STATUTORY INSTRUMENTS

1962 No. 2179

ADEN

The Aden and South Arabian Protectorate (High Commissioner) Order 1962

Made - - - -	*2nd October* 1962
Laid before Parliament	*8th October* 1962
Coming into Operation	*on the day appointed under section* 1 (2)

At the Court at Balmoral, the 2nd day of October 1962

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the British Settlements Acts 1887 and 1945(a), the Foreign Jurisdiction Act 1890(b) 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.—(1) This Order may be cited as the Aden and South Arabian Protectorate (High Commissioner) Order 1962.

(2) This Order shall come into operation on the appointed day as defined for the purposes of the Constitution Order.

Interpretation.

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

"Aden" has the meaning assigned to it in section 79 of the Constitution of Aden as set out in schedule 2 to the Constitution Order;

"the Constitution Order" means the Aden (Constitution) Order in Council 1962(c);

"the High Commissioner" means the High Commissioner for Aden and the Protectorate of South Arabia;

"the Protectorate Order" means the Aden Protectorate Orders 1937 to 1962(d);

"the Protectorate of South Arabia" or "the Protectorate" means the territories of Arabia that are bounded on the south by Aden and the Gulf of Aden, on the west and north by the Kingdom of the Yemen and the Kingdom of Saudi Arabia and on the east by the Sultanate of Oman and also the Islands of Socotra and Abdul Quri and any other islands adjacent to the said territories other than the island of Perim;

"the Territory" means Aden and the Protectorate.

(a) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7. (b) 53 & 54 Vict. c. 37.
(c) S.I. 1962/2177 (1962 III, p. 2904). (d) S.R. & O. 1937/246, 1940/1276 (Rev. VIII, p. 148: 1937, p. 750; 1940 I, p. 397); S.I. 1953/1563, 1956/1205, 1962/2178 (1953 I, p. 1; 1956 I, p. 52; 1962 III, p. 2948).

(2) Where by this Order a power is conferred upon Her Majesty or any person to make any appointment to any office, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending the relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection, then, for the purposes of any function conferred upon the holder of that office, the person last appointed shall be deemed to be the sole holder of the office.

(3) In this Order, unless the context otherwise requires, a reference to the holder of an office by the term designating his office includes, to the extent of his authority, any person who is for the time being authorized to perform the functions of that office.

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

The High Commissioner.

3.—(1) There shall be a High Commissioner for Aden and the Protectorate of South Arabia who shall be appointed by Her Majesty by Commission under Her Sign Manual and Signet and shall hold office during Her Majesty's pleasure.

(2) Every person appointed to the office of High Commissioner shall before assuming the functions of his office make oaths or affirmations of allegiance and for the due execution of his office in the form set out in the schedule to this Order.

High Commissioner's powers and duties.

4. The High Commissioner shall have such powers and duties as are conferred or imposed upon him by or under this Order, the Constitution Order, the Protectorate Order or any other law for the time being in force in the Territory and such other powers and duties as Her Majesty may from time to time be pleased to assign to him and, subject to the provisions of this Order, the Constitution Order, the Protectorate 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 (including the exercise of any powers with respect to which he is empowered by this Order or the Constitution Order to act in his discretion) according to such instructions, if any, as Her Majesty may from time to time see fit to give him; but the question whether he has in any matter complied with such instructions shall not be enquired into by any court.

Establishment of the offices of Deputy High Commissioners.

5.—(1) There shall be two Deputy High Commissioners, one of whom shall be styled the Senior Deputy High Commissioner.

(2) The Deputy High Commissioners shall be appointed by the High Commissioner in pursuance of instructions given by Her Majesty through a Secretary of State and they shall hold office during Her Majesty's pleasure.

(a) 52 & 53 Vict. c. 63.

(3) If the office of a Deputy High Commissioner is vacant or a Deputy High Commissioner is discharging the functions of the office of High Commissioner under section 6 of this Order or is for any reason unable to perform the functions of his office, then the High Commissioner, acting in his discretion, may appoint a person to act as a Deputy High Commissioner and any such person shall continue to act until his appointment is revoked by the High Commissioner, acting in his discretion.

Succession to government.

6.—(1) Whenever the office of High Commissioner is vacant or the High Commissioner is absent from the Territory or is for any other cause unable to discharge the functions of his office—

(*a*) the Senior Deputy High Commissioner; or

(*b*) if the office of Senior Deputy High Commissioner is vacant or the Senior Deputy High Commissioner is absent from the Territory or is for any reason unable to discharge the functions of his office, such person as Her Majesty may designate by Instructions given under Her Sign Manual and Signet or through a Secretary of State,

shall, during Her Majesty's pleasure, discharge the functions of the office of High Commissioner.

