

Laos

*Renseignements communiqués par note verbale en date du 3 août 1963
du Ministre des Affaires étrangères*

TRAITÉS

TRAITÉ D'AMITIÉ ET D'ASSOCIATION ENTRE LE ROYAUME DU LAOS
ET LA RÉPUBLIQUE FRANÇAISE. FAIT À PARIS, LE 22 OCTOBRE 1953¹

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Article premier — La République-Française reconnaît et déclare que le Royaume du Laos est un Etat pleinement indépendant et souverain. En conséquence, il est substitué à la République Française dans tous les droits et obligations résultant de tous traités internationaux, ou conventions particulières, contractés par celle-ci au nom du Royaume du Laos ou de l'Indochine Française, antérieurement à la présente convention.

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Malaysia

*Transmitted by a note verbale dated 16 August 1962 of the Ministry of External
Affairs of the Federation of Malaya and by a note verbale dated 23 January
1964 of the Permanent Mission of Malaysia to the United Nations*

A. TREATIES

1. FEDERATION OF MALAYA AGREEMENT OF 5 AUGUST 1957²

AGREEMENT dated the 5th day of August, 1957, and made between Sir Donald Charles MacGillivray, G.C.M.G., M.B.E., on behalf of Her Majesty of the one part and His Highness Tunku Ismail ibni Sultan Ibrahim, D.K., S.P.M.J., S.P.M.K., K.B.E., C.M.G., the Regent of Johore, on behalf of His Highness Ibrahim ibni Almarhum Sultan Abu Bakar, D.K., S.P.M.J., G.C.M.G., K.B.E. (Mil.), G.B.E., G.C.O.C. (I), Sultan of the State and Territory of Johore, His Highness Abu Bakar Ri'ayatu'd-Din Al-Muadzam Shah, ibni Almarhum Almu'tasim Bi'llah Sultan Abdullah G.C.M.G.,

¹ Entré en vigueur le 22 octobre 1953.

² Under the Constitutions of the States of Johore, Pahang, Kedah, Perlis, Kelantan and Trengganu it was unlawful for the Ruler to enter into any negotiation relating to the cession or surrender of the State or any part thereof. In consequence it was necessary, in order to make it clear that the Ruler of each of these States had authority to enter into this Agreement, to amend the State Constitutions to that effect. These amendments came into force on August 5, 1957 (the Agreement itself being signed on that date) and in general provided that it should not be "unlawful for the Ruler to enter into an agreement with Her Majesty and Their Highnesses the Rulers of the Malay States revoking the Federation of Malaya Agreement and the State Agreement, of 1948, and providing for the constitution and government of a new and independent federation, within the British Commonwealth of Nations, of the Malay States and the Settlements of Malacca and Penang and such further territories as may from time to time be admitted to such federation". The Agreement was published in a Supplement to the *Gazette* of December 11, 1957, as Notification No. (New Series) 888.

Sultan of the State of Pahang, His Highness Tuanku Abdul Rahman ibni Almarhum Tuanku Muhammad, G.C.M.G., the Yang di-Pertuan Besar of the State of Negri Sembilan, Dato' Klana Petra Mohamed Kasim bin Dato' Nika Haji Abdul Rashid, Undang of Sungei Ujong, Dato' Mendika Mentri Akhirzaman Shahmaruddin bin Abdulrahman, Undang of Jelebu, Dato' Johan Pahlawan Lela Perkasa Setiawan Abdul Manap bin Tolok, Undang of Johol, Dato' Lela Maharaja Haji Ipap bin Abdullah, Undang of Rembau, and Tengku Syed Idrus bin Tengku Syed Mohammad, Tengku Besar of Tampin, the Ruling Chiefs of the State of Negri Sembilan, His Highness Hisamuddin Alam Shah ibni Almarhum Sultan Ala-Iddin Sulaiman Shah, K.C.M.G., Sultan of the State of Selangor, His Highness Tunku Badlishah ibni Almarhum Sultan Abdul Hamid Halimshah, K.C.M.G., K.B.E., Sultan of the State of Kedah, His Highness Syed Putra ibni Almarhum Syed Hassan Jamalullail, K.C.M.G., the Raja of Perlis, His Highness Tengku Ibrahim ibni Almarhum Sultan Mohamed, IV, D.K., S.P.M.K., S.J.M.K., D.K. (Johore), K.C.M.G., Sultan of the State of Kelantan, His Highness Sultan Ismail Nassiruddin Shah ibni Al-Marhum Sultan Zainal Abidin, K.C.M.G., Sultan of the State of Trengganu and his Highness Paduka Sri Sultan Yussuf 'Izzuddin Shah ibni Almarhum Sultan Abdul Jalil Radziallah Hu-'an-hu, K.C.M.G., O.B.E., Sultan of the State of Perak, of the other part, for Themselves and Their Successors:

WHEREAS by the Federation of Malay Agreement, 1948, provision was made for the establishment of a Federation of Malaya comprising the Malay States of Johore, Pahang, Negri Sembilan, Selangor, Kedah, Perlis, Kelantan, Trengganu and Perak, and the Settlements of Penang and Malacca:

AND WHEREAS the Federation of Malaya Agreement, 1948, has the force of law in the territories of the said Federation:

AND WHEREAS there now subsist between Her Majesty and each of Their Highnesses the Rulers of the said Malay States (in the case of Negri Sembilan between Her Majesty and His Highness the Yang di-Pertuan Besar and the Ruling Chiefs) divers Agreements relating to the government of the several States of Their Highnesses:

AND WHEREAS it has been represented to Her Majesty and Their Highnesses and the Ruling Chiefs of Negri Sembilan that fresh arrangements should be made for the peace, order and good government of the territories within the said Federation; and Her Majesty and Their Highnesses and the said Ruling Chiefs have agreed that the said Federation should become an independent country within the Commonwealth with the Constitution hereinafter provided for:

AND WHEREAS by the Federation of Malaya Independence Act, 1957, the approval of the Parliament of the United Kingdom was given to the conclusion of such Agreement as is herein contained:

Now THEREFORE, it is agreed and declared as follows:

