapore;
 - (f) the allocation to the State, in any Parliament summoned to meet before the end of August, 1970, of a quota of members of the House of Representatives not less, in proportion to the total allocated to the other States which are members of the Federation on Malaysia Day, than the quota allocated to the State on that day.
- (2) In this Article “amendment” includes addition and repeal.

TITLE VII

SUPPLEMENTARY

Minor and consequential amendments

70. The Constitution shall be amended by amending or omitting as specified in the second column of the Sixth Schedule to this Act the provisions specified in the first column.

Operation of transitional provisions of Malaysia Act (Article 159A)

71. The provisions of Part IV of the Malaysia Act (which contains temporary and transitional provisions in connection with the operation of that Act) shall have effect as if embodied in this Constitution, and shall have effect notwithstanding anything in this Constitution as amended by that Act; and the provisions of this Constitution, and in particular Clause (1) of Article 4 and Articles 159, 161E and 161H, shall have effect in relation thereto accordingly.

Repeals

72. The following provisions are hereby repealed:

- (a) in the Constitution (Amendment) Act, 1960 [*10 of 1960*], section 15, paragraphs (c) and (d) of section 17, sections 18 and 20, paragraph (a) of section 21, paragraph (a) of section 25, paragraph (b) of section 27 and section 34; and
- (b) in the Constitution (Amendment) Act, 1962 [*14 of 1962*], sections 2, 3, 6 and 14 and in the Schedule subparagraphs (a) and (b) of paragraph 1, paragraphs 10 and 13 and subparagraphs (a) and (c) of paragraph 14.

PART IV**TRANSITIONAL AND TEMPORARY***Chapter 1—General***Continuation and effect of present laws**

73. (1) Subject to the following provisions of this Part of this Act and to any law passed or made on or after Malaysia Day, all present laws shall, on and after Malaysia Day, have effect according to their tenor, and be construed as if this Act had not been passed:

Provided that references to the Federation (except in relation to a time before Malaysia Day) shall, unless the context otherwise requires or it is otherwise expressly provided by any written law including any order made under section 74, be construed as references to Malaysia, and expressions importing such a reference shall be construed accordingly.

(2) Any present law of the Federation passed or made on or after the day this Act is passed shall extend to any part of Malaysia to which it is expressed to extend; but save as aforesaid no present law of the Federation shall extend to any of the Borneo States or to Singapore, unless or until it is so extended by a law passed or made as aforesaid.

(3) Subject to the following provisions of this Part, the present laws of the Borneo States and of Singapore shall, on and after Malaysia Day, be treated as federal laws insofar as they are laws which could not be passed after Malaysia Day by the State Legislature, and otherwise as State laws.

(4) This section shall not validate or give effect to any provision contained in the present law of the Federation which is inconsistent with the Constitution, or any provision of present law which is invalid for reasons other than inconsistency with the Constitution.

(5) In this Part of this Act “present laws” means the laws of the Federation or of any part thereof, of each of the Borneo States, and of Singapore passed or made or applied to any part of the Federation or to either of the Borneo States or Singapore before Malaysia Day, but does not include the Constitution of the Federation or of any State in Malaysia or this Act.

Temporary power to modify and apply present laws

74. (1) Subject to the provisions of this section, the Yang di-Pertuan Agong may by order make such modifications as appear to him necessary or expedient in consequence of the passing of this Act in any present law relating to matters about which Parliament has power to make laws.

(2) Subject to subsection (3), the power to make orders under subsection (1) shall include power to extend throughout Malaysia or to any State or States thereof any present law in force in any part of Malaysia about any such matter; but except in consequence of the extension of any present law no such order shall modify any State law.

(3) An order under subsection (1) shall not, without the concurrence of the Ruler or Governor, as the case may be, make as respects any State any provision which in an Act of Parliament could not be made or could not come into operation without the agreement (however expressed) of a State authority, nor extend to the State any law relating to matters about which the Legislature of the State has power to make laws, nor modify any State law.

(3A) In addition to the powers conferred by subsections (1) and (2); the Yang di-Pertuan Agong may, with the concurrence of the Ruler or Governor of each State in Malaysia in which the law has effect, by order declare any present law to be a federal law, whether that law relates—

(a) wholly to a matter in the Federal List; or

(b) partly to a matter in the Federal List and—

(i) partly to a matter in the State List or the Concurrent List; or

(ii) partly to a matter in the State List and partly to a matter in the Concurrent List;

and any order so made shall, unless or until it is amended or repealed, be conclusive evidence that any law declared by it to be a federal law is a federal law.

(4) In any present law of a Borneo State or of Singapore which is to be treated as State law the Yang di-Pertuan Agong may be order make (in addition to any modifications made under subsection (1)), such modifications as may be requested by the Governor and appear to him to be necessary or expedient in consequence of the passing of this Act.

(5) Any Act of Parliament or other law passed for the Federation before Malaysia Day which in the States of Malaya has effect as State law may by order of the Yang di-Pertuan Agong be extended to a Borneo State or Singapore, with or without modification, so as to have effect as State law in that State; but no law extended to a State under this subsection without the concurrence of the Governor shall come into operation in the State until adopted by an enactment of the Legislature.

(6) Any provision made by an order under this section with respect to any law may be amended or repealed—

- (a) in like manner as that law; or
- (b) subject to subsection (8), by an order made in like manner as the order by which the provision was made.

(7) Orders under this section may be made at any time after the passing of this Act, and references to the Governor of a State shall be construed accordingly; and as respects the Federation orders under this section may be made to have effect before Malaysia Day.

(8) Any power to make orders under this section shall, notwithstanding anything contained in this section, after the 9th day of August, 1965 (hereinafter referred to as ‘Singapore Day’)—

- (a) cease to apply to any present law of Singapore;
- (b) apply to any law passed or made in any part of Malaysia other than in Singapore between Malaysia Day and Singapore Day;
- (c) not affect the law of Singapore as in force on Singapore Day;
- (d) apply to such modifications as appear to the Yang di-Pertuan Agong necessary or expedient in consequence of the passing of the Constitution and Malaysia (Singapore Amendment) Act, 1965, as well as this Act; and
- (e) continue until the end of August, 1966, and thereafter until Parliament otherwise provides.

(9) Any orders under this section shall be laid before each House of Parliament; and if either House, at or before the second meeting begun after the order is laid before it, resolves that the order or any provision in it be annulled, the order or that provision of it shall cease to have effect, but without prejudice to anything previously done thereunder.

(10) In this section “modification” includes amendment, adaptation and repeal, and any power under this section to make modifications includes power to provide for savings and other transitional provisions.

Succession to property

75. (1) Subject to sections 78 and 79, any land which on Malaysia Day is vested in any of the Borneo States or in the State of Singapore, and was on the preceding day occupied or used by the government of the United Kingdom or of the State, or by any public authority other than the government of the State, for purposes which on Malaysia Day become federal purposes, shall on and after that day be occupied, used, controlled and managed by the Federal Government or, as the case may be, the said public authority, so long as it is required for federal purposes; and that land—

- (a) shall not be disposed of or used for any purposes other than federal purposes without the consent of the Federal Government; and
- (b) shall not by virtue of this subsection be used for federal purposes different from the purposes for which it was used immediately before Malaysia Day without the consent of the government of the State and, where it ceases to be used for those purposes and that consent is not given, shall be offered to the State accordingly.

(2) For the purposes of subsection (1) “federal purposes” includes the provision of government quarters for the holders of federal office or employment; but the subsection shall not apply to any land by reason of its having been used by any government for providing government quarters other than those regarded by that government as institutional quarters.

(3) Property and assets other than land which immediately before Malaysia Day were used by the government of a Borneo State or of Singapore in maintaining government services shall be apportioned between the Federation and the State with regard to the needs of the Federal and State governments respectively to have the use of the property and assets for Federal or State services, and (subject to any agreement to the contrary between

the governments concerned) a corresponding apportionment as at the date shall be made of other assets of the State (but not including land) and of the burden, as between the Federation and the State, of any financial liabilities of the State (including future debt charges in respect of those liabilities); and there shall be made all such transfers and payments as may be necessary to give effect to any apportionment under this subsection.

(4) In this section, references to the government of a State include the government of the territories comprised therein before Malaysia Day.

Succession to rights, liabilities and obligations

76. (1) All rights, liabilities and obligations relating to any matter which was immediately before Malaysia Day the responsibility of the government of a Borneo State or of Singapore, but which on that day becomes the responsibility of the Federal Government, shall on that day devolve upon the Federation, unless otherwise agreed between the Federal Government and the government of the State.

(1A) Where any moneys required to be paid pursuant to any such liability or obligation as is referred to in subsection (1) were immediately before Malaysia Day charged on the general revenues or the Consolidated Fund of either of the Borneo States or of Singapore, then, to the extent to which the liability or obligation devolves upon the Federation on that day, the moneys required for the payment thereof shall be a charge on the Consolidated Fund of the Federation, but to the extent to which the liability or obligation continues to be the responsibility of a Borneo State or of Singapore it shall remain charged on the revenues or the Consolidated Fund of that State or of Singapore, as the case may be.