(2) Before assuming the functions of the office of High Commissioner under this section, the Senior Deputy High Commissioner or any such person as aforesaid shall make the oaths or affirmations directed by section 3 (2) of this Order to be made by the High Commissioner.

(3) The Senior Deputy High Commissioner shall not continue to discharge the functions of the office of High Commissioner under this section after the High Commissioner has notified him that he is about to assume or resume those functions and the person designated under paragraph (*b*) of subsection (1) of this section shall not continue to discharge the functions of the office of High Commissioner under this section after the High Commissioner or the Senior Deputy High Commissioner has so notified him.

(4) The High Commissioner or, if the Senior Deputy High Commissioner has entered upon the discharge of the functions of the High Commissioner under subsection (1) of this section the Senior Deputy High Commissioner, may, if he has occasion to be absent from the Territory for a period that in his opinion will be of short duration, direct by notice published in the Gazette that, notwithstanding his absence from the Territory, he will continue to discharge those functions.

(5) For the purposes of subsection (1) of this section—

(*a*) the High Commissioner or the Senior Deputy High Commissioner shall not be regarded as unable to discharge the functions of the office of High Commissioner by reason of the fact that he is in passage from Aden to the Protectorate or from one part of the Protectorate to another;

(*b*) the High Commissioner shall not be regarded as absent from the Territory so long as any direction given by the High Commissioner under subsection (4) of this section is in force;

(c) when the Senior Deputy High Commissioner has entered upon the discharge of the functions of the office of High Commissioner under subsection (1) of this section he shall not be regarded as absent from the Territory so long as any direction given by the Senior Deputy High Commissioner under subsection (4) of this section is in force.

(6) In this section "the High Commissioner" means the person holding the office of High Commissioner and "the Senior Deputy High Commissioner" means the person holding the office of Senior Deputy High Commissioner.

Discharge of High Commissioner's functions by a Deputy High Commissioner.

7.—(1) The High Commissioner, may by writing under his hand authorize a Deputy High Commissioner to exercise for and on behalf of the High Commissioner and subject to such exceptions and conditions as the High Commissioner may from time to time specify any or all of the functions of the office of High Commissioner.

(2) The powers and authority of the High Commissioner shall not be affected by any authority of a Deputy High Commissioner under subsection (1) of this section otherwise than as Her Majesty may from time to time think proper to direct and any such Deputy High Commissioner shall conform to and observe such instructions relating to the discharge by him of any of the functions of the office of High Commissioner as the High Commissioner may from time to time address to him for his guidance.

(3) Any authority given under subsection (1) of this section may at any time be varied or revoked by Her Majesty by instructions through a Secretary of State or by the High Commissioner by writing under his hand.

(4) For the purposes of this section "the High Commissioner" means the person holding the office of High Commissioner and includes any person discharging the functions of that office under section 6 of this Order and "Deputy High Commissioner" means a person holding the office of a Deputy High Commissioner and includes a person appointed to act as a Deputy High Commissioner.

(5) In subsection (1) of this section the reference to any functions of the office of High Commissioner does not include a reference to any functions conferred upon the High Commissioner by any Act of Parliament or by any Order of Her Majesty in Council or other instrument made under any Act of Parliament other than this Order, the Constitution Order, the Protectorate Order, the Emergency Powers Order in Council 1939(a) or any Order amending or replacing those Orders.

Transitional.

8. The person who immediately before the coming into operation of this Order held the office of Governor under section 5 of the Aden Colony Order 1936(b) shall be deemed to have been appointed at the commencement of this Order to the office of High Commissioner constituted by this Order, and to have made the oath or affirmation required by section 3 (2) of this Order.

W. G. Agnew.

(a) *See* S.I. 1952 I, at p. 621.
(b) S.R. & O. 1936/1031 (Rev I, p. 7: 1936 I, p. 1).

SCHEDULE

Oath or Affirmation of Allegiance

I, do swear (*or* solemnly affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Her Heirs and Successors according to law. (So help me God.)

Oath or Affirmation for the due execution of the office of High Commissioner

I, do swear (*or* solemnly affirm) that I will well and truly serve Her Majesty Queen Elizabeth II, Her Heirs and Successors in the office of High Commissioner for Aden and the Protectorate of South Arabia. (So help me God.)

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order constitutes the office of High Commissioner for Aden and the Protectorate of South Arabia and the offices of two Deputy High Commissioners.