Citation

1. This Agreement may be cited as the Federation of Malaya Agreement, 1957.

Construction

2. In this Agreement, unless the context otherwise requires—

“the existing Federation” means the Federation of Malaya established by the Federation of Malaya Agreement, 1948;

“Federal Ordinance” means an Ordinance of the Legislature of the existing Federation;

“Their Highnesses the Rulers” means the persons who are for the time being the Sultan of the State and Territory of Johore, the Sultan of the State of Pahang, the Yang di-Pertuan Besar of the State of Negri Sembilan, the Sultan of the State of Selangor, the Sultan of the State of Kedah, the Raja of the State of Perlis, the Sultan of the State of Kelantan, the Sultan of the State of Trengganu, and the Sultan of the State of Perak;

“the Malay States” means the States of Johore, Pahang, Negri Sembilan, Selangor, Kedah, Perlis, Kelantan, Trengganu and Perak, and all dependencies, islands and places which, immediately before the thirty-first day of August, nineteen hundred and fifty-seven, are administered as part thereof, and the territorial waters adjacent thereto;

“the Settlement of Penang” and “the Settlement of Malacca” include all islands and places which, immediately before the thirty-first day of August, nineteen hundred and fifty-seven, are administered as part of those Settlements, and the territorial waters adjacent thereto;

“the Settlements” means the Settlement of Penang and the Settlement of Malacca.

Establishment of new Federation: Federal Constitution

3. As from the thirty-first day of August, nineteen hundred and fifty-seven, the Malay States and the Settlements shall be formed into a new Federation of States by the name of Persekutuan Tanah Melayu, or in English, the Federation of Malaya, under the Federal Constitution set out in the First Schedule to this Agreement; and thereupon the said Settlements shall cease to form part of Her Majesty's dominions and Her Majesty shall cease to exercise any sovereignty over them, and all power and jurisdiction of Her Majesty or of the Parliament of the United Kingdom in or in respect of the Settlements or the Malay States or the Federation as a whole shall come to an end.

Constitutions of Penang and Malacca

4. The Constitutions set out in the Second and Third Schedules to this Agreement shall be the Constitutions of Penang and Malacca respectively as States of the new Federation.

Revocation of previous Agreements

5. Subject to the provisions of the said Federal Constitution and to the Fourth Schedule to this Agreement, the Federation of Malaya Agreement, 1948, and all other agreements subsisting between Her Majesty and the other Parties to this Agreement or any of them immediately before the said thirty-first day of August shall be revoked as from that day, but nothing in this Clause shall affect any provision in any agreement by which provision any disposition of territory was made.

Approval of this Agreement by Legislatures

6. The foregoing provisions of this Agreement are conditional upon the approval of the said Federal Constitution by Federal Ordinance and by an Enactment of each of the Malay States.

Languages of the Agreement

7. This Agreement shall be expressed in both the English and the Malay languages; but, for purposes of interpretation, regard shall be had only to the English version.

IN WITNESS WHEREOF Sir Donald Charles MacGillivray, G.C.M.G., M.B.E. has hereunto set his hand and seal on behalf of Her Majesty; and Their Highnesses the Rulers of the States of Pahang, Negri Sembilan, Selangor, Kedah, Perlis, Kelantan, Trengganu and Perak and the Ruling Chiefs of the State of Negri Sembilan and His Highness Tunku Ismail ibni Sultan Ibrahim, D.K., S.P.M.J., S.P.M.K., K.B.E., C.M.G., the Regent of Johore, on behalf of His Highness the Sultan of the State and Territory of Johore, have hereunto set their hands and seals.

DONE the 5th day of August, 1957, corresponding to the 9th day of Muharram, 1377.

First schedule

[This consists of the Constitution of the Federation of Malaya. For relevant provisions see *infra* section B4.]

Second schedule

[This consists of the Constitution of Penang. Not reproduced.]

Third schedule

[This consists of the Constitution of Malacca. Not reproduced.]

*Fourth schedule*¹

The following provisions shall apply in respect of the Treaty made on the sixth day of May, eighteen hundred and sixty-nine, between Her

¹ Cf. Article 167 of the Constitution of the Federation of Malaya, *infra* section B4. The two Articles referred to in this Schedule are as follows:

Article II

The Governor of the British Colony of the Straits Settlements shall pay annually to His Highness the Iang de per Tuan of Quedah, ten thousand dollars, as long as Her Britannic Majesty shall continue in possession of Pulo Penang and the country on the opposite coast hereafter mentioned.

Article III

His Highness the Iang de per Tuan of Quedah agrees that the Dominions of Her Britannic Majesty on the mainland, opposite the Island of Penang, shall comprise the Territories bounded as follows: that is to say, on the West by the Sea, on the North by the right bank of the River Mudah, on the South by the right bank of the River Kurreen (Kreean), and on the East by a line running South from a spot on the right bank of the River Mudah, opposite the existing Frontier pillar at Sematool, in a straight line to a point on the extreme eastern end of the Maratajam range of Hills. Thence along the top ridge of the Punchore Hill to the existing Frontier pillar on the right bank of the River Kurreen, about 400 English yards above and East of Bukit Tungal. A map

Majesty of the one part and The King of Siam of the other part relative to the State of Kedah:

(a) All obligations under Article II of the said Treaty shall, on and after the thirty-first day of August, nineteen hundred and fifty-seven, be discharged as is provided in Article 167 of the First Schedule to this Agreement, and accordingly no liability whatsoever under the said Article II shall attach to Her Majesty on or after the said thirty-first day of August.

(b) Article III of the said Treaty shall immediately before the said thirty-first day of August have the effect that the obligations of Her Majesty thereunder are obligations of Her Majesty in respect of Her Government of the Settlement of Penang, and all such obligations shall, on and after the said thirty-first day of August be discharged as is provided in Article 167 of the First Schedule to this Agreement, and accordingly no liability whatsoever under the said Article III shall attach to Her Majesty on or after the said thirty-first day of August.

2. EXCHANGE OF LETTERS BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE FEDERATION OF MALAYA. KUALA LUMPUR, 12 SEPTEMBER 1957¹

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(i) All obligations and responsibilities of the Government of the United Kingdom which arise from any valid international instrument are, from 31 August 1957, assumed by the Government of the Federation of Malaya in so far as such instruments may be held to have application to or in respect of the Federation of Malaya.