(2) This section does not apply to any rights, liabilities or obligations in relation to which section 75 has effect, nor does it have effect to transfer any person from service under the State to service under the Federation or otherwise affect any rights, liabilities or obligations arising from such service or from any contract of employment; but, subject to that, in this section rights, liabilities and obligations include rights, liabilities and obligations arising from contract or otherwise.

(3) The Attorney General shall on the application of any party interested in any legal proceedings, other than proceedings between the Federation and a State, certify whether any right, liability or obligation is by virtue of this section a right, liability or obligation of the Federation or of a State named in the certificate, and any such certificate shall for the purposes of those proceedings be final and binding on all courts, but shall not operate to prejudice the rights and obligations of the Federation and any State as between themselves.

(4) In this section, references to the government of a State include the government of the territories comprised therein before Malaysia Day.

Succession as to criminal and civil proceedings

77. (1) Subject to the provisions of this section, neither any transfer or surrender on Malaysia Day of jurisdiction in relation to a Borneo State or Singapore, nor anything contained in this Act, shall affect any person's liability to be prosecuted and punished for offences committed before Malaysia Day, or any proceedings brought or sentence imposed before that day in respect of any offence; but the powers mentioned in Article 42 of the Constitution (which relates to pardons, etc.) shall in the Borneo States and Singapore extend to offences committed and sentences imposed before Malaysia Day.

(2) In any legal proceedings pending on Malaysia Day (whether civil or criminal) there shall be made such substitution of one party for another as may be necessary to take account of any transfer or surrender on that day of jurisdiction or executive authority in a Borneo State or Singapore or of any transfer under this Act of rights, liabilities or obligations.

(3) Any appeal brought on or after Malaysia Day against a decision given in any legal proceedings before that day may be brought by or against the party who should, by virtue of subsection (2), have been the appellant or respondent if the proceedings had continued after Malaysia Day; but if it is not so brought, subsection (2) shall apply to it as it applies to proceedings pending on Malaysia Day.

(4) Subsection (3) shall apply with the necessary modifications to proceedings for leave to appeal as it applies to an appeal.

(5) The Attorney General shall, on the application of a party to any proceedings, certify whether any, and if so what, substitution of one party for another is to be made by virtue of subsections (2) to (4) in those proceedings or for the purpose of any appeal arising out of them, and any such certificate shall for purposes of the proceedings or any such appeal, be final and binding on all courts, but shall not operate to prejudice the rights and obligations of the Federation and any State as between themselves.

Succession on future transfers of responsibility

78. (1) Where in a Borneo State or in Singapore the State government on Malaysia Day retains responsibility for any matter by reason—

- (a) of the matter being included for a limited period in the Concurrent List; or
- (b) of the making of an order under Article 95c of the Constitution empowering the State Legislature to pass laws about the matter;

but the matter would otherwise have become on Malaysia Day the responsibility of the Federal Government, then (subject to federal law) on that matter becoming the responsibility of the Federal Government sections 75 and 76 and subsections (2) to (5) of section 77 shall apply in connection with the transfer of responsibility for that matter with the substitution of references to the day on which it does so for the references to Malaysia Day.

(2) Where in a Borneo State or in Singapore the State government retains responsibility for any matter under a present law of the State continued in force under section 73, but the matter would otherwise have become on that day the responsibility of the Federal Government then—

- (a) the purposes of that law shall not be treated as federal purposes within the meaning of section 75 so long as the State government retains the responsibility thereunder; and
- (b) subsection (1) shall apply as it applies where the State government retains responsibility for the reasons there mentioned.

Defence lands

79. (1) There shall on Malaysia Day vest in the Federal Lands Commissioner (without payment) any land in Singapore which is then leased or agreed to be leased by or on behalf of the State to the Services' Lands Board for the purposes specified in section 72 of the Singapore (Constitution) Order in Council, 1958.

(2) Land vested in the Federal Lands Commissioner by subsection (1) shall vest in him for the term for which it was leased or agreed to be leased to the Services' Lands Board for the purposes there mentioned, and on the terms and conditions on which it was so leased or agreed to be leased, except that—

- (a) the Federal Lands Commissioner shall take the place of the Services' Lands Board; and
- (b) a condition that, subject to subsection (3) of this section, the land shall be used by the Federal Government for defence purposes (including the purpose of implementing any agreement with the government of the United Kingdom relating to defence) shall take the place of any condition that the land shall be used for the purposes mentioned in subsection (1).

(3) For the purpose of implementing any such agreement as aforesaid, the Federal Government may permit any authority of the government of the United Kingdom to occupy, use, control or manage for defence purposes any land which is to be used for those purposes under subsection (2) of this section, or subsection (1) of section 75; and where land is vested in the Federal Lands Commissioner under this section, the Federal Lands Commissioner on the direction of the Federal Government may from time to time grant leases of the land for defence purposes for any term not exceeding at any time thirty years to any person for and on behalf of the government of the United Kingdom.

(4) Subsection (1) of section 75 shall not apply to land in Singapore which immediately before Malaysia Day is occupied for defence purposes under a temporary occupation licence.

(5) In this section, "the Services' Lands Board" means the corporation incorporated by that name under the Services' Lands Board Ordinance, 1959, of Singapore (No.8 of 1959).

Temporary financial provisions

80. (1) As regards Sabah and Sarawak Clause (2) of Article 97 and Articles 109, 110 and 112c of the Constitution shall not have effect until the year 1964.

(2) Until the year 1964, all revenues accruing or collected in a Borneo State which would apart from this provision be revenues of the Federation shall be revenues of the State, and the burden of all expenditure in respect of federal services in the State (except to the extent that it is incurred by the Federation as additional expenditure) shall be borne by the State.

*Chapter 2—State officers***Preservation of pensions**

81. (1) Article 147 of the Constitution shall have effect as if any reference to the public services included the public services before Malaysia Day in the territories comprised in a Borneo State or in Singapore.

(2) In relation to awards granted to or in respect of persons who were members of those services that Article shall have effect with the substitution for references to Merdeka Day and to the thirtieth day of August, 1957, of references to Malaysia Day and the day before Malaysia Day.

(3) For the purposes of that Article as it applies in relation to the former public services in Sarawak, there shall be treated as having had the force of law on the day before Malaysia Day, any administrative regulations providing for the payment of pensions, gratuities or allowances and any resolution of Council Negri relating to the amount of any pension or allowance then in payment.

Special protection for pensions of serving members of State service in Borneo States

82. (1) No pensions, gratuity or other like allowance becoming payable by the Federal Government to or in respect of a serving member of the public service of a Borneo State on or by reference

to his ceasing by death, retirement or otherwise to be a member of that service, shall be withheld, suspended or reduced in the exercise of any discretion conferred by the law relating thereto, unless the disciplinary authority concurs in the exercise of the discretion.

(2) In this section “serving member” means a member serving as such on Malaysia Day (including a member then on leave pending retirement), and “disciplinary authority” means whichever Commission to which Part X of the Constitution applies or similar disciplinary authority of the State is empowered to exercise disciplinary control in respect of the member in question immediately before he ceases to be a member.

Appeals by serving members of State service in Borneo States against decisions affecting pension or compensation

83. (1) Where a decision of the disciplinary authority given with respect to a compensable member of the public service of a Borneo State adversely affects his compensation, or adversely affects any pension, gratuity or other like allowance which is, or but for the decision would be, actually or potentially payable to or in respect of him by the Federal Government, then subject to the provisions of this section he may give notice to the disciplinary authority complaining of the decision and requiring it to be referred to an Appeals Board.

(2) Where a decision of a disciplinary authority is referred to an Appeals Board under this section, and the Board consider the decision or its effect was unduly harsh to the complainant having regard to the facts as found by the disciplinary authority and to all the circumstances, the Board shall so declare and shall state how they consider the effect of the decision ought fairly to be adjusted as regards compensation or as regards any such pension, gratuity or allowance as aforesaid; and in any other case the Board shall confirm the decision.

(3) Where under subsection (2) an Appeals Board declare a decision or its effect to have been unduly harsh, the law relating to the compensation or to the pension, gratuity or allowance shall have effect as if it provided for the making of the adjustments (if any) proposed by the Appeals Board or such other adjustments not less favourable to the person entitled thereto as may be determined by or on behalf of the government liable after consultation with the disciplinary authority.

(4) An Appeals Board under this section shall consist of one member nominated by the Chief Minister of the State, one member nominated by the president or other head of such association representing public officers or such professional body as the complainant may select, and a chairman nominated by the other two members or, if they do not agree on a nomination, by the Chief Justice of the High Court in Borneo.

(5) An Appeals Board under this section may deal with the reference to them without a hearing; but shall give the complainant and the disciplinary authority an opportunity to make representations and shall have a hearing if either of them requires.

(6) At any hearing the complainant and the disciplinary authority shall have a right to be legally represented, and the disciplinary authority, if not legally represented, may be represented by any member or officer of the authority.

(7) This section applies to any concurrence of the disciplinary authority under section 82, but save as aforesaid applies only to decisions taken by the disciplinary authority in the exercise of its disciplinary control over members of the public service of the State; and in relation to a decision of the disciplinary authority given on appeal this section shall apply as if that decision and the decision appealed against together constituted the decision of the disciplinary authority.

(8) The personal representatives of a deceased person shall be entitled to require to be referred to an Appeals Board any decision which he might, if alive, have required to be so referred, and shall be entitled to proceed with any reference instituted by him, and references in this section to the complainant shall be construed accordingly.

