

KENYA



Treaty Series No. 49 (1972)

# Exchange of Notes

between the Government of the  
United Kingdom of Great Britain and Northern Ireland  
and the Government of Kenya

concerning Officers designated by the  
Government of the United Kingdom  
in the Service of the Government  
of Kenya

(The Overseas Service (Kenya) Agreement 1971)

Nairobi, 29 March 1971

[The Agreement entered into force on 1 April 1971]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
June 1972*

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**EXCHANGE OF NOTES  
BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM  
OF GREAT BRITAIN AND NORTHERN IRELAND AND THE  
GOVERNMENT OF KENYA CONCERNING OFFICERS  
DESIGNATED BY THE GOVERNMENT OF THE UNITED  
KINGDOM IN THE SERVICE OF THE GOVERNMENT OF  
KENYA**

No. 1

*The United Kingdom High Commissioner at Nairobi to the Permanent  
Secretary, Office of the President of Kenya*

*British High Commission,  
Nairobi.*

*29 March, 1971.*

Dear Mr. Kariithi,

I have the honour to refer to discussions which have taken place between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Kenya relating to certain officers in the service of the Government of Kenya designated by the Government of the United Kingdom and to place on record the terms of the agreement which was resolved:

(1) The Government of the United Kingdom will make the reimbursements and payments, as specified in this agreement, to or in respect of officers in the public service of the Government of Kenya who are designated by the Government of the United Kingdom in accordance with this agreement (such officers hereinafter being referred to as "designated officers").

(2) The Government of the United Kingdom and the Government of Kenya will hold annual reviews of the requirements that the Government of Kenya may have as regards the employment of designated officers in their public service, so that the Government of the United Kingdom may, in consultation with the Government of Kenya, determine the classes or categories of officers, which the Government of the United Kingdom is prepared to designate, the number of officers in each such class or category which may be designated and the maximum sum that will be available during any specified period to meet the obligations of the Government of the United Kingdom under this agreement. During such annual review the Government of Kenya will provide the Government of the United Kingdom with such information as that Government may require in order to calculate the amounts payable by that Government and the number of officers to be designated.

(3) An officer may be designated generally or for such period as may be specified in the designation; and the designation of an officer may be terminated at the discretion of the Government of the United Kingdom: Provided that the Government of the United Kingdom in exercise of the discretion to terminate the designation of an officer shall take into account the consequences that would follow if designation were to be terminated.

(4) The Government of the United Kingdom will reimburse the Government of Kenya :

- (a) in the case of a designated officer serving on pensionable terms a sum equal to the inducement allowance paid to him by the Government of Kenya, being an allowance taken into account in computing the pension for which such officer is eligible under the appropriate pension laws, at such annual rate as is specified by the Government of the United Kingdom less the sum agreed by that Government and the Government of Kenya as being equivalent to the proceeds of taxation payable on that allowance;
- (b) one-half of the aggregate amount paid by the Government of Kenya in providing for designated officers and their dependent families passages on such occasions (not being occasions referred to in paragraph 6 of this agreement) as the Government of Kenya may, with the concurrence of the Government of the United Kingdom, prescribe.

(5) The Government of the United Kingdom will, on behalf of the Government of Kenya, pay direct to each designated officer (whether such officer is serving on contract or pensionable terms) :

- (a) an inducement allowance, which in the case of an officer serving on pensionable terms is not taken into account in computing his pension, at such rate as may be specified from time to time by the Government of the United Kingdom;
- (b) any education allowance for which the officer may be eligible in respect of any child under such terms and conditions and at such rates as may be specified from time to time by the Government of the United Kingdom;
- (c) any appointment grant on such terms and conditions and at such rates as may be specified from time to time by the Government of the United Kingdom;
- (d) that part of any gratuity payable to the officer which accrues to him by virtue of the addition to his emoluments of the inducement allowance referred to in this paragraph.
- (e) any allowance in respect of medical expenses for which the officer may be eligible under such terms and conditions and at such rates as may be specified from time to time by the Government of the United Kingdom.

(6) The Government of the United Kingdom will, to the same extent as heretofore, meet the cost of holiday passages for the children of a designated officer, that is to say, passages to enable children to visit their parents in Kenya, on such terms and conditions and occasions and in respect of such children and at such rates and by such classes of accommodation as may be specified from time to time by the Government of the United Kingdom.

(7) The allowances, grant and gratuity payable direct to a designated officer by the Government of the United Kingdom in accordance with the provisions of this agreement will be paid into an account at a bank nominated

by the officer situated in the United Kingdom or the Republic of Ireland or such other country as may be agreed by the Government of the United Kingdom.

(8) The allowances, grant and gratuity paid direct by the Government of the United Kingdom to a designated officer in respect of duties performed by him in Kenya shall be exempt from the payment of income tax under any law in force in Kenya provided that the officer is regarded as resident in Kenya for the purpose of performing such duties.

(9) In the event of a designated officer being seconded from the employment of the Government of Kenya without the concurrence of the Government of the United Kingdom, the Government of Kenya will, if requested to do so by the Government of the United Kingdom, pay to that Government a sum equal to the total cost of the reimbursements and payments made by that Government in respect of that officer whilst so seconded.

(10) The Government of Kenya will provide as soon as possible each designated officer with accommodation and basic furnishings in good condition and suitable to the rank and family circumstances of the officer at a rent reasonable in relation to his local basic salary.

(11) The Government of Kenya will promptly inform the Government of the United Kingdom of any event which might affect the eligibility of a designated officer under this agreement to receive payments from the Government of the United Kingdom.

(12) The Government of Kenya will, whenever requested to do so by the Government of the United Kingdom, supply to that Government such accounts and other information in connection with the operation of this agreement as may be specified in such request.

(13) This agreement shall come into operation on the first day of April 1971 and on the 31st of March 1971 the Overseas Service (Kenya) Agreement 1961 (and the agreements amending that agreement)<sup>(1)</sup> shall terminate.

(14) This agreement shall terminate, unless some other date is agreed between the Governments of the United Kingdom and of Kenya, on the 31st day of March 1976.

If this Note correctly sets out the terms that have been agreed, I have the honour to suggest that this Note and your reply should be regarded as constituting an agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Kenya and should be cited as the Overseas Service (Kenya) Agreement 1971.

Yours sincerely,

ERIC NORRIS

*Sir Eric Norris, KCMG*

*High Commissioner*

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<sup>(1)</sup> These agreements were not published in Treaty Series.

No. 2

*The Permanent Secretary, Office of the President of Kenya, to the  
United Kingdom High Commissioner at Nairobi*

*Office of the President,  
Nairobi.*

Dear Sir Eric,

*29th March, 1971.*

I thank you for your letter which reads as follows :

[As in No. 1]

This note correctly sets out the terms that have been agreed and I agree that it should be regarded as constituting an agreement between the Government of Kenya and the Government of the United Kingdom of Great Britain and Northern Ireland and should be cited as the Overseas Service (Kenya) Agreement 1971.

**G. K. KARIITHI**  
*Permanent Secretary*

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