(ii) The rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to or in respect of the Federation of Malaya are, from 31 August 1957, enjoyed by the Government of the Federation of Malaya.

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B. LAWS AND DECREES

1. THE FEDERATION OF MALAYA INDEPENDENCE ACT, 1957 — AN ACT TO MAKE PROVISION FOR AND IN CONNECTION WITH THE ESTABLISHMENT OF THE FEDERATION OF MALAYA AS AN INDEPENDENT SOVEREIGN COUNTRY WITHIN THE COMMONWEALTH²

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showing the eastern Boundary above described, in annexed to the present Treaty, and signed by the respective Commissioners.

The British Authorities engage to respect the Royal burying grounds at Kotah Prye within the ceded Territory, and to consider them still the property of His Highness the Iang de per Tuan of Quedah, but subject nevertheless to British jurisdiction in other respects, provided always that the Mudah River shall at all times be free to the peaceful navigation of the subjects of His Majesty the King of Siam.

¹ United Nations, *Treaty Series*, vol. 279, p. 287. Came into force on 12 September 1957. Cf. Article 169 of the Constitution of the Federation of Malaya, *infra* section B4.

² 5 and 6 Eliz. 2, Chapter 60. Enacted by the British Parliament on 31 July 1957.

Provision for establishment of the Federation as an independent sovereign country

1. (1) Subject to the provisions of this section, the approval of Parliament is hereby given to the conclusion between Her Majesty and the Rulers of the Malay States of such agreement as appears to Her Majesty to be expedient for the establishment of the Federation of Malaya as an independent sovereign country within the Commonwealth.

(2) Any such agreement as aforesaid may make provision—

(a) for the formation of the Malay States and of the Settlements of Penang and Malacca into a new independent Federation of States under a Federal Constitution specified in the agreement, and for the application to those Settlements, as States of the new Federation, of State Constitutions so specified;

(b) for the termination of Her Majesty's sovereignty and jurisdiction in respect of the said Settlements, and of all other Her power and jurisdiction in and in respect of the Malay States or the Federation as a whole, and the revocation or modification of all or any of the provisions of the Federation of Malaya Agreement, 1948, and of any other agreements in force between Her Majesty and the Rulers of the Malay States.

(3) Any such agreement shall be conditional upon the approval of the new Federal Constitution by enactments of the existing Federal Legislature and of each of the Malay States; and upon such approval being given Her Majesty by Order in Council¹ may direct that the said Federal and State Constitutions shall have the force of law within the said Settlements, and, so far as She has jurisdiction in that behalf, elsewhere within the Federation, and may make such other provision as appears to Her to be necessary for giving effect to the agreement.

(4) Any Order in Council under this section shall be laid before Parliament after being made.

(5) In this Act "the appointed day" means such day as may be specified by Order in Council under this section as the day from which the said Federal Constitution has the force of law as aforesaid.

Operation of existing laws

2. (1) On and after the appointed day, all existing law to which this section applies shall, until otherwise provided by the authority having power to amend or repeal that law, continue to apply in relation to the Federation or any part thereof, and to persons and things in any way belonging thereto or connected therewith, in all respects as if no such agreement as is referred to in subsection (1) of section one of this Act had been concluded:

Provided that—

(a) the enactments referred to in the First Schedule to this Act shall have effect as from the appointed day subject to the amendments made by that Schedule (being amendments for applying in relation to the Federation certain statutory provisions applicable to Commonwealth countries having fully responsible status within Her Majesty's dominions)

(b) Her Majesty may by Order in Council make such further adaptations in any Act of the Parliament of the United Kingdom passed before the appointed day, or in any instrument having effect under any such

¹ See the Federation of Malaya Independence Order in Council, 1957, *infra* section B2.

Act, as appear to Her necessary or expedient in consequence of the agreement referred to in subsection (1) of section one of this Act;

(c) in relation to the Colonial Development and Welfare Acts, 1940 to 1955, this subsection shall have effect only so far as may be necessary for the making of payments on or after the appointed day in pursuance of schemes in force immediately before that day and in respect of periods falling before that day;

(d) nothing in this section shall be construed as continuing in force any enactment or rule of law limiting or restricting the legislative powers of the Federation or any part thereof.

(2) An Order in Council made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) An Order in Council made under this section may be varied or revoked by a subsequent Order in Council so made and may, though made after the appointed day, be made so as to have effect from that day.

(4) In this section "existing law" means any Act of Parliament or other enactment or instrument whatsoever, and any rule of law, which is in force on the appointed day or, having been passed or made before the appointed day, comes into force after that day; and the existing law to which this section applies is law which operates as law of, or of any part of, the United Kingdom, Southern Rhodesia, or any colony, protectorate or United Kingdom trust territory except that this section:

(a) does not apply to any law passed by the Federal Legislature of Rhodesia and Nyasaland;

(b) applies to other law of, or of any part of, Southern Rhodesia so far only as concerns law which can be amended neither by a law passed by the Legislature thereof nor by a law passed by the said Federal Legislature; and

(c) applies to other law of, or of any part of, Northern Rhodesia or Nyasaland so far only as concerns law which cannot be amended by a law passed by the said Federal Legislature.

(5) References in subsection (4) of this section to a colony, a protectorate and a United Kingdom trust territory shall be construed as if they were references contained in the British Nationality Act, 1948.

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First Schedule

CONSEQUENTIAL AMENDMENTS OF ENACTMENTS

Nationality and Citizenship

1. Subsection (3) of section one of the British Nationality Act, 1948¹ (which specifies the Commonwealth countries whose citizens are British

¹ Section 1 of the United Kingdom British Nationality Act, 1948, provides for British nationality by virtue of citizenship, as follows:

"(1) Every person who under this Act is a citizen of the United Kingdom and Colonies or who under any enactment for the time being in force in any country mentioned in sub-section (3) of this section is a citizen of that country shall by virtue of that citizenship have the status of a British subject.