(9) The Chief Ministers of the Borneo States acting jointly may make rules for giving effect to this section, and for regulating references thereunder; and the rules shall include provision—

- (a) for ensuring that any compensable member of the State services of a Borneo State or, if he is dead, his personal representative (if any) is given due notice of any decision which he is entitled to have referred to an Appeals Board, and is informed of his rights in that behalf; and

- (b) for prescribing the time and manner in which notice is to be given to a disciplinary authority complaining of a decision and requiring it to be referred to an Appeals Board.

(10) In this section “compensation” means in relation to Sabah and Sarawak respectively compensation under the North Borneo (Compensation and Retiring Benefits) Order in Council, 1963, and compensation under the Sarawak (Compensation and Retiring Benefits) Order in Council, 1963; “compensable member” means a member who for purposes of compensation is an entitled officer within the meaning of the Order relating thereto; and “disciplinary authority” means a Commission to which Part X of the Constitution applies or any similar disciplinary authority in the State.

Protection of certain members of State service in Borneo States from termination of secondment to federal service

84. (1) Any arrangements made by the Federal Government for replacing in the public service of the Federation in a Borneo State compensable members of the State service (seconded to the Federal service) by local candidates for appointment or promotion shall be such—

- (a) that it is for the Service Commission—
 - (i) to decide whether suitably qualified local candidates are available; and
 - (ii) to select those members of the State service whose secondment is to be terminated; and
- (b) that, where any compensable member of the State service was seconded to the Federal service on the post in which he has serving becoming a post in the Federal service, he shall not be selected for the termination of his secondment within his expected period of employment, unless the Service Commission after consultation with the State government is satisfied that suitable employment in the State service will be available for him during the remainder of the period.

(2) In paragraph (b) of subsection (1) the reference to a compensable member's expected period of employment is a reference to the minimum period during which he is to be employed in the State service as notified or last notified to him by or on behalf of the State government, but does not include a period so notified after Malaysia Day without the approval of the Federal Government.

(3) In this section "compensable member" has the same meaning as in section 83; "the Service Commission" means such of the Commissions to which Part X of the Constitution applies as has jurisdiction over the relevant branch of the public service; and the reference in subsection (2) to the State government includes the government of the territories comprised in the State before Malaysia Day.

Transfer of Singapore police to federal police force

85. (1) All persons who immediately before Malaysia Day are members of the police force in Singapore (and are not on leave pending retirement) shall on that day become members of the police force of the Federation with a corresponding rank and in a corresponding capacity.

(2) A person who becomes a member of the police force of the Federation under this section—

(a) shall be employed on terms and conditions not less favourable than those applicable to him immediately before Malaysia Day;

(b) unless and until he elects to the contrary,—

(i) shall not be liable to be transferred without his consent to a post outside Singapore; but

(ii) shall not be eligible for promotion to such a post.

Persons assuming federal appointments (effect of secondment: exemption from being sworn)

86. (1) Where in consequence of the passing of this Act a person is seconded to the public service of the Federation by a provision contained in the Constitution of a Borneo State or of Singapore, the effect of the secondment shall be the same as that of a secondment under Article 134 of the Constitution.

(2) A person who in consequence of the passing of this Act becomes the holder of any office or employment under the Federation may, until Parliament otherwise provides, perform his functions without taking any oath required in the case of other holders of that office or employment, if he becomes the holder of it on Malaysia Day under any provision of this Part, or if (by secondment or otherwise) he becomes the holder of it on or after that day by reason of any transfer of responsibility to the Federal Government from a government under which he held a corresponding office or employment.

*Chapter 3–The Courts and the Judiciary***Temporary provision as to jurisdiction, etc. of superior courts**

87. (1) Until other provision is made by or under federal law, the appellate jurisdiction of the Federal Court and the jurisdiction of the High Courts, and (so far as may be) the practise and procedure to be followed by those Courts in the exercise of that jurisdiction, shall, subject to the provisions of this section, be the same as that exercised and followed in the like case immediately before Malaysia Day in the Supreme Court of the Federation, the Supreme Court of Sarawak, North Borneo and Brunei or the Supreme Court of Singapore, as the case may be:

Provided that this subsection shall not confer on any court any jurisdiction which immediately before Malaysia Day was derived from any law of the State of Brunei.

(2) Until other provision is made by or under federal law, the practise and procedure to be followed by the Federal Court in the exercise of its original and consultative jurisdiction, and the practise and procedure of other courts in connection therewith, shall, subject to the provisions of this section, be the same as nearly as may be as that followed in the like case immediately before Malaysia Day in and in connection with the exercise of the corresponding jurisdiction by the Supreme Court of the Federation.

(3) Until other provision is made by or under federal law—

- (a) the Federal Court and each of the High Courts shall adopt and use as its seal such seal or stamp as may be approved by the Lord President, in the case of the Federal Court, or the Chief Justice in the case of a High Court; and
- (b) there shall be in and for the purposes of those courts the like offices as there were immediately before Malaysia Day in the case of the said Supreme Courts, and the holders of those offices shall discharge the functions belonging thereto with such modifications as are required to give effect to subsections (1) and (2).

(4) Subsections (1) to (3) shall not affect the powers conferred by section 74, but subject to any order under that section and to the following provisions of this section all present laws affecting the jurisdiction, practise or procedure of the said Supreme Courts shall apply to the Federal Court and the High Courts with such modifications as may be necessary to give effect to subsections (1) to (3).

(5) Subsections (1) to (4) shall not have effect so as to prevent the amendment or revocation of any rules of court in force immediately before Malaysia Day, or the making of new rules of court, under the powers conferred by any present law as applied by subsection (4); but, until other provision is made by federal law, the powers so conferred as regards the practise and procedure of the Federal Court and the practise and procedure of other courts in matters incidental to the exercise of any jurisdiction of the Federal Court, shall be exercised by the Lord President after consultation with the Chief Justices of the High Courts.

(6) Until other provision is made by or under federal law, the present law relating to appeals to the Yang di-Pertuan Agong from the Court of Appeal of the Federation, and the practise and procedure followed in connection therewith immediately before Malaysia Day, shall, subject to any order under section 74 and to any new rules of court, apply with any necessary modifications for the purpose of appeals to the Yang di-Pertuan Agong from the Federal Court.

(7) For the purposes of this section the right of audience in a court shall be deemed to be a matter of the practise of the court; but in the Federal Court any advocate of a High Court shall have that right, if and so long as it depends on this section.

(8) For the purposes of this section the Court of Criminal Appeal in Singapore shall be treated as having been a division of the Court of Appeal.

(9) This section has effect subject to Article 161B of the Constitution.

Continuity of subordinate courts and of jurisdiction

88. (1) Subject to any order under section 74, any subordinate court exercising jurisdiction and functions immediately before Malaysia Day in the territories comprised in a Borneo State or in the State of Singapore shall, until federal law otherwise provides, continue to exercise them.

(2) The validity on or after Malaysia Day of anything done before that day in or in connection with or with a view to any proceedings in a court in those territories shall not be affected by the court becoming on that day a court of the Federation, but anything so done shall be of the like effect as a thing done by or in relation to the court in the exercise of its jurisdiction as a court of the Federation.

(3) Anything done before Malaysia Day in or in connection with or with a view to any proceedings in the Court of Appeal of the Federation, or of Sarawak, North Borneo and Brunei, or of Singapore, or the Court of Criminal Appeal in Singapore, shall on and after that day be of the like effect as if that court were one and the same court with the Federal Court.

(4) Anything done before Malaysia Day in or in connection with or with a view to any proceedings in the High Court of the Federation, or of Sarawak, North Borneo and Brunei, or of Singapore shall on and after that day be of the like effect as if those High Courts were respectively one and the same court with the High Court in Malaya, the High Court in Borneo and the High Court in Singapore.

(5) Where in any court mentioned in subsection (3) or (4) the hearing of a case has been begun but the case has not finally been disposed of before Malaysia Day, and any judge sitting to deal with the case does not on Malaysia Day become a judge of the court in which the further proceedings in the case are to be had under that subsection, he shall in relation to the case have the same powers as if he had for the purpose thereof been duly appointed to act as judge of that court.

(6) References in this section to things done in connection with proceedings in a court shall include appeals from the court or a judge thereof, and shall apply to appeals to the Yang di-Pertuan Agong; and any appeal to Her Britannic Majesty from the Supreme Court of Sarawak, North Borneo and Brunei or from the Supreme Court of Singapore or Court of Criminal Appeal in Singapore, and anything done with a view to such an appeal, shall for purposes of this section be treated as an appeal to the Yang di-Pertuan Agong or, as the case may be, as done with a view to such an appeal.

(7) Without prejudice to the generality of subsections (3) and (4), all records of the courts there mentioned which are in existence immediately before Malaysia Day shall on and after that day be held, continued and used as if they were records of the corresponding courts there mentioned which are established on Malaysia Day; and any such record, insofar as it is on that day incomplete with respect to the period before that day, shall be made up as if this Act had not been passed.

(8) Any process, pleading, recognizance or other document may be amended to conform with its operation under this section, but shall have effect in accordance with this section whether or not it is so amended.

