STATUTORY INSTRUMENTS

1962 No. 399

OVERSEAS TERRITORIES

The Admiralty Jurisdiction (North Borneo) Order in Council, 1962

Made - - - - 26th February, 1962
Coming into Operation 27th February, 1962

At the Court at Buckingham Palace, the 26th day of February, 1962

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the power vested in Her by section fifty-six of the Administration of Justice Act, 1956(a), and of all other powers enabling Her in that behalf, 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 Admiralty Jurisdiction (North Borneo) Order in Council, 1962.

(2) This Order shall come into operation on the 27th day of February, 1962.

Admiralty jurisdiction of High Court of Sarawak, North Borneo and Brunei.

2. The Colonial Courts of Admiralty Act, 1890(b), shall, in relation to the High Court of Sarawak, North Borneo and Brunei, have effect as if for the reference in subsection (2) of section two thereof to the Admiralty jurisdiction of the High Court in England there were substituted a reference to the Admiralty jurisdiction of that court as defined by section one of the Administration of Justice Act, 1956, subject to the adaptations and modifications of the said section one that are specified in the First Schedule to this Order.

Application of provisions of Administration of Justice Act, 1956, to North Borneo.

3. The provisions of sections three, four, six, seven and eight of Part I of the Administration of Justice Act, 1956, shall extend to North Borneo with the adaptations and modifications that are specified in Column II of the Second Schedule to this Order.

W. G. Agnew.

(a) 4 & 5 Eliz. 2. c. 46. (b) 53 & 54 Vict. c. 27.

Article 2.

FIRST SCHEDULE

ADAPTATIONS AND MODIFICATIONS OF SECTION ONE OF THE ADMINISTRATION OF JUSTICE ACT, 1956

In subsection (1) the words "and any other jurisdiction connected with ships and aircraft vested in the High Court apart from this section which is for the time being assigned by rules of court to the Probate, Divorce and Admiralty Division" shall be deleted;

In subsection (3) the words and figures "under sections five hundred and forty-four to five hundred and forty-six of the Merchant Shipping Act, 1894" shall be deleted and the words "under section two hundred and thirty-three of the Merchant Shipping Ordinance, 1960(a)" shall be substituted;

In subsection (4) after the words and figures "Merchant Shipping Acts, 1894 to 1954" there shall be inserted the words and figures "or of the Merchant Shipping Ordinance, 1960(a)".

Article 3.

SECOND SCHEDULE

PROVISIONS OF PART I OF THE ADMINISTRATION OF JUSTICE ACT, 1956, EXTENDED TO NORTH BORNEO AND ADAPTATIONS AND MODIFICATIONS THERETO

Column I	*Column II*
Section 3	In subsections (1), (3), (5), (6) and (7), the words "the High Court, the Liverpool Court of Passage, and any county court" shall be deleted and the words "the High Court of Sarawak, North Borneo and Brunei" shall be substituted; In subsection (2) the words "the High Court" shall be deleted and the words "the High Court of Sarawak, North Borneo and Brunei" shall be substituted; In subsection (4) the words "High Court and (where there is such jurisdiction) the Admiralty jurisdiction of the Liverpool Court of Passage or any county court" shall be deleted and the words "High Court of Sarawak, North Borneo and Brunei" shall be substituted; In subsection (8) the words "England and Wales" shall be deleted and the words "North Borneo" shall be substituted;
Section 4	Subsection (1) shall be deleted and the following subsection shall be substituted:— "(1) No court in North Borneo shall entertain an action in personam to enforce a claim to which this section applies unless— (*a*) the defendant has his habitual residence or a place of business in North Borneo; or

(a) North Borneo Ordinance No. 11 of 1960.

Column I—(contd.)	*Column II*—(contd.)
Section 4 (*contd.*)	(*b*) the cause of action arose within the territorial waters of North Borneo ; or (*c*) an action arising out of the same incident or series of incidents is proceeding in the court or has been heard and determined in the court. In this subsection "territorial waters of North Borneo" include any port, dock or harbour in North Borneo.". In subsection (2) the words "in England and Wales" shall be deleted and the words "in North Borneo" shall be substituted, and the words "outside England and Wales" shall be deleted and the words "outside North Borneo" shall be substituted ; In subsection (5) the words "the High Court" shall be deleted and the words "the High Court of Sarawak, North Borneo and Brunei" shall be substituted ; Subsection (6) shall be omitted.
Section 6	The words "England and Wales" shall be deleted and the words "North Borneo" shall be substituted.
Section 7	Subsection (1) shall be deleted and the following subsection shall be substituted:— "(1) Section six hundred and eighty-eight of the Merchant Shipping Act, 1894(a) (which relates to the detention of ships by customs officers in certain cases), shall cease to have effect, but nothing in this Part of the Act affects the provisions of section two hundred and thirty-seven of the Merchant Shipping Ordinance, 1960 (which relates to the power of the Receiver of Wreck to detain a ship in respect of a salvage claim)" ; Subsection (2) shall be omitted.

EXPLANATORY NOTE

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

This Order provides that the High Court of Sarawak, North Borneo and Brunei, which is a Colonial Court of Admiralty, shall have the Admiralty jurisdiction of the High Court of England, as defined in section 1 of the Administration of Justice Act, 1956, with certain modifications. It also extends certain of the provisions contained in Part I of that Act to North Borneo.

(a) 57 & 58 Vict. c. 60.