"(2) Any person having the status aforesaid may be known either as a British subject or as a Commonwealth citizen; and accordingly in this Act and in any other enactment or instrument whatever, whether passed or made before or after the commencement of this Act, the expression 'British subject' and the expression 'Commonwealth citizen' shall have the same meaning.

subjects or Commonwealth citizens) shall have effect as if for the words "and Ghana" there were substituted the words "Ghana and the Federation of Malaya"; and the British Protectorates, Protected States and Protected Persons Order in Council, 1949, made in pursuance of sections thirty and thirty-two of that Act, shall have effect as if the references to the Malay States in section eight of that Order and in the Second Schedule thereto were omitted.

Armed forces

2. (1) References in the Army Act, 1955, the Air Force Act, 1955, and the Naval Discipline Act, 1957, to a colony or to territory under Her Majesty's protection shall not include any part of the Federation, and section two hundred and eighteen of the Army Act, 1955, section two hundred and sixteen of the Air Force Act, 1955, and subsection (3) of section one hundred and twenty-seven of the Naval Discipline Act, 1957, shall cease to have effect.

(2) In the definitions of "Commonwealth force" in subsection (1) of section two hundred and twenty-five of the Army Act, 1955, and in subsection (1) of section two hundred and twenty-three of the Air Force Act, 1955, and in the definition of "Commonwealth country" in subsection (1) of section one hundred and thirty-five of the Naval Discipline Act, 1957, for the words "or Ghana" there shall be substituted the words "Ghana or the Federation of Malaya".

(3) Until the coming into force of the Naval Discipline Act, 1957 sub-paragraph (2) of this paragraph shall have effect as if for the reference to the definition of "Commonwealth country" in subsection (1) of section one hundred and thirty-five of that Act there were substituted a reference to the definition of "Commonwealth force" in section eighty-six of the Naval Discipline Act, as amended by the Revision of the Army and Air Force Acts (Transitional Provisions) Act, 1955.

3. Section four of the Visiting Forces (British Commonwealth) Act, 1933 (which deals with attachment and mutual powers of command), and the definition of "visiting force" for the purposes of that Act which is contained in section eight of that Act, shall apply in relation to forces raised in the Federation as they apply in relation to forces raised in Dominions within the meaning of the Statute of Westminster, 1931.

4. (1) In subsection (1) of section one of the Visiting Forces Act, 1952 (which specifies the countries to which that Act applies), for the words "or Ghana" there shall be substituted the words "Ghana or the Federation of Malaya"; and in paragraph (a) of subsection (1) of section ten of that Act the expression "colony" shall not include any part of the Federation.

(2) Until express provision with respect to the Federation is made by Order in Council under section eight of the said Act of 1952 (which relates to the application to visiting forces of law relating to home forces), any such Order for the time being in force shall be deemed to apply to visiting forces of the Federation.

"(3) The following are the countries hereinbefore referred to, that is to say Canada, Australia, New Zealand, the Union of South Africa, Newfoundland, India, Pakistan, the Federation of Rhodesia and Nyasaland, Ceylon, Ghana, the Federation of Malaya, and the State of Singapore."

Diplomatic immunities

5. In section four hundred and sixty-one of the Income Tax Act, 1952 (which relates to exemption from income tax in the case of certain Commonwealth representatives and their staffs) for the words "or Ghana in both places where those words occur, there shall be substituted the words "Ghana or the Federation of Malaya".

6. In subsection (6) of section one of the Diplomatic Immunities (Commonwealth Countries and Republic of Ireland) Act, 1952, after the word "Ghana" there shall be inserted the words "the Federation of Malaya".

Financial

7. As respects goods imported after such date as Her Majesty may by Order in Council appoint, section four of the Import Duties Act, 1932, and section two of the Isle of Man (Customs) Act, 1932 (which relate to imperial preference other than colonial preference) shall apply to the Federation.

8. (1) The Colonial Stock Acts, 1877 to 1948, shall apply in relation to stock of the Federation as they apply in relation to stock of a Dominion within the meaning of the Colonial Stock Act, 1934, but as if in paragraph (a) of subsection (1) of section one of the said Act of 1934 for any reference to Her Majesty's Government in the Dominion, to the Parliament of the Dominion or to the Royal Assent, there were substituted a reference to the Government or the Legislature of the Federation or to the Assent of the Head of the Federation.

(2) During any period on and after the appointed day during which there is in force as part of the law of the Federation any instrument passed or made before that day which makes provision corresponding to the undertaking required by the said paragraph (a), paragraphs (a) and (b) of the said subsection (1) shall be deemed to have been complied with in the case of the Federation.

Ships and aircraft

9. The Merchant Shipping Acts, 1894 to 1954, shall apply in relation to the Federation as they apply in relation to the Commonwealth countries mentioned in subsection (3) of section one of the British Nationality Act, 1948.

10. Without prejudice to the generality of the last foregoing paragraph:

(a) in subsection (2) of section four hundred and twenty-seven of the Merchant Shipping Act, 1894, as substituted by section two of the Merchant Shipping (Safety Convention) Act, 1949, for the words "or Ghana" there shall be substituted the words "Ghana or the Federation of Malaya"; and

(b) in the proviso to subsection (2) of section six of the Merchant Shipping Act, 1948, for the words "or Ghana" there shall be substituted the words "Ghana or the Federation of Malaya".

11. In the definitions of "Dominion ship or aircraft" contained in subsection (2) of section three of the Emergency Powers (Defence) Act, 1939, and in Regulation one hundred of the Defence (General)

Regulations, 1939, the expression "a Dominion" shall include the Federation.

12. The Ships and Aircraft (Transfer Restriction) Act, 1939, shall not apply to any ship by reason only of its being registered in, or licensed under the law of the Federation; and the penal provisions of that Act shall not apply to persons in the Federation (but without prejudice to the operation with respect to any ship to which that Act does apply of the provisions thereof relating to the forfeiture of ships).

13. In the Whaling Industry (Regulation) Act, 1934, the expression "British ship to which this Act applies" shall not include a British ship registered in the Federation.

Copyright

14. The references in section thirty-one of the Copyright Act, 1956, to a colony or to a country outside Her Majesty's dominions in which Her Majesty has jurisdiction shall not include any part of the Federation.