Continuance in office of existing judges

89. (1) Subject to the provisions of this section, on Malaysia Day the persons holding office immediately before that day as judges of the Supreme Court of the Federation, of the Supreme Court of Sarawak, North Borneo and Brunei and of the Supreme Court of Singapore shall become judges of the Federal Court and of the High Courts as follows:

- (a) the Chief Justice of the Federation shall become Lord President of the Federal Court, the Chief Justice of Sarawak, North Borneo and Brunei shall become Chief Justice of the High Court in Borneo and the Chief Justice of Singapore shall become Chief Justice of the High Court in Singapore;
- (b) the judges of the Court of Appeal of the Federation shall become judges of the Federal Court;
- (c) the other judges shall become respectively judges of the High Courts in Malaya, in Borneo and in Singapore according to the place in which they were judges before Malaysia Day.

(2) The first Chief Justice of the High Court in Malaya shall be appointed from among the persons holding office immediately before Malaysia Day as judges of the Supreme Court of the Federation, and if a judge of the Court of Appeal is appointed, subsection (1) shall have effect subject to that appointment and to any appointment made in consequence of it.

(3) In connection with any such appointment as is mentioned in subsection (2), any requirement of Article 122B of the Constitution as to consultation with the Lord President of the Federal Court or a Chief Justice may be satisfied by consultation with the person designated or appointed under this section to hold that office.

(4) The term of office under subsection (1) of a judge who immediately before Malaysia Day held his then office for a fixed term shall not expire before the end of that term; and, subject to that, the term of office under subsection (1) of any judge of the Supreme Court of Sarawak, North Borneo and Brunei who becomes a judge of the High Court in Borneo under that subsection shall be such fixed period, whether or not expiring after he attains the age of sixty-five, as may have been notified to him before Malaysia Day by or with the authority of the Federal Government.

(5) Subject to subsection (4) a person becoming judge of the Federal Court or a High Court under subsection (1) (including the Lord President or a Chief Justice) shall hold that office on terms and conditions not less favourable than those applicable to him in the office he holds immediately before Malaysia Day.

(6) A person becoming judge of a High Court under subsection (1) shall not be transferred to another High Court under Article 122c of the Constitution except with his consent.

Temporary provisions as to qualifications of judges

90. (1) In Article 123 of the Constitution, in relation to a period before Malaysia Day—

(a) the reference in paragraph (b) to an advocate of the Federal Court and High Courts or of any of those courts shall be construed as a reference to an advocate of the Supreme Court of the Federation, of the Supreme Court of Sarawak, North Borneo and Brunei or of the Supreme Court of Singapore; and

(b) the reference to the legal service of a State shall include a reference to the judicial and legal branch of the public service of the Government of North Borneo, Sarawak or Singapore.

(2) A person who immediately before Merdeka Day was a member of the judicial and legal service of the Federation, or immediately before Malaysia Day was a member of the judicial and legal branch of the public service of North Borneo, Sarawak or Singapore, and who, if he were a citizen, would be qualified for appointment as a judge of the Federal Court or a High Court, shall be so qualified notwithstanding that he is not a citizen.

(3) A person may be appointed to be a judge of the Federal Court or of a High Court notwithstanding that he is not qualified for appointment under Article 123 of the Constitution if—

(a) the appointment is made within ten years of Merdeka Day or, in the case of an appointment to the High Court in Borneo or in Singapore, within ten years of Malaysia Day; and

- (b) he is and has been for not less than five years qualified to practise as an advocate of a court in any Commonwealth country having unlimited jurisdiction in civil or criminal matters.

(4) A person appointed a judge by virtue of subsection (3) may be appointed for a fixed period, whether or not expiring after he attains the age of sixty-five.

(5) Where a person who is not a citizen is required by the Constitution to take an oath on becoming Lord President of the Federal Court or on becoming a judge of the Federal Court or of a High Court, the words “and allegiance” shall be omitted from the oath.

Pensions of certain judges from Borneo States

91. Where a judge of the Supreme Court of Sarawak, North Borneo and Brunei, or a compensable member of the State service of a Borneo State (within the meaning of section 83) becomes a judge of the Federal Court or of a High Court, then—

- (a) for the purposes of any compensation (within the meaning of that section), or pension, gratuity or other like allowance, payable to or in respect of him, he shall be treated as if he had while serving as a judge of the Federal Court or of a High Court remained a member of the same service as immediately before Malaysia Day; and
- (b) no such pension, gratuity or allowance becoming payable by the Federal Government on or by reference to his ceasing (whether by death or retirement) to be such a judge shall be withheld, suspended or reduced in the exercise of any discretion conferred by the law relating thereto.

Existing officers of Supreme Courts and judges of subordinate courts

92. (1) Subject to subsections (2) and (3), all persons who immediately before Malaysia Day hold any office in the Supreme Court of the Federation (not being judges of the Court) and, if seconded to the public service of the Federation, all persons who immediately before that day hold any office in the Supreme Court of Sarawak, North Borneo and Brunei or in the Supreme Court of Singapore or any judicial office in the territories comprised in a Borneo State or Singapore before Malaysia Day (not being judges of the Supreme Court) shall on that day continue in the like offices, subject to any appointment of any of them to another office.

(2) Subsection (1) shall not apply to offices in the Court of Appeal in those Supreme Courts; but a person who under that subsection becomes on Malaysia Day an officer of a High Court shall, unless or until other provision is made under this Part or by or under federal law, discharge in that office the like functions, as nearly as may be, in relation to the Federal Court as immediately before that day he discharged in any office held by him in a Court of Appeal, as if that office had immediately before Malaysia Day been amalgamated with his office in the High Court.

(3) This section shall apply to an office in a Supreme Court as such as if it had been an office in the High Court.

*Chapter 4—Parliament and Legislative Assemblies***First elections and appointments to Senate**

93. (1) In each of the Borneo States and in Singapore the Governor shall, without the necessity for any notice under section 1 of the Seventh Schedule to the Constitution, require the Legislative Assembly to elect Senators as soon as may be after Malaysia Day.

(2) The term of office of a Senator elected at the first election in each of the States mentioned in subsection (1) shall be the period ending at the end of August, 1968 or, in the case of the Senator who receives the fewer votes, the period ending at the end of August, 1965; and if at that election the two Senators elected each receive the same number of votes, the Senator who has the longer term of office shall be determined by lot.

(3) Of the six Senators first appointed by virtue of section 8 of this Act, three shall be appointed for a term ending at the end of August, 1968, and three for a term ending at the end of August, 1965.

House of Representatives and Legislative Assemblies (elections in Borneo States)

94. (1) In the Borneo States there shall be a period of indirect elections to the House of Representatives and to the Legislative Assembly; and Part VIII of the Constitution shall not have effect for the purpose of any election during that period to that House or Assembly.

(2) The period of indirect elections in any State shall be, for elections to the House of Representatives, the period up to the first dissolution of Parliament occurring after the end of August, 1968 or, for elections to the Legislative Assembly, the first dissolution of that Assembly so occurring:

Provided that with the concurrence of the Governor of a State, the Yang di-Pertuan Agong may by order direct that this subsection shall have effect in relation to the State with the substitution of an earlier date for the end of August, 1968.

(3) During the period of indirect elections in a State, the members of the House of Representatives from the State shall be elected by the Legislative Assembly in accordance with such procedure as may be prescribed by order of the Governor made with the concurrence of the Yang di-Pertuan Agong; and the order may either require the elections to be made from among members of the Assembly or permit others to be elected.

(4) During the period on indirect elections in a State, elected members of the Legislative Assembly shall be elected as may be provided by federal or State law.

(5) In each of the Borneo States the Legislative Assembly shall, without any writ or other notification, proceed to the first election of members of the House of Representatives as soon as may be after Malaysia Day.

(6) If any question arises whether a member of the House of Representatives from a Borneo State has been duly elected during the period of indirect elections in the State, the decision of the House shall be taken and shall be final.

House of Representatives and Legislative Assembly (elections in Singapore)

95. (1) Subject to subsection (2), Part VIII of the Constitution shall not have effect for the purpose of elections of members of the House of Representatives from Singapore until the second general election to that House held after Malaysia Day, and so long as this subsection applies to those elections those members shall, subject to subsection (2), be elected as may be provided by any law passed by the Legislature of Singapore with the concurrence of the Yang di-Pertuan Agong (including any law so passed before Malaysia Day), and the period for which they are elected should be the period until the second dissolution of Parliament after Malaysia Day.

(2) Except as regards the first elections of members of the House of Representatives from Singapore, Article 119 of the Constitution, together with Article 30A, shall apply in relation to elections to which subsection (1) applies, but not so as to prevent use being made of electoral rolls in force immediately before Malaysia Day pending the revision of those rolls or the preparation of new ones according to law; and except as regards the said first elections that subsection shall have effect subject to federal law (including any federal law applied in relation to those elections by an order under section 74 of this Act).

(3) Subject to subsection (5), Part VIII of the Constitution shall also not have effect for the purpose of elections to the Legislative Assembly of Singapore until the first general election to that Assembly held after such date (not being earlier than five years from Malaysia Day) as may be provided by Act of Parliament passed with the concurrence of the Governor.

