

1976 No. 893

## OVERSEAS TERRITORIES

## The British Indian Ocean Territory Order 1976

Made - - - - 9th June 1976

Coming into Operation 28th June 1976

At the Court at Buckingham Palace, the 9th day of June 1976

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Colonial Boundaries Act 1895(a) or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

*Citation and Commencement*

1. This Order may be cited as the British Indian Ocean Territory Order 1976 and shall come into operation on the appointed day.

*Interpretation*

2.—(1) In this Order unless the context otherwise requires—

“the Territory” means the British Indian Ocean Territory specified in the Schedule hereto;

“the appointed day” means the 28th day of June 1976;

“the Commissioner” means the Commissioner for the Territory and includes any person for the time being lawfully performing the functions of the office of Commissioner.

(2) The Interpretation Act 1889(b) shall apply, with the necessary modifications, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting and otherwise in relation to Acts of Parliament of the United Kingdom.

*Revocations*

3.—(1) The British Indian Ocean Territory Order 1965(c) and the British Indian Ocean Territory (Amendment) Order 1968(d) are revoked.

(2) The revocation of those Orders shall be without prejudice to the continued operation of any laws made and laws having effect thereunder and having effect as part of the law of the Territory immediately before the appointed day; and any such laws shall have effect on and after the

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(a) 1895 c. 34.

(b) 1889 c. 63.

(c) S.I. 1965/1920 (1965 III, p. 5767).

(d) S.I. 1968/111 (1968 I, p. 304).

appointed day as if they had been made under this Order and (without prejudice to their amendment or repeal by any law made under this Order) shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Order.

#### *Establishment of office of Commissioner*

4.—(1) There shall be a Commissioner for the Territory who shall be appointed by Her Majesty by Commission under Her Majesty's Sign Manual and Signet and shall hold office during her Majesty's pleasure.

(2) During any period when the office of Commissioner is vacant or the holder thereof is for any reason unable to perform the functions of his office those functions shall, during Her Majesty's pleasure, be assumed and performed by such person as Her Majesty may designate in that behalf by instructions given through a Secretary of State.

#### *Powers and duties of Commissioner*

5. The Commissioner shall have such powers and duties as are conferred or imposed upon him by or under this Order or any other law and such other functions as Her Majesty may from time to time be pleased to assign to him and, subject to the provisions of this Order and of any other law by which any such powers or duties are conferred or imposed, shall do and execute all things that belong to his office according to such instructions, if any, as Her Majesty may from time to time see fit to give him.

#### *Official Stamp*

6. There shall be an Official Stamp for the Territory which the Commissioner shall keep and use for stamping all such documents as may be by any law required to be stamped therewith.

#### *Constitution of offices*

7. The Commissioner, in the name and on behalf of Her Majesty, may constitute such offices for the Territory as may lawfully be constituted by Her Majesty and, subject to the provisions of any law for the time being in force in the Territory and to such instructions as may from time to time be given to him by Her Majesty through a Secretary of State, the Commissioner may likewise—

- (a) make appointments, to be held during Her Majesty's pleasure, to any office so constituted ; and
- (b) dismiss any person so appointed or take such other disciplinary action in relation to him as the Commissioner may think fit.

#### *Concurrent appointments*

8. Whenever the substantive holder of any office constituted by or under this Order is on leave of absence pending relinquishment of his office—

- (a) another person may be appointed substantively to that office ;
- (b) that person shall, for the purpose of any functions attaching to that office, be deemed to be the sole holder of that office.

*Power to make laws*

**9.**—(1) The Commissioner may make laws for the peace, order and good government of the Territory.

(2) All laws made by the Commissioner in exercise of the powers conferred by this Order shall be published in such manner and at such place or places in the Official Gazette for the Territory as the Commissioner may from time to time direct.

(3) Every such law shall come into operation on the date on which it is published in accordance with the provisions of subsection (2) of this section unless it is provided, either in such law or in some other enactment, that it shall come into operation on some other date, in which case it shall come into operation on that date.

*Disallowance of laws*

**10.**—(1) Any law made by the Commissioner in exercise of the powers conferred by this Order may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever any law has been disallowed by Her Majesty, the Commissioner shall cause notice of such disallowance to be published in such manner and in such place or places in the Official Gazette for the Territory as the Commissioner may from time to time direct.

(3) Every law so disallowed shall cease to have effect as soon as notice of disallowance has been published as aforesaid; and thereupon any enactment repealed or amended by, or in pursuance of, the law so disallowed shall have effect as if such law had not been made, and, subject thereto, the provisions of section 38(2) of the Interpretation Act 1889 shall apply to such disallowance as they apply to the repeal of an Act of Parliament.

*Commissioner's powers of pardon, etc.*

**11.** The Commissioner may, in Her Majesty's name and on Her Majesty's behalf—

- (a) grant to any person concerned in or convicted of any offence against the laws of the Territory a pardon, either free or subject to lawful conditions; or
- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any sentence imposed on that person for any such offence; or
- (c) substitute a less severe form of punishment for any punishment imposed by any such sentence; or
- (d) remit the whole or any part of any such sentence or of any penalty or forfeiture otherwise due to Her Majesty on account of any offence.

*Judicial proceedings*

**12.**—(1) All proceedings that, immediately before the commencement of this Order, are pending before any court established by or under the existing Order may be continued and concluded after the commencement of this Order before the corresponding court established under the provisions of this Order.

(2) Any decision given before the commencement of this Order by any such court as aforesaid shall for the purpose of its enforcement or for the purpose of any appeal therefrom, have effect after the commencement of this Order as if it were a decision of the corresponding court established by or under this Order.

*Disposal of land*

13. Subject to any law for the time being in force in the Territory and to any Instructions from time to time given to the Commissioner by Her Majesty under Her Sign Manual and Signet or through a Secretary of State, the Commissioner, in Her Majesty's name and on Her Majesty's behalf, may make and execute grants and dispositions of any lands or other immovable property within the Territory that may be lawfully granted or disposed of by Her Majesty.

*Amendment of Seychelles (Constitution) Order 1975*

14. The First Schedule to the Seychelles (Constitution) Order 1975(a) is amended as follows:—

(a) the word "Desroches" is added to the list of islands under the heading "Poivre Islands";

(b) the words

"Aldabra Group, consisting of:

West Island

Middle Island

South Island

Cocoonut Island

Polymnie Island

Euphratis and other small islets"

are added immediately below the list of islands under the heading "Cosmoledo Group";

(c) the words "Farquhar Islands" are added immediately below the list of Islands under the heading "Aldabra Group".

*Power reserved to Her Majesty*

15. There is reserved to Her Majesty full power to make laws from time to time for the peace, order and good government of the British Indian Ocean Territory (including, without prejudice to the generality of the foregoing, laws amending or revoking this Order).

N. E. Leigh

## THE SCHEDULE

Section 2(1)

Diégo Garcia  
Egmont or Six Islands  
Péros Banhos

Salomon Islands  
Three Brothers Islands  
Nelson or Legour Island  
Eagle Islands  
Danger Island.

## EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes new provision for the administration of the British Indian Ocean Territory and for the return to Seychelles of the Aldabra Group of islands, Desroches and Farquhar Islands from the Territory.

(a) 1975 III, p. 8585.



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