15. If the Copyright Act, 1911, so far as in force in the law of any part of the Federation, is repealed or amended by that law at a time when sub-paragraph (2) or paragraph 39 of the Seventh Schedule to the Copyright Act, 1956 (which applies certain provisions of that Act in relation to countries to which the said Act of 1911 extended) is in force in relation to that part of the Federation, the said sub-paragraph (2) shall thereupon cease to have effect in relation thereto.

Second Schedule

ENACTMENTS REPEALED

<i>Session and Chapter</i>	<i>Short Title</i>	<i>Extent of Repeal</i>
9 & 10 Geo. 6. c. 37.	The Straits Settlements (Repeal) Act, 1946.	The whole Act so far as it relates to the Settlements of Penang and Malacca.
3 & 4 Eliz. 2. c. 18.	The Army Act, 1955.	Section two hundred and eighteen.
3 & 4 Eliz. 2. c. 19.	The Air Force Act, 1955.	Section two hundred and sixteen.

2. THE FEDERATION OF MALAYA INDEPENDENCE ORDER IN COUNCIL, 1957¹

WHEREAS by the Federation of Malaya Independence Act, 1957, the approval of Parliament was given to the conclusion between Her Majesty and the Rulers of the Malay States of such agreement as appears to Her Majesty to be expedient for the establishment of the Federation of Malaya as an independent sovereign country within the Commonwealth:

AND WHEREAS the said Act provides that any such agreement as aforesaid may make provision—

(a) for the formation of the Malay States and of the Settlements of Penang and Malacca into a new independent Federation of States under

¹ Statutory Instruments, 1957, No. 1533. Made at the Court at Balmoral on 23 August 1957 and came into operation on 31 August 1957.

a Federal Constitution specified in the Agreement, and for the application to those Settlements, as States of the new Federation, of State Constitutions so specified;

(b) for the termination of Her Majesty's sovereignty and jurisdiction in respect of the said Settlements, and of all other Her power and jurisdiction in and in respect of the Malay States or the Federation as a whole, and the revocation or modification of all or any of the provisions of the Federation of Malaya Agreement, 1948, and of any other agreements in force between Her Majesty and the Rulers of the Malay States:

AND WHEREAS the said Act further provides that any such Agreement shall be conditional upon the approval of the new Federal Constitution by enactments of the existing Federal Legislature and of each of the Malay States; and that upon such approval being given Her Majesty by Order in Council may direct that the said Federal and State Constitutions shall have the force of law within the said Settlements, and, so far as She has jurisdiction in that behalf, elsewhere within the Federation, and may make such other provision as appears to Her to be necessary for giving effect to the Agreement:

AND WHEREAS the Agreement set out in the Annex to this Order (hereinafter called "the Agreement") was concluded on the 5th day of August, 1957, between Her Majesty and the Rulers of the Malay States:

AND WHEREAS the Federal Constitution which is set out in the First Schedule to the Agreement has been approved by enactments of the existing Federal Legislature and of each of the Malay States:

NOW, THEREFORE, Her Majesty, by virtue and in exercise of the powers by section 1 of the said Act or otherwise in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation, commencement, application and construction

1. (1) This Order may be cited as the Federation of Malaya Independence Order in Council, 1957, and shall come into operation immediately before the 31st day of August, 1957.

(2) This Order extends to the Settlements of Penang and Malacca and, so far as Her Majesty has jurisdiction therein, to the other territories of the Federation of Malaya.

(3) The Interpretation Act, 1889, shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

Constitutions to have force of law

2. The Federal Constitution set out in the First Schedule to the Agreement, and the State Constitutions set out in the Second and Third Schedules thereto, shall have the force of law—

(a) in the case of the said Federal Constitution, as from the 31st day of August, 1957;

(b) in the case of the said State Constitutions, as from the commencement of this Order.

Revocation

3. (1) The Federation of Malaya Orders in Council, 1948 to 1956, are hereby revoked.

(2) Nothing in this section shall prejudice the continuance in operation of any provision of the said Orders in Council, to the extent provided for by the Federal and State Constitutions referred to in section 2 of this Order, as part of those Constitutions.

3. THE FEDERAL CONSTITUTION ORDINANCE, 1957¹ — AN ORDINANCE TO APPROVE THE FEDERAL CONSTITUTION SET OUT IN THE FEDERATION OF MALAYA AGREEMENT, 1957

WHEREAS by the Federation of Malaya Agreement, 1948, provision was made for the establishment of a Federation of Malaya comprising the Malay States of Johore, Pahang, Negri Sembilan, Selangor, Kedah, Perlis, Kelantan, Trengganu and Perak and the Settlements of Penang and Malacca:

AND WHEREAS by an Agreement, hereinafter referred to as the Federation of Malaya Agreement, 1957, made the fifth day of August, 1957, between Her Majesty of the one part and Their Highnesses the Rulers of the States of Johore, Pahang, Selangor, Kedah, Perlis, Kelantan, Trengganu and Perak, and His Highness the Yang di-Pertuan Besar and the Ruling Chiefs of the State of Negri Sembilan of the other part fresh arrangements have been agreed upon for the peace, order and good government of the territories comprised in the Federation of Malaya:

AND WHEREAS by the Federation of Malaya Agreement, 1957, it is agreed by the parties thereto that as from the thirty-first day of August, 1957, the Malay States of Johore, Pahang, Negri Sembilan, Selangor, Kedah, Perlis, Kelantan, Trengganu and Perak and the Settlements of Penang and Malacca shall be formed into a new Federation of States by the name of Persekutuan Tanah Melayu (in English the Federation of Malaya), under the Federal Constitution set out in the First Schedule to the said Agreement; and that thereupon the Settlements of Penang and Malacca shall cease to form part of Her Majesty's dominions and Her Majesty shall cease to exercise any sovereignty over them and all power and jurisdiction of Her Majesty or of the Parliament of the United Kingdom in or in respect of the Settlements or the Malay States or the Federation as a whole shall come to an end; and that, subject to the provisions of the said Federal Constitution and to the Fourth Schedule to the said Agreement, the Federation of Malaya Agreement, 1948, and all other agreements subsisting between Her Majesty and Their Highnesses the Rulers or any of them immediately before the said thirty-first day of August shall be revoked as from that day; and that the provisions of the said Agreement are conditional upon the approval of the said Federal Constitution by Federal Ordinance and by an Enactment of each of the Malay States:

NOW IT IS HEREBY ENACTED by the High Commissioner of the Federation of Malaya and Their Highnesses the Rulers of the Malay States, with the advice and consent of the Legislative Council, as follows:

¹ Ordinance No. 55 of 1957. Enacted by the High Commissioner of the Federation of Malaya and the Rulers of Malay States on 27 August 1957. Each of the former Malay States enacted legislation in similar terms to the present Ordinance.