(4) So long as subsection (3) applies to elections to the Legislative Assembly of Singapore, the members of the Assembly shall, subject to subsection (5), be elected as may be provided by federal or State law; and subject to any such law, on subsection (3) ceasing to apply the constituencies for those elections as then existing shall continue until altered on a review under Article 113 of the Constitution, and shall be reviewed when the federal constituencies are reviewed in accordance with that Article.

(5) Article 119 of the Constitution, together with Article 30A, shall apply in relation to elections to which subsection (3) applies, but not so as to prevent use being made for the purpose of those elections of electoral rolls in force immediately before Malaysia Day, pending the revision of those rolls or the preparation of new ones according to law; and so long as subsection (3) applies to elections to the Legislative Assembly, Article 119 shall not invalidate or prohibit any restrictions on a person's right to vote at those elections which may be imposed by State law by reason of his failure to vote at such an election or by reason of any act or conduct showing adherence to a country or territory outside Malaysia.

First delimitation of constituencies

96. (1) The constituencies in each of the Borneo States for the first elections to the House of Representatives or the Legislative Assembly after the end of the period of indirect elections, and the constituencies in Singapore for the first elections to the House of Representatives to which subsection (1) of section 95 does not apply, shall be delimited by order of the Yang di-Pertuan Agong made in accordance with this section.

(2) The Election Commission, at such time as may be notified to them on behalf of the Federal Government, shall take into consideration the division of the State into constituencies and, within such period as may be so notified, shall submit to the Prime Minister a report showing—

- (a) the constituencies into which they recommend the State should be divided in order to give effect to the principles set out in section 2 of the Thirteenth Schedule to the Constitution; and
- (b) the names by which they recommend that those constituencies should be known.

(3) In applying the said section 2 for the purpose of that report the Election Commission shall estimate the number of electors from such information as is reasonably available to them, and section 3 of the said Thirteenth Schedule (which directs the number of electors to be taken to be as shown on the current electoral rolls) shall not apply for that purpose.

(4) Before making their report to the Prime Minister on the State, the Election Commission shall publish in the *Gazette* and in at least one newspaper circulating in the State, and in any other manner they think necessary to secure that it may become generally known among persons interested, a notice stating—

- (a) the effect of their proposed recommendations, and that a copy of those recommendations is open to inspection at a specified place in each of the proposed constituencies; and
- (b) that representations with respect to the proposed recommendations may be made to the Commission within one month after the publication of the notice;

and the Commission shall take into consideration any representations duly made in accordance with any such notice.

(5) As soon as may be after the Election Commission have submitted their report on the State to the Prime Minister, he shall lay the report before the House of Representatives.

(6) Together with the report there shall be laid before the House the draft of an order for giving effect with or without modifications to the recommendations contained in the report, and a draft order for that purpose shall not be submitted to the Yang di-Pertuan Agong until the House has been given the opportunity to debate the report on a motion relating to such an order.

(7) If, on such a motion, the draft order is approved by resolution of the House, it shall be submitted to the Yang di-Pertuan Agong in the form in which it is so approved.

(8) If, on such a motion, the draft order is not so approved, then unless the Prime Minister thinks fit to lay a further draft before the House (in which event this and the preceding subsection shall apply to that draft as they apply to the draft first laid before the House), the draft order shall be submitted to the Yang di-Pertuan Agong with such modifications (if any) as the Prime Minister thinks fit having regard to the debate on the draft order.

(9) Before a draft order is submitted to the Yang di-Pertuan Agong under subsection (8), or a further draft laid instead before the House, the Prime Minister shall have such consultation with the Election Commission as he may consider necessary.

FIRST SCHEDULE

INSERTION OF NEW ARTICLES IN CONSTITUTION

<i>Articles of Constitution</i>		<i>Sections of Act, and provision for insertion</i>
Article		
1	The name, States and territories of the Federation.	Section 4 of the Act is to be inserted as Article 1, in place of the present Article.
14	Citizenship by operation of law.	Sections 23 and 25 of the Act are to be inserted as Articles 14 and 15 respectively, in place of the present Articles.
15	Citizenship by registration (wives and children of citizens).	
16A	Citizenship by registration (persons resident in Borneo States on Malaysia Day).	Section 26 of the Act is to be inserted as Article 16A, after the present Article 16.
19	Citizenship by naturalization.	Sections 27 and 28 of the Act are to be inserted as Articles 19 and 19A respectively, in place of the present Article 19.
19A	Transfer of citizenship to and from Singapore.	
28A	Deprivation of citizenship (Singapore citizens, and persons becoming citizens on Malaysia Day).	Section 30 of the Act is to be inserted as Article 28A, after the present Article 28.
30A	Franchise, etc., of Singapore citizens and other citizens.	Sections 31 and 32 of the Act are to be inserted as Articles 30A and 30B respectively, after the present Article 30.
30B	Liaison as to citizenship between governments of Federation and Singapore.	
46	Composition of House of Representatives.	Section 9 of the Act is to be inserted as Article 46, in place of the present Article.

<i>Articles of Constitution</i>		<i>Sections of Act, and provision for insertion</i>
Article		
76A	Power of Parliament to extend legislative powers of States.	Subsections (1), (2) and (3) of section 37 of the Act are to be inserted as Article 76A, after the present Article 76.
88	Application of Articles 83 to 87 to States not having a Ruler.	Section 44 of the Act is to be inserted as Article 88, in place of the present Article.
95B	Modifications for Borneo States and Singapore of distribution of legislative powers.	Sections 35, 38, 42 and 43 of the Act are to be inserted as Articles 95B, 95C, 95D and 95E respectively, after the present Article 95A, and are to become Chapter 8 of Part VI under the heading "Application to Borneo States and Singapore".
95C	Power by order to extend legislative or executive powers of Borneo States.	
95D	Exclusion for Borneo States and Singapore of Parliament's power to pass uniform laws about land or local government.	
95E	Exclusion of Borneo States and Singapore from national plans for land utilization, local government, development, etc.	
112A	State audits in Borneo States and Singapore.	Sections 50, 49, 46, 47 and 48 of the Act are to be inserted as Articles 112A, 112B, 112C, 112D and 112E respectively, after the present Article 112, and are to become Chapter 2 of Part VII under the heading "Application to Borneo States and Singapore", with Articles 96 to 112 becoming Chapter 1 under the heading "General".
112B	Borrowing powers of Borneo States and Singapore.	
112C	Special grants and assignments of revenue to Borneo States.	
112D	Reviews of special grants to Borneo States.	
112E	Financial arrangements with Singapore.	

<i>Articles of Constitution</i>		<i>Sections of Act, and provision for insertion</i>
Article		
121	Judicial power of the Federation.	Sections 13, 15, 16, 17, 18, 19 and 20 of the Act are to be inserted as Articles 121, 122, 122A, 122B, 122C, 123 and 124 respectively, in place of the present Articles 121 to 124.
122	Constitution of Federal Court.	
122A	Constitution of High Courts.	
122B	Appointment of Judges of Federal Court and of High Courts.	
122C	Transfer of judge of one High Court to another.	
123	Qualifications of judges of Federal Court and of High Courts.	
124	Oath of office of judges	
128	Jurisdiction of Federal Court.	Section 14 of the Act is to be inserted as Article 128, in place of the present Articles 128 and 129.
131A	Provision for incapacity, etc., of Lord President or Chief Justice.	Section 21 of the Act is to be inserted as Article 131A, after the present Article 131.
138	Judicial and Legal Service Commission.	Section 52 of the Act is to be inserted as Article 138, after the present Article 137.
146A	Branches in Borneo States and in Singapore of Judicial and Legal Service Commission.	Sections 54, 55, 56 and 57 of the Act are to be inserted as Articles 146A, 146B, 146C and 146D respectively, after the present Article 146.
146B	Branches in each Borneo State and in Singapore of Public Services Commission.	
146C	Supplementary provisions as to branches of Commissions.	
146D	Jurisdiction of Police Force Commission over seconded members of State service in Borneo States.	

<i>Articles of Constitution</i>		<i>Sections of Act, and provision for insertion</i>
Article		
159A	Operation of transitional provisions of Malaysia Act.	Section 71 of the Act is to be inserted as Article 159A, after the present Article 159.
161	Use of English and of native languages in Borneo States.	Sections 61, 62, 63, 64, 65 and 66 of the Act are to be inserted as Articles 161, 161A, 161B, 161C, 161D and 161E respectively, after the present Article 160, and are to become, with Articles 161F to 161H, Part XIIA under the heading “Additional protections for Borneo States and Singapore”, and to be Chapter 1 of that Part under the heading “Borneo States”.
161A	Special position of natives in Borneo States.	
161B	Restriction on extension to non-residents of right to practise before courts in Borneo States.	
161C	Muslim education in Borneo States.	
161D	Freedom of religion.	
161E	Safeguards for constitutional position of Borneo States.	
161F	Use of unofficial languages in Singapore Assembly.	Sections 67, 68 and 69 of the Act are to be inserted as Articles 161F, 161G and 161H respectively, after the new Article 161E, and are to become Chapter 2 of the new Part XIIA under the heading “Singapore”.
161G	Special position of Malays in Singapore.	
161H	Safeguards for constitutional position of Singapore.	

