1963 No. 1490

ARABIA

The Aden and South Arabian Protectorate (High Commissioner) Order 1963

Made - - - -	*29th August* 1963
Laid before Parliament	*4th September* 1963
Coming into Operation	*5th September* 1963

At the Court at Balmoral, the 29th day of August 1963

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, commencement and revocation.

1.—(1) This Order may be cited as the Aden and South Arabian Protectorate (High Commissioner) Order 1963.

(2) This Order shall come into operation on 5th September 1963.

(3) The Aden and South Arabian Protectorate (High Commissioner) Order 1962(c) is revoked.

Interpretation.

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

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

" the High Commissioner " means the High Commissioner for Aden and the Protectorate;

" the Protectorate Order " means the Aden Protectorate Order 1937(e);

" the Protectorate " means the Protectorate of South Arabia;

" the Territory " means Aden and the Protectorate and includes Kamaran, Perim and the Kuria Muria Islands.

(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

(a) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7. (b) 53 & 54 Vict. c. 37.
(c) S.I. 1962/2179 (1962 III, p. 2950). (d) S.I. 1962/2177 (1962 III, p. 2904).
(e) S.R. & O. 1937/246 (Rev. VIII, p. 148: 1937, p. 750).

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) References in this Order to any other Order of Her Majesty in Council include references to any Order amending or replacing that Order.

(5) 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 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 forms 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, the Constitution Order or any other law for the time being in force in Aden 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.

The Deputy High Commissioner.

5.—(1) There shall be a Deputy High Commissioner for Aden and the Protectorate who shall be appointed by the High Commissioner in pursuance of instructions given by Her Majesty through a Secretary of State and shall hold office during Her Majesty's pleasure.

(2) If the office of Deputy High Commissioner is vacant or the Deputy High Commissioner is discharging the functions of the office of High Commissioner under section 6 of this Order or is absent from the Territory 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 Deputy High Commissioner and any

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

such person shall continue to act until his appointment is revoked by the High Commissioner, acting in his discretion.

Discharge of High Commissioner's functions in case of vacancy, absence etc.

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 Deputy High Commissioner; or

(*b*) if the office of Deputy High Commissioner is vacant or the Deputy High Commissioner is absent from the Territory or is for any reason unable to discharge the functions of the office of High Commissioner, such other person in the Territory as may for the time being be designated by Her Majesty 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 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 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 subsection (1) (*b*) 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 Deputy High Commissioner has so notified him.

(4) The High Commissioner or, if the Deputy High Commissioner has entered upon the discharge of the functions of the High Commissioner under subsection (1) of this section, the 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 High Commissioner's 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*) no person shall be regarded as absent from the Territory or as unable to discharge the functions of the office of High Commissioner by reason of the fact that he is in passage from one part of the Territory 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 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 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 Deputy High Commissioner" means the person holding the office of Deputy High Commissioner.

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

7.—(1) The High Commissioner may by writing under his hand authorize the 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 the Deputy High Commissioner under subsection (1) of this section otherwise than as Her Majesty may from time to time think proper to direct and the 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 given through a Secretary of State or by the High Commissioner by writing under his hand.

(4) In 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.

(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 or the Emergency Powers Order in Council 1939(a).

Transitional.

8. The person who immediately before the commencement of this Order was holding the office of High Commissioner established by the Aden and South Arabian Protectorate (High Commissioner) Order 1962 shall be deemed to have been appointed at the commencement of this Order to hold the office of High Commissioner established by this Order and to have made the oaths or affirmations required by section 3 (2) of this Order.

E. N. Landale.

SCHEDULE

S. 3(2).

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.)

(a) *See* S.I. 1952 I, at p. 621.

EXPLANATORY NOTE

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

This Order constitutes the offices of High Commissioner and Deputy High Commissioner for Aden and the Protectorate of South Arabia. It replaces the Aden and South Arabian Protectorate (High Commissioner) Order 1962, which provided for the offices of High Commissioner and two Deputy High Commissioners for Aden and the Protectorate.