Short title

1. This Ordinance may be cited as the Federal Constitution Ordinance, 1957.

Approval of Federal Constitution

2. The Federal Constitution set out in the First Schedule to the Federation of Malaya Agreement, 1957, is hereby approved and shall on and after the thirty-first day of August, 1957, have the force of law throughout the Federation.

4. CONSTITUTION OF THE FEDERATION OF MALAYA, 1957¹*Part I*THE STATES, RELIGION AND LAW OF THE
FEDERATION*The name, States and territories of the Federation*

1. (1) The Federation shall be known by the name of Persekutuan Tanah Melayu (in English the Federation of Malaya).

(2) The States of the Federation are Johore, Kedah, Kelantan, Negri Sembilan, Pahang, Perak, Perlis, Selangor and Trengganu (formerly known as the Malay States) and Malacca and Penang (formerly known as the Settlements of Malacca and Penang).

(3) The territories of each of the States mentioned in Clause (2) are the territories of that State immediately before Merdeka Day.²

Admission of new territories into the Federation

2. Parliament may by law—

(a) admit other States to the Federation;

(b) alter the boundaries of any State;

but a law altering the boundaries of a State shall not be passed without the consent of that State (expressed by a law made by the Legislature of that State) and of the Conference of Rulers.

• • •

Part XIII

TEMPORARY AND TRANSITIONAL PROVISIONS

Existing laws

162. (1) Subject to the following provisions of this Article and Article 163, the existing laws shall, until repealed by the authority having power to do so under this Constitution, continue in force on and after Merdeka Day, with such modifications as may be made therein under this Article and subject to any amendments made by federal or State law.

¹ First Schedule of the Federation of Malaya Agreement, 1957, dated 5 August 1957 [section A 1 above] which was approved by the Federal Constitution Ordinance, 1957, dated 27 August 1957 [section B 3 above]. Came into force on 31 August 1957.

² 31 August 1957.

. . .
 (4) The Yang di-Pertuan Agong may, within a period of two years beginning with Merdeka Day, by order make such modifications in any existing law, other than the Constitution of any State, as appear to him necessary or expedient for the purpose of bringing the provisions of that law into accord with the provisions of this Constitution; but before making any such order in relation to a law made by the Legislature of a State he shall consult the Government of that State.

(5) Any order made under Clause (4) may be amended or repealed by the authority having power to make laws with respect to the matter to which the order relates.

(6) Any court or tribunal applying the provision of any existing law which has not been modified on or after Merdeka Day under this Article or otherwise may apply it with such modifications as may be necessary to bring it into accord with the provisions of this Constitution.

(7) In this Article "modification" includes amendment, adaptation and repeal.

. . .

Temporary functions of Legislative Council

164. (1) The Legislative Council established under the Federation of Malaya Agreement, 1948,¹ shall remain in being on and after Merdeka Day and shall not be dissolved before the first day of January, nineteen hundred and fifty-nine.²

. . .

Succession of property

166. (1) Subject to the provisions of this Article, all property and assets which immediately before Merdeka Day were vested in Her Majesty for the purposes of the Federation or of the colony or Settlement of Malacca or the colony or Settlement of Penang, shall on Merdeka Day vest in the Federation or the State of Malacca or the State of Penang, as the case may be.

(2) Any land in the State of Malacca or the State of Penang which immediately before Merdeka Day was vested in Her Majesty shall on that day vest in the State of Malacca or the State of Penang as the case may be.

(3) Any land vested in the State of Malacca or the State of Penang which immediately before Merdeka Day was occupied or used by the Federation Government or Her Majesty's Government or by any public authority for purposes which in accordance with the provisions of this Constitution 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—

(a) shall not be disposed of or used for any purposes other than federal purposes without the consent of the Federal Government, and

¹ Statutory Instruments 1948, vol. I, pp. 1276-1339.

² The Legislative Council was in fact dissolved on 27 June 1959 [see *Gazette Notification 2279 of 1959*].

- (b) shall not be used for federal purposes different from the purposes for which it was used immediately before Merdeka Day without the consent of the Government of the State.
- (4) Any State land which, immediately before Merdeka Day, was occupied or used, without being reserved, by the Federation Government for purposes which become federal purposes on that day, shall on that day be reserved for those federal purposes.
- (5) All property and assets which immediately before Merdeka Day were vested in the Federation Government or some other person on its behalf for purposes which on that day continue to be federal purposes, shall on that day vest in the Federation.
- (6) Property and assets which immediately before Merdeka Day were vested in the Federation Government or some person on its behalf for purposes which on that day become purposes of any State shall on that day vest in that State.
- (7) Property and assets other than land which immediately before Merdeka Day were used by a State for purposes which on that day become federal purposes shall on that day vest in the Federation.
- (8) Any property which was, immediately before Merdeka Day, liable to escheat to Her Majesty in respect of the government of Malacca or the government of Penang shall on that day be liable to escheat to the State of Malacca or the State of Penang, as the case may be.