SECOND SCHEDULE

SECTION ADDED TO EIGHTH SCHEDULE TO CONSTITUTION

23. (1) Part I of this Schedule shall apply to the States of Sabah, Sarawak and Singapore as it applies to the States of Penang and Malacca except for the modifications of section 10 stated in subsection (2) of this section.

(2) Section 10 in its application to the State of Sabah, Sarawak or Singapore may be modified by the substitution for the words “one of its members to be Speaker” in subsection (1) of the words “as Speaker such person as the Assembly may determine”, by the omission of the word “other” in subsection (3), and by the addition of a subsection (4)—

“(4) A person shall not be chosen to be Speaker, unless he is a member or qualified to be a member of the Legislative Assembly, and the speaker, whether a member or not, shall vacate his office on the dissolution of the Assembly, and may at any time resign his office.”

THIRD SCHEDULE

CITIZENSHIP (AMENDMENT OF SECOND SCHEDULE TO CONSTITUTION)

PART I

CITIZENSHIP BY OPERATION OF LAW OF PERSONS BORN BEFORE MALAYSIA DAY,
OTHER THAN SINGAPORE CITIZENS

1. (1) Subject to the provisions of Part III of this Constitution and anything done thereunder before Malaysia Day, the following persons born before Malaysia Day are citizens by operation of law, that is to say:

- (a) every person who immediately before Merdeka Day, was a citizen of the Federation by virtue of any of the provisions of the Federation of Malaya Agreement, 1948, whether by operation of law or otherwise;
- (b) every person born within the Federation on or after Merdeka Day and before October, 1962;
- (c) every person born within the Federation after September, 1962, of whose parents one at least was at the time of the birth either a citizen or permanently resident in the Federation, or who was not born a citizen of any other country;

- (d) every person born outside the Federation on or after Merdeka Day whose father was a citizen at the time of his birth and either was born in the Federation or was at the time of the birth in service under the Government of the Federation or of a State;
- (e) every person born outside the Federation on or after Merdeka Day whose father was a citizen at the time of the birth if the birth was, or is, within one year of its occurrence or within such longer period as in any particular case was or is allowed by the Federal Government, registered at a consulate of the Federation or, if it occurred in Singapore, Sarawak, Brunei or North Borneo, registered with the Federal Government.

(2) A person is not a citizen by virtue of paragraph (b) or (c) of subsection (1) if, at the time of his birth, his father, not being a citizen, possessed such immunity from suit and legal process as is accorded to an envoy of a sovereign power accredited to the Yang di-Pertuan Agong.

2. Subject to the provisions of Part III of this Constitution, a person ordinarily resident in a Borneo State or in Brunei on Malaysia Day is a citizen by operation of law if he was immediately before that day a citizen of the United Kingdom and Colonies, and either—

- (a) was born in the territories comprised in the Borneo States; or
- (b) became such a citizen by registration in those territories or by or in consequence of naturalization there.

PART II

CITIZENSHIP BY OPERATION OF LAW OF PERSONS BORN ON OR AFTER MALAYSIA DAY, OTHER THAN SINGAPORE CITIZENS

1. Subject to the provisions of Part III of this Constitution, the following persons born on or after Malaysia Day are citizens by operation of law, that is to say:

- (a) every person born within the Federation outside Singapore of whose parents one at least is at the time of the birth either a citizen, but not a Singapore citizen, or permanently resident in the Federation; and
- (b) every person born outside the Federation whose father is at the time of the birth a citizen, but not a Singapore citizen, and either was born in the Federation or is at the time of the birth in the service of the Federation or of a State; and

- (c) every person born outside the Federation whose father is at the time of the birth a citizen, but not a Singapore citizen, and whose birth is, within one year of its occurrence or within such longer period as the Federal Government may in any particular case allow, registered at a consulate of the Federation or, if it occurs in Brunei or in a territory prescribed for this purpose by order of the Yang di-Pertuan Agong, registered with the Federal Government; and
 - (d) every person born in Singapore of whose parents one at least is at the time of the birth a citizen, but not a Singapore citizen, and who is not born a citizen otherwise than by virtue of this paragraph; and
 - (e) every person born within the Federation outside Singapore who is not born a citizen of any country otherwise than by virtue of this paragraph.
2. (1) A person is not a citizen by virtue of paragraph (a), (d) or (e) of section 1 if, at the time of his birth, his father, not being a citizen, possesses such immunity from suit and legal process as is accorded to an envoy of a sovereign power accredited to the Yang di-Pertuan Agong, or if his father is then an enemy alien and the birth occurs in a place under the occupation of the enemy.
- (2) In section 1, the reference in paragraph (b) to a person having been born in the Federation includes his having been born before Malaysia Day in the territories comprised in the Borneo States or Singapore.
- (3) For the purposes of paragraph (e) of section 1, a person is to be treated as having at birth any citizenship which he acquires within one year afterwards by virtue of any provision corresponding to paragraph (c) of that section or otherwise.

PART III

ADDITIONAL SECTIONS AS TO CITIZENSHIP BY OPERATION OF LAW

19A. For the purposes of Part I or II of this Schedule a person born on board a registered ship or aircraft shall be deemed to have been born in the place in which the ship or aircraft was registered, and a person born on board an unregistered ship or aircraft of the Government of any country shall be deemed to have been born in that country.

19B. For the purposes of Part I or II of this Schedule any new born child found exposed in any place shall be presumed, until the contrary is shown, to have been born there of a mother permanently resident there; and if he is treated by virtue of this section as so born, the date of the finding shall be taken to be the date of the birth.

19c. For the purposes of Part I or II of this Schedule a person shall be treated as having been at any time permanently resident in the Federation if, but only if, he was then resident in the Federation and either—

- (a) he then had permission, granted without limit of time under any federal law, to reside there; or
- (b) it is certified by the Federal Government that he is to be treated for those purposes as a permanent resident in the Federation.

PART IV

MISCELLANEOUS AMENDMENTS OF SUPPLEMENTARY PROVISIONS

1. At the end of section 4 (which enables the Minister to delegate among other things certain functions preliminary to the making of an order under Article 26) there shall be added as subsections (2) and (3)—

“(2) The Minister may also, with the consent of the Governor of the State, delegate to an authority of a Borneo State or of Singapore (subject or not to conditions providing for an appeal from that authority to the Minister) any of the Minister’s functions under Clause (6) of Article 28A which are not required to be delegated by Clause (7) of that Article.

(3) Subsection (1) shall apply to enrolments under Clause (2) of Article 19A as it applies to citizenship by registration, and to the cancellation under Clause (4) of Article 19A of an enrolment under that Article as it applies to an order under Article 26.”

2. For section 7 there shall be substituted—

“7. Any power of the Federal Government to extend, for purposes of Part III of this Constitution, the period for registering a birth occurring outside the Federation may be exercised either before or after the registration has been effected.”

3. (1) In section 10, in subsection (1), before the words “Article 30” there shall be inserted the words “Clause (1) of”, and for paragraph (e) there shall be substituted—

“(e) a register of persons enrolled under Article 19A as citizens who are not Singapore citizens;

(f) an alphabetical index of all persons referred to in paragraphs (a) to (e).”

(2) In section 10, for subsection (2), there shall be substituted—

“(2) References in this section to citizens by registration or by naturalization shall be construed in accordance with Articles 28 and 28A as if this section were included among the provisions to which those Articles apply, except that ‘citizen by registration’ does not include any Singapore citizen.”

4. In section 16 (which makes it an offence among other things to forge or misuse a certificate) for subsection (2) there shall be substituted—

“(2) In this section ‘certificate’ means any certificate of the following descriptions issued under Part III of this Constitution or under the Constitution of the State of Singapore or any previous law relating to citizenship of Singapore, that is to say,—

- (a) any certificate of registration or of naturalization as a citizen; and
- (b) any certificate of a registration effected at a consulate of the Federation or elsewhere outside the Federation; and
- (c) any such certificate as is mentioned in Article 30.”

5. For section 17 there shall be substituted—

“17. For purposes of Part III of this Constitution references to a person’s father or to his parent, or to one of his parents, are in relation to a person who is illegitimate to be construed as references to his mother, and accordingly section 19 of this Schedule shall not apply to such a person.”

6. In section 18 before the words “Article 15” there shall be inserted the words “Clause (3) of”, and for the words “that Article and this Schedule” there shall be substituted the words “that Clause and section 9 of this part of this Schedule”.

7. At the end of section 19 there shall be added—

“This section shall have effect in relation to Malaysia Day as it has effect in relation to Merdeka Day.”

8. At the end of section 20 there shall be added—

“(4) This section shall apply in relation to any part of the Federation and the territories comprised in part before Malaysia Day as it applies in relation to the Federation as a whole, and the reference in subsection (1)(d) to the service of a State shall include, in relation to those territories, the service of any government having jurisdiction therein before Malaysia Day; and in relation to Malaysia Day or any later day subsection (3) shall apply as if the territories comprised in the Borneo States or Singapore had at all times formed part of the Federation.”

9. In section 21 for the words “Malayan consulate” there shall be substituted the words “consulate of the Federation”.

10. There shall be omitted in section 4 the words “or this Schedule”, and in section 6 the words “and this Schedule”; and after section 21 there shall be added as a new section 22—

“22. Except insofar as the context otherwise requires, references in this Schedule to Part III of this Constitution are to be read as including references to this Schedule.”

FOURTH SCHEDULE

SPECIAL LEGISLATIVE LISTS FOR BORNEO STATES
AND SINGAPORE

PART I

BORNEO STATES

List II A—Supplement to State List for Borneo States

13. Native law and custom, including the personal law relating to marriage, divorce, guardianship, maintenance, adoption, family law, gifts or succession testate or intestate; registration of adoptions under native law or custom; the determination of matters of native law or custom; the constitution, organization, and procedure of native courts (including the right of audience in such courts), and the jurisdiction and powers of such courts, which shall extend only to the matters included in this paragraph and shall not include jurisdiction in respect of offences except insofar as conferred by federal law.
14. Incorporation of authorities and other bodies set up by State law, if incorporated directly by State law, and regulation and winding-up of corporations so created.
15. Ports and harbours, other than those declared to be federal by or under federal law; regulation of traffic by water in ports and harbours or on rivers wholly within the State, except traffic in federal ports or harbours; foreshores.
16. Cadastral land surveys.
17. Libraries, museums, ancient and historical monuments and records and archaeological sites and remains, other than those declared to be federal by or under federal law.
18. In Sabah, the Sabah Railway.

List III A —Supplement to Concurrent List for Borneo States

10. Personal law relating to marriage, divorce, guardianship, maintenance, adoption, family law, gifts or succession testate or intestate.
11. Adulteration of foodstuffs and other goods.
12. Shipping under fifteen registered tons, including the carriage of passengers and goods by such shipping; maritime and estuarine fishing and fisheries.
13. The production, distribution and supply of water power and of electricity generated by water power.
14. Agricultural and forestry research, control of agricultural pests, and protection against such pests; prevention of plant diseases.

15. Charities and charitable trusts and institutions in the State (that is to say, operating wholly within, or created and operating in, the State) and their trustees, including the incorporation thereof and the regulation and winding-up of incorporated charities and charitable institutions in the State.

16. Theatres; cinemas; cinematograph films; places of public amusement.

17. Elections to the State Assembly held during the period of indirect elections.

18. In Sabah until the end of the year 1970 (but not in Sarawak), medicine and health, including the matters specified in items 14(a) to (d) of the Federal List.

PART II

SINGAPORE

List II B—Supplement to State List for Singapore

13. Education, including the matters specified in items 13(a) and (b) of the Federal List.

14. Medicine and health, including the matters specified in items 14(a) to (d) of the Federal List.

15. Labour and social security, including the matters specified in items 15(a) and (b), but not those specified in item 15(c) of the Federal List.

16. Pensions, gratuities and other like allowances, and compensation for loss of office, in respect of service under the State (including any government service in the State before Malaysia Day).

17. Factories; boilers and machinery; dangerous trades; dangerous and inflammable substances.

18. Electricity; gas and gas works.

19. Itinerant hawkers.

List III B —Supplement to Concurrent List for Singapore

10. Personal law relating to marriage, divorce, guardianship, maintenance, adoption, family law, gifts or succession testate or intestate.

11. Loans to, or borrowing by, the State or statutory authorities exercising powers vested in them by the State law in Singapore.

12. (a) Production, supply and distribution of goods, but not bounties on production; price control and food control; adulteration of foodstuffs and other goods;
(b) Imports into, and exports from, the Federation, but not bounties on export;
(c) Insurance, including compulsory insurance;
(d) Auctions and auctioneers;
(e) Industries; regulation of industrial undertakings;
(f) Banking; money-lending; pawnbrokers.
13. Shipping and navigation, including the matters specified in items 9(a), (b), (c), (e) and (f) of the Federal List.
14. Professional occupations other than those specifically enumerated in the Federal List.
15. Unincorporated societies.
16. Charities and charitable trusts and institutions in the State (that is to say, operating wholly within, or created and operating in, the State) and their trustees, including the incorporation thereof and the regulation and winding-up of incorporated charities and charitable institutions in the State.
17. Newspapers; publications; publishers; printing and printing presses.
18. Censorship.
19. Theatres; cinemas; cinematograph films; places of public amusement.
20. Until the end of August, 1968, and thereafter until Parliament with the concurrence of the State government otherwise provides, elections to the Legislative Assembly.

FIFTH SCHEDULE

ADDITIONS FOR BORNEO STATES TO TENTH SCHEDULE
(GRANTS AND ASSIGNED REVENUES) TO CONSTITUTION

PART IV

SPECIAL GRANTS TO BORNEO STATES

1. (1) In the case of Sarawak a grant of RM5,800,000 in each year.

(2) In the case of Sarawak, a grant of which the amount in 1964 and each of the four following years shall be respectively RM3½m., RM7m., RM11½m., RM16m. and RM21m., and in later years shall be fixed on a review under Article 112D.

2. (1) In the case of Sabah, a grant of an amount equal in each year to two-fifths of the amount by which the net revenue derived by the Federation from Sabah exceeds the net revenue which would have been so derived in the year 1963 if—

- (a) the Malaysia Act had been in operation in that year as in the year 1964; and
- (b) the net revenue for the year 1963 were calculated without regard to any alteration of any tax or fee made on or after Malaysia Day;

(“net revenue” meaning for this purpose the revenue which accrues to the Federation, less the amounts received by the State in respect of assignments of that revenue).

(2) In the case of Sabah, for any year before 1968 in which the State road grant is less than RM5,179,500, a supplement to that grant of an amount equal to the deficiency.

3. In either case, for any year before 1974 and, if at the beginning of 1974 the Legislature of the State has power to make laws with respect to the carriage of passengers and goods by land or to mechanically propelled road vehicles, then during the continuance of that power, a grant equal to the cost to the State in the year of the State road transport department.

PART V

ADDITIONAL SOURCES OF REVENUE ASSIGNED TO BORNEO STATES

1. Import duty and excise duty on petroleum products.
2. Export duty on timber and other forest produce.
3. So long as the royalty levied by the State on any mineral chargeable with export duty other than tin (but including mineral oils) does not amount to 10 per cent *ad valorem* calculated as for export duty, export duty on that mineral or such part of the export duty as makes the total of royalty and duty on exported mineral up to 10 per cent *ad valorem* so calculated.
4. In the case of Sabah, so long as medicine and health remains an item in the Concurrent List and expenses in respect of that item are borne by the State, 30 per cent of all customs revenue other than that in respect of the duties mentioned in sections 1, 2 and 3.
5. For any year before 1974 and, if at the beginning of 1974 the Legislature of the State has power to make laws with respect to the carriage of passengers and goods by land or with respect to mechanically propelled road vehicles or licences connected with those vehicles, then during the continuance of that power, fees from such licences.

6. For any year before 1974, and if at the beginning of 1974 the Legislature of the State has power to make laws with respect to the registration of mechanically propelled vehicles, then during the continuance of that power, fees from the registration of such vehicles.

7. State sales taxes.

8. Fees and dues from ports and harbours other than federal ports and harbours.

SIXTH SCHEDULE

MINOR AND CONSEQUENTIAL AMENDMENTS OF CONSTITUTION

<i>Provision of Constitution</i>	<i>Amendment</i>
Article 5 (liberty of the person)	In Clause (2) for the words “the Supreme Court” there shall be substituted the words “a High Court”.
Article 8 (rights to equal treatment)	In Clause (5) for the word “Federation” there shall be substituted the words “Malay Peninsula”.
Article 21 (general provisions as to naturalization)	The Article shall be omitted except that it shall continue to have effect for the purposes of the Article 20 repealed by the Constitution (Amendment) Act, 1962.
Article 37 (oath of office of Yang di-Pertuan Agong)	For the words “Chief Justice of the Federation” and for the words “Supreme Court” there shall, in both places, be substituted respectively the words “Lord President of the Federal Court” and the words “Federal Court”.
Article 42 (Power of pardon, etc.)	In Clause (7) after the word “appointed” there shall be inserted the words “by the Ruler or Governor”.
Article 48 (disqualification for membership of Parliament)	In Clause (1), in paragraph (e), after the word “Federation” there shall be inserted the words “(or, before Malaysia Day, in the territories comprised in a Borneo State or in Singapore)”.

Provision of Constitution

Amendment

Article 65 (Clerks of Senate and House of Representatives)	In Clause (3) for the words “Supreme Court” there shall be substituted the words “Federal Court”.
Article 76 (power of Parliament to legislate for States)	In Clause (2) after the words “custom of the Malays” there shall be inserted the words “or to any matters of native law or custom in the Borneo States”.
Article 80 (distribution of executive powers)	In Clause (6) for the words “Chief Justice” there shall be substituted the words “Lord President of the Federal Court”.
Article 87 (reference of certain disputes to Lands Tribunal)	In Clause (2), for paragraph (a) there shall be substituted— <div style="margin-left: 40px;"> <p>“(a) a chairman, who shall be appointed by the Lord President of the Federal Court and who shall be, or have been, or be qualified to be a judge of the Federal Court or a High Court, or shall before Malaysia Day have been a judge of the Supreme Court”;</p> <p>and at the end of Clause (3) there shall be added the words “or other authority having power under written law to make rules or orders regulating the practise and procedure of the Federal Court”, and in Clause (4) for the words “Supreme Court” there shall be substituted the words “Federal Court”.</p> </div>
Article 89 (Malay reservations)	In Clause (7) there shall be inserted at the beginning the words “Subject to Article 161A”.
Article 91 (National Land Council)	In Clause (1) the words “not exceeding ten” shall be omitted, and there shall be added at the end of the Clause the words “but, subject to Clause (5) of Article 95E, the number of representatives of the Federal Government shall not exceed ten”.