Rights, liabilities and obligations

167. (1) Subject to the provisions of this Article, all rights, liabilities and obligations of—
- (a) Her Majesty in respect of the government of the Federation, and
- (b) the Government of the Federation or any public officer on behalf of the Government of the Federation,
- shall on and after Merdeka Day be the rights, liabilities and obligations of the Federation.
- (2) Subject to the provisions of this Article, all rights, liabilities and obligations of—
- (a) Her Majesty in respect of the government of Malacca or the government of Penang,
- (b) His Highness the Ruler in respect of the government of any State, and
- (c) the Government of any State,
- shall on and after Merdeka Day be the rights, liabilities and obligations of the respective States.
- (3) All rights, liabilities and obligations relating to any matter which was immediately before Merdeka Day the responsibility of the Federation Government but which on that date becomes the responsibility of the Government of a State, shall on that day devolve upon that State.
- (4) All rights, liabilities and obligations relating to any matter which was immediately before Merdeka Day the responsibility of the Government of a State but which on that day becomes the responsibility of the Federal Government, shall on that day devolve upon the Federation.
- (5) In this Article, rights, liabilities and obligations include rights, liabilities and obligations arising from contract or otherwise, other than rights to which Article 166 applies.
- (6) The Attorney General shall, on the application of any party in-

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 Article 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.

(7) The Federation shall make the like annual payments as fell to be made before Merdeka Day under Article II of the Treaty made on the sixth day of May, eighteen hundred and sixty-nine, between Her Majesty of the one part and the King of Siam of the other part relative to the State of Kedah.

Legal proceedings

168. (1) Subject to the provisions of this Article, any legal proceedings pending in any court immediately before Merdeka Day in which Her Majesty or any servant of Her Majesty is a party in respect of the colony or Settlement of Malacca or the colony or Settlement of Penang shall continue on and after Merdeka Day with the State of Malacca or the State of Penang, as the case may be, substituted as a party.

(2) Subject to the provisions of this Article, any legal proceedings pending in any court immediately before Merdeka Day in which the Federation Government or a State Government or any officer of either Government is a party shall continue on and after Merdeka Day with the Federation or, as the case may be, the State substituted as a party.

(3) Any legal proceedings pending in any court immediately before Merdeka Day in which the Federation Government or any officer thereof is a party shall, if the subject matter falls within the executive authority of a State, be continued on and after that day with that State substituted as a party.

(4) Any legal proceedings pending in any court immediately before Merdeka Day in which a State or any officer thereof is a party shall, if the subject matter falls within the executive authority of the Federation, be continued on and after that day with the Federation substituted as a party.

(5) The Attorney General shall, on the application of any party to any proceedings referred to in this Article, certify whether the Federation or a State is in accordance with this Article to be substituted as a party in those proceedings, 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.

International agreements, etc. made before Merdeka Day

169.¹ For the purposes of Article 76 (1)²—

(a) any treaty, agreement or convention entered into before Merdeka Day between Her Majesty or her predecessors or the Government

¹ Cf. Exchange of letters dated 12 September 1957 between the United Kingdom and the Federation of Malaya [section A 2 above].

² Article 76 (1) reads in part:

“Parliament [of the Federation of Malaya] may make laws with respect to

of the United Kingdom on behalf of the Federation or any part thereof and another country shall be deemed to be a treaty, agreement or convention between the Federation and that other country;

- (b) any decision taken by an international organisation and accepted before Merdeka Day by the Government of the United Kingdom on behalf of the Federation or any part thereof shall be deemed to be a decision of an international organisation of which the Federation is a member.

Temporary provisions for persons qualified for registration as citizens under Federation of Malaya Agreement, 1948, Clause 126

170. (1) Subject to the provisions of this Article, any person who, immediately before Merdeka Day, was qualified to make application for registration as a citizen of the Federation under Clause 126 of the Federation of Malaya Agreement, 1948,¹ shall be entitled, upon making application to the registration authority within the period of one year beginning with that day, to be registered as a citizen.

(2) A person who has absented himself from the Federation for a continuous period of five years within the ten years immediately preceding his application under this Article shall not be entitled to be registered thereunder unless it is certified by the Federal Government that he has maintained substantial connection with the Federation during that period.

. . .

Existing courts

172. The Supreme Court in existence immediately before Merdeka Day shall be the Supreme Court for the purposes of this Constitution; and, without prejudice to the generality of Article 162, any other court then exercising jurisdiction and functions shall, until federal law otherwise provides, continue to exercise them.

Pending appeals to Privy Council

173. Any appeal or application for leave to appeal from the Supreme Court to Her Majesty in Council which is pending immediately before Merdeka Day shall on and after Merdeka Day be treated as an appeal or application for leave to appeal under Article 131.

any matter enumerated in State List, but only as follows, that is to say —
“(a) for the purpose of implementing any treaty, agreement or convention between the Federation and any other country, or any decision of an international organisation of which the Federation is a member;”

¹ Clause 126 reads in part:

“Subject as hereinafter provided, a person of full capacity, born in the Federation who—

“(a) is not a citizen of the Federation of Malaya; and

“(b) is a citizen of the United Kingdom and Colonies,

“shall, on making application therefor to the High Commissioner in the prescribed manner, be entitled, on taking the oath set out in Form VIII in the First Schedule to this Agreement, to be registered as a citizen of the Federation of Malaya.”

Judicial appointments and Attorney General

174. (1) The Chief Justice and other judges of the Supreme Court holding office immediately before Merdeka Day shall, notwithstanding anything in Article 123, be the Chief Justice and the other judges of the Supreme Court on that day and shall hold office on terms and conditions not less favourable than those applicable to them immediately before that day.

(2) The person holding the office of Attorney General immediately before Merdeka Day shall continue to hold that office on terms and conditions not less favourable than those applicable to him immediately before Merdeka Day and shall, notwithstanding anything in Article 123, be qualified for appointment as a judge of the Supreme Court.

(3) A person who immediately before Merdeka Day was a member of the judicial and legal service of the Federation and would be qualified for appointment as a judge of the Supreme Court if he were a citizen shall be so qualified notwithstanding that he is not a citizen.

. . .

Transfer of officers

176. (1) Subject to the provisions of this Constitution and any existing law, all persons serving in connection with the affairs of the Federation immediately before Merdeka Day shall continue to have the same powers and to exercise the same functions on Merdeka Day on the same terms and conditions as were applicable to them immediately before that day.

(2) This Article does not apply to the High Commissioner or the Chief Secretary.

. . .

Preservation of pensions, etc.

180. (1) The Tenth Schedule to the Federation of Malaya Agreement, 1948¹, shall continue in force on and after Merdeka Day, but with the modification that any reference therein to the High Commissioner shall be construed as a reference to the Yang di-Pertuan Agong.