*Provision of Constitution**Amendment*

Article 95A (National Council for Local Government)	In Clause (1) the words “not exceeding ten” shall be omitted, and there shall be added at the end of the Clause the words “but, subject to Clause (5) of Article 95E, the number of representatives of the Federal Government shall not exceed ten”.
Article 105 (Auditor General)	In Clause (3) for the words “Supreme Court” there shall be substituted the words “Federal Court”.
Article 114 (Constitution of Election Commission)	In Clause (3) for the words “Supreme Court” there shall be substituted the words “Federal Court”.
Article 115 (assistance to Election Commission)	In Clause (2) for the words “Federation, who” there shall be substituted the words “unit of review for federal elections, and those officers”.
Article 116 (federal constituencies)	In Clause (1) for the words “the Federation” there shall be substituted the words “a unit of review”, and in Clause (2) after the words “that total” there shall be inserted the words “in the States of Malaya”.
Article 118 (challenging election by presentation of election petition)	For the words “a judge of the Supreme Court” there shall be substituted the words “the High Court having jurisdiction where the election was held”.
Article 137 (Armed Forces Council)	In Clause (3) in paragraph (f) for the words “Royal Malayan Navy” there shall be substituted the words “Federation Navy”, and in paragraph (g) for the words “Royal Malayan Air Force” there shall be substituted the words “Federation Air Force”.
Article 139 (Public Services Commission)	In Clause (2) for the words “Commission corresponding in status and jurisdiction to the Public Services” there shall be substituted the words “State Public Service”.

Provision of Constitution

Amendment

Article 140 (Police Force Commission)	In Clause (3) for the words “Commissioner of Police” in paragraph <i>(b)</i> there shall be substituted the words “officer of police in general command of the police force” and for the word “two” in paragraph <i>(e)</i> there shall be substituted the words “not less than two nor more than four”; and in Clause (4) after the word “similar” there shall be inserted the words “or superior”.
Article 142 (general provisions as to Public Services Commission and other Commissions to which Part X applies)	In Clause (6) for the words “a judge of the Supreme Court” there shall be substituted the words “a judge of the Federal Court or of a High Court”.
Article 143 (conditions of service of members of Service Commission)	In Clause (1) for the words “Supreme Court” in paragraph <i>(c)</i> there shall be substituted the words “Federal Court”.
Article 144 (functions of Service Commissions)	In Clause (4) for the words from “of any Ruler” to “jurisdiction” there shall be substituted the words “a State Public Service Commission”.
Article 145 (the Attorney General)	For the words “Supreme Court” there shall, in both places, be substituted the words “Federal Court”, and after the words “Muslim Court” there shall be inserted the words “a native court”; and these amendments shall be made both in the Article to be inserted in pursuance of the Constitution (Amendment) Act, 1960, and in the Article for which it is to be substituted.
Article 148 (interpretation of Part X)	In Clause (2) for the words “Supreme Court” there shall be substituted the words “Federal Court or of a High Court”.
Article 151 (restrictions on preventive detention)	In Clause (2) for the words from “from” to “Court, and” there shall be substituted the words “and who shall be or have been, or be qualified to be, a judge of the Federal Court or a High Court, or shall before Malaysia Day have been a judge of the Supreme Court, and”, and for the words “Chief Justice” there shall, where they first occur, be substituted the words “Lord President of the Federal Court”, and the words from “or if” onwards shall be omitted.

*Provision of Constitution**Amendment*

Article 152 (national language)	In Clause (4) for the words “the Supreme Court” there shall be substituted the words “the Federal Court or a High Court”.
Article 158 (Pan-Malayan arrangements)	In Clause (1) for the words “any territory to which this Article applies” there shall, in each place, be substituted the word “Brunei”, and Clause (2) shall be omitted.
Article 159 (amendment of the Constitution)	In Clause (1) after the word “Article” there shall be inserted the words “and to Articles 161E and 161H”; and in Clause (4) there shall be inserted at the beginning of paragraph (<i>bb</i>) the words “subject to Article 161E”.
Article 160 (interpretation)	<p>In Clause (2), before the definition of “Act of Parliament” there shall be inserted the definition—</p> <p>“aborigine” means an aborigine of the Malay Peninsula;</p> <p>after the definition of “Legislature” there shall be inserted the definition—</p> <p>“local rates”, in relation to Singapore, includes the property tax levied for local purposes by the State;</p> <p>in the definition of “Malay”, after the word “Federation”, there shall in all places be inserted the words “or in Singapore”; in the definition of “public authority” for the words “Supreme Court” there shall be substituted the words “Federal Court and High Courts”; and the definition of “Rule Committee” shall be omitted.</p>
Article 174 (judicial appointments)	The Article shall be omitted.
Fourth Schedule (oaths of office of Yang di-Pertuan Agong and Timbalan Yang di-Pertuan Agong)	In Parts I and II for the words “Persekutuan Tanah Melayu” and in Part III for the words “the Federation of Malaya” there shall in all places be substituted the word “Malaysia”.

Provision of Constitution

Amendment

- Sixth Schedule (forms of oaths and affirmations) For the words “the Federation of Malaya” there shall, in both places, be substituted the word “Malaysia”; and after the form of the oath of office and allegiance there shall be added, as a note to that form,—“(NOTE: A judge of the Federal Court, other than the Lord President, or a judge of a High Court shall use the words ‘my judicial duties in that or any other office’ in place of the words ‘the duties of that office’.)”
- Eighth Schedule (provisions to be inserted in State Constitutions) In section 3 for the words “to be known as the Dewan Negeri” there shall be substituted the words “namely, the”; in subsection (1) of section 4 the words from “and” onwards shall be omitted; in section 6, in paragraph (e) of subsection (1), after the word “Federation” there shall be inserted the words “(or, before Malaysia Day, in the territories comprised in the Borneo States or in Singapore)” and in section 22 there shall be omitted the words “and Chief Minister”, the word “respectively” and the words “and the Menteri Besar”.
- Ninth Schedule (legislative lists) In List I, in item 1(h), for the word “Malaya” there shall be substituted the word “Malaysia”; in item 4(k) after the words “Muslim law” there shall be inserted the words “and other personal laws”; in item 8(j) there shall be inserted at the beginning the words “Subject to item 2(c) in the State List:”; and in item 11(b) for the words from “Inter-State” to “not” there shall be substituted the words “Water supplies, rivers and canals, except those wholly within one State or”.
- In List II, in item 2(b) there shall be added at the end the words “or, in the Borneo States, native reservations”; and in item 6(c) for the words from the beginning to “canals” there shall be substituted the words “Subject to the Federal List, water (including water supplies, rivers and canals)”.

*Provision of Constitution**Amendment*

Eleventh Schedule (provisions of Interpretation and General Clauses Ordinance, 1948, applied)

There shall be inserted in the first column, in the place required by the numerical order, the words “23”, and opposite them in the second column—

“General provisions with respect to power given to any authority to make subsidiary legislation—

Where an Ordinance or Enactment confers power on any authority to make subsidiary legislation, such subsidiary legislation may at any time be amended, varied, rescinded or revoked by the same authority and in the same manner by and in which it was made.”

Thirteenth Schedule (delimitation of constituencies)

In section 1 for the words from “those” onwards there shall be substituted the words “those first used for elections to the House or Assembly, as the case may be, pursuant to this Constitution or the Malaysia Act”.

In section 2 for the words “the Federation and the States” there shall be substituted the words “any unit of review”; at the end of paragraph (a) there shall be added “and regard ought to be had to the inconveniences of State constituencies crossing the boundaries of federal constituencies”; in paragraph (c) after the word “equal” there shall be inserted the words “throughout the unit of review”; and in paragraph (d) for the words “and of any local ties which may be broken by such alterations” there shall be substituted “and to the maintenance of local ties”.

In section 8, in paragraph (a), for the words “the Federation and each State” there shall be substituted the words “each unit of review”.

In section 12 for the words from “until” in the proviso onwards there shall be substituted the words “to the House of Representatives or a Legislative Assembly until the next dissolution of Parliament or the Assembly, as the case may be, occurring on or after that date”.

[Received the Royal Assent on the 26 August 1963.]

LAWS OF MALAYSIA**Act No. 26 of 1963****MALAYSIA ACT****LIST OF AMENDMENTS**

Amending law	Short Title	In force from
Act 31/1965	Constitution and Malaysia Act (Amendment) Act, 1965	16-09-1963
Act 54/1965	Malaysia Act (Amendment) Act, 1965	09-08-1965

LAWS OF MALAYSIA

Act No. 26 of 1963

MALAYSIA ACT

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
37	Act 31/1965	16-09-1963
73	Act 31/1965	16-09-1963
74	Act 31/1965 Act 54/1965	16-09-1963 09-08-1965
76	Act 31/1965	16-09-1963
First Schedule	Act 31/1965	16-09-1963