5. CONSTITUTION OF MALAYSIA, 1963²*Part I*

THE STATES, RELIGION AND LAW OF THE FEDERATION

The name, States and territories of the Federation [Subs. 26 of 1963]

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

¹ This schedule provides for pensions, gratuities or other like allowances granted to persons serving in connection with the affairs of the Federation.

² *The Federal Constitution of Malaysia together with the Malaysia Act*, compiled in the Attorney-General's Chambers, Kuala Lumpur (1964), p. 1.

- (2) The States of the Federation shall be—
- (a) the States of Malaya, namely, Johore, Kedah, Kelantan, Malacca, Negri Sembilan, Pahang, Penang, Perak, Perlis, Selangor and Trengganu; and
 - (b) the Borneo States, namely, Sabah and Sarawak; and
 - (c) the State of Singapore.
- (3) The territories of each of the States mentioned in Clause (2) are the territories comprised therein immediately before Malaysia Day.¹

Admission of new territories into the Federation

2. [See section B4, Article 2 above]

. . .

Part XII

GENERAL AND MISCELLANEOUS

Operation of transitional provisions of Malaya Act [Add. 26 of 1963]

159A. 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.

Part XIII

TEMPORARY AND TRANSITIONAL PROVISIONS

Existing laws

162. (1) [See section B4, Article 162 above]

. . .

- (4) (Repealed by Amend. 25 of 1963)
 (5), (6) and (7) [See section B4, Article 162 above]

. . .

Succession to property

166. (1) and (2) (Repealed by Amend. 25 of 1963)
 (3) [See section B4, Article 166 above]
 (4), (5), (6), (7) and (8) (Repealed by Amend. 25 of 1963)

Rights, liabilities and obligations

167. (1), (2), (3), (4) and (5) (Repealed by Amend. 25 of 1963)
 (6) and (7) [see section B4, Article 167 above]

Legal proceedings

168. (Repealed by Amend. 25 of 1963)

¹ 13 September 1963.

International agreements, etc. made before Merdeka Day [Add. 26 of 1963]

169. For the purposes of Article 76 (1)—

(a) [See section B4, Article 169 above]

(b) [See section B4, Article 169 above]

(c) in relations 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.

Registration as citizens

170. (Repealed by Amend. 25 of 1963)

Existing courts

172. (Repealed by Amend. 25 of 1963)

Appeal to Privy Council

173. (Repealed by Amend. 25 of 1963)

Judicial appointments and Attorney-General

174. (Repealed by Amend. 26 of 1963)

. . .

Transfer of Officers

176. [See section B4, article 176 above]

. . .

Preservation of pensions, etc.

180. [See section B4, article 180 above]

6. MALAYSIA ACT. 1963¹*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 be construed as references to Malaysia, and expressions importing such a reference shall be construed accordingly.

² *The Federal Constitution of Malaysia together with the Malaysia Act*, compiled in the Attorney General's Chambers, Kuala Lumpur (1964), p. 153.

(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 in so far 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, of each of the Borneo States, and of Singapore passed or made before Malaysia Day, but does not include the Constitution of the Federation or any of those States 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.

. . .

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 sub-section 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 sub-section (1) "federal purposes" includes the provision of government quarters for the holders of federal office or employment; but that sub-section 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 that 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 sub-section.

(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.

(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 sub-section (2), have been the appellant or respondent if the proceedings had continued after Malaysia Day; but if it is not so brought, sub-section (2) shall apply to it as it applies to proceedings pending on Malaysia Day.

(4) Sub-section (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 sub-sections (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 sub-sections (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) sub-section (1) shall apply as it applies where the State government retains responsibility for the reasons there mentioned.

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.

...

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 practice 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 sub-section 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 practice and procedure to be followed by the Federal Court in the exercise of its original and consultative jurisdiction, and the practice 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 dis-

charge the functions belonging thereto with such modifications as are required to give effect to sub-sections (1) and (2).

(4) Sub-sections (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, practice 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 sub-sections (1) to (3).

(5) Sub-sections (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 sub-section (4); but, until other provision is made by federal law, the powers so conferred as regards the practice and procedure of the Federal Court and the practice 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 practice 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 practice 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 sub-section (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 sub-section, 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 sub-sections (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, in so far 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, sub-section (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 sub-section (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 sub-section (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 sub-section (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 sub-section 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 sub-section (4) a person becoming judge of the Federal Court or a High Court under sub-section (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 sub-section (1) shall not be transferred to another High Court under Article 122c of the Constitution except with his consent.

. . .

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 sub-sections (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) Sub-section (1) shall not apply to offices in the Court of Appeal in those Supreme Courts; but a person who under that sub-section 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.

Netherlands

Referred to in a note verbale dated 2 October 1963 of the Permanent Representative of the Netherlands to the United Nations

A. TREATIES

1. ROUND TABLE CONFERENCE AGREEMENT BETWEEN THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA OF 2 NOVEMBER 1949¹

(a) CHARTER OF TRANSFER OF SOVEREIGNTY

Article 1

1. The Kingdom of the Netherlands unconditionally and irrevocably transfers complete sovereignty over Indonesia to the Republic of the United States of Indonesia and thereby recognizes said Republic of the United States of Indonesia as an independent and sovereign State.

2. The Republic of the United States of Indonesia accepts said sovereignty on the basis of the provisions of its Constitution which as a draft has been brought to the knowledge of the Kingdom of the Netherlands.

3. The transfer of sovereignty shall take place at the latest on 30 December 1949.

Article 2

With regard to the residency of New Guinea it is decided:

a. in view of the fact that it has not yet been possible to reconcile the views of the parties on New Guinea, which remain, therefore, in dispute,

b. in view of the desirability of the Round Table Conference concluding successfully on 2 November 1949,

c. in view of the important factors which should be taken into account in settling the question of New Guinea,

¹ United Nations, *Treaty Series*, vol. 69, p. 200. Came into force on 27 December 1949 upon the transfer of sovereignty executed by the Act of Transfer of Sovereignty and Recognition signed on that date at Amsterdam.