STATUTORY INSTRUMENTS

1971 No. 1235

ASSOCIATED STATES

The Anguilla (Administration) Order 1971

Made - - - - 28*th July* 1971
Coming into Operation 4*th August* 1971

At the Court at Buckingham Palace, the 28th day of July 1971

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty in exercise of the powers conferred upon Her by section 1(1) of the Anguilla Act 1971(**a**) is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, commencement, revocation and termination

1.—(1) This Order may be cited as the Anguilla (Administration) Order 1971.

(2) This Order shall come into operation on 4th August 1971, and the Anguilla (Temporary Provision) Order 1969(**b**) is revoked with effect from that date.

(3) This Order shall cease to have effect on such date as a Secretary of State may by order appoint.

Interpretation

2.—(1) In this Order—

"the Commissioner" means such person as Her Majesty may appoint by instrument under Her Sign Manual and Signet to be Her Majesty's Commissioner in Anguilla for the purposes of this Order and includes any person appointed by Her Majesty by instructions given through a Secretary of State to act in that office and, to the extent to which a deputy appointed under section 3 of this Order is authorised to act, that deputy;

"the Constitution" means the Constitution of the Associated State(**c**); and

"the Courts Order" means the West Indies Associated States Supreme Court Order 1967(**d**).

(2) The Interpretation Act 1889(**e**) 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 the United Kingdom Parliament.

(**a**) 1971 c. 63. (1967 I, p. 594). (**b**) S.I. 1969/371 (1969 I, p. 1016). (**c**) Schedule 2 to S.I. 1967/228 (**d**) S.I. 1967/223 (1967 I, p. 364). (**e**) 1889 c. 63.

Commissioner's deputy

3.—(1) Whenever the Commissioner

(*a*) has occasion to be absent from Anguilla for a period that he has reason to believe will be of short duration ; or

(*b*) is suffering from an illness that he has reason to believe will be of short duration

he may, by writing under his hand, appoint any person in Anguilla to be his deputy during such absence or illness and in that capacity to perform on his behalf such of the functions of the office of Commissioner as may be specified in the writing.

(2) The powers and authority of the Commissioner shall not be abridged, altered or in any way affected by the appointment of a deputy under this section, and a deputy shall conform to and observe all instructions that the Commissioner may from time to time address to him:

Provided that the question whether or not a deputy has complied with any such instructions shall not be enquired into in any court of law.

(3) A person appointed as a deputy under this section shall hold that appointment for such period as may be specified in the instrument by which he is appointed, and his appointment may be revoked at any time by Her Majesty by instructions given through a Secretary of State or by the Commissioner.

Functions of Commissioner

4.—(1) The Commissioner shall have such powers and other functions as may be conferred upon him by this Order or by or under any other law for the time being in force in Anguilla.

(2) Her Majesty may by instructions given to the Commissioner through a Secretary of State confer upon the Commissioner powers and other functions additional to those conferred upon him by this Order or by or under any other law ; and, unless it is otherwise provided therein, any such instructions shall have the force of law and in that case shall be published in Anguilla in such manner as the Commissioner may direct.

(3) In the exercise of the functions conferred upon him by this Order or by or under any other law the Commissioner shall act in accordance with such instructions as may from time to time be given to him by Her Majesty through a Secretary of State.

(4) The question whether the Commissioner has complied with any such instructions as to the exercise of any of his functions shall not be enquired into in any court of law.

Power to make ordinances

5.—(1) The Commissioner, acting after consultation with the Anguilla Council, may by ordinance make provision for securing and maintaining public safety and public order in Anguilla and generally for securing and maintaining good government within Anguilla.

(2) Any ordinance made under this section shall be published in Anguilla in such manner as the Commissioner may direct.

(3) (*a*) Any ordinance made under this section may be disallowed by Her Majesty through a Secretary of State.

(*b*) Whenever an ordinance has been disallowed by Her Majesty notice of the disallowance shall, as soon as is practicable, be published in Anguilla in such manner as the Commissioner may direct and the ordinance shall be annulled with effect from the date of publication of the notice.

(*c*) The provisions of section 38(2) of the Interpretation Act 1889 shall apply to the annulment of any ordinance under this section as they apply to the repeal of an Act of Parliament, save that any law repealed or amended by or in pursuance of that ordinance shall have effect as from the date of the annulment as if that ordinance had not been made.

Exercise of certain functions by Commissioner

6. So long as this Order is in operation and subject to any ordinances made under section 5 of this Order, all laws for the time being in force in Anguilla (except the Constitution and the Courts Order) shall have effect as if any function conferred thereby upon the Governor, the Cabinet, any Minister or any public officer of the Associated State were exercisable by the Commissioner to such extent as he may consider necessary for the purposes mentioned in that section.

Anguilla Council

7.—(1) There shall be a Council for Anguilla, which shall be called the Anguilla Council.

(2) The Council shall consist of not less than seven members, who shall be elected in accordance with provision made by ordinance under section 5 of this Order, and such number of other members, not exceeding six, as may be appointed by the Commissioner, after consultation with the Council, by writing under his hand.

Qualifications for membership of Council

8. A person shall be qualified for election or appointment as a member of the Council if, but only if, that person—

(*a*) is a British subject of the age of twenty-one years or upwards ;

(*b*) is a person who is not disqualified for election or appointment as such by any such ordinances as may be made in that behalf under section 5 of this Order ; and

(*c*) in the case of an elected member

(i) was born in Anguilla and is domiciled there at the date of his nomination for election ; or

(ii) has resided in Anguilla for a period of not less than three years immediately before the date of his nomination for election and is domiciled there at that date, and is the son or daughter of parents at least one of whom was born in Anguilla.

Oath by members of Anguilla Council

9. Before assuming the functions of his office a member of the Anguilla Council shall make before the Commissioner or some other person authorised in that behalf by the Commissioner an oath of allegiance and an oath for the due execution of his office in the forms set out in the Schedule to this Order.

Dissolution of Council

10.—(1) The Commissioner, acting after consultation with the Anguilla Council, may at any time dissolve the Council.

(2) Unless sooner dissolved the Council shall continue for four years from the date of its first sitting after any general election of members and shall then stand dissolved.

(3) In the exercise of the powers conferred upon him by this section the Commissioner shall act in accordance with the advice of the Council unless in any particular case he is directed by a Secretary of State to act otherwise.

Tenure of office of members of Council

11.—(1) The seat of a member of the Anguilla Council shall become vacant—

(*a*) at the next dissolution of the Council after his election or appointment;

(*b*) if any circumstances arise that, if he were not a member of the Council, would cause him to be disqualified for election or appointment as such; or

(*c*) in the case of an appointed member, at the expiration of such time, or upon the occurrence of any such event, as may be specified in the instrument by which he is appointed.

(2) A member of the Council may resign his seat therein by writing under his hand addressed to the Commissioner and his seat shall become vacant when the writing is received by the Commissioner.

Presiding in Council

12. There shall preside at each meeting of the Anguilla Council—

(*a*) the Commissioner; or

(*b*) in the absence of the Commissioner, such member of the Council as the Commissioner may have designated in that behalf.

Proceedings of Council

13.—(1) The Anguilla Council shall not be summoned except by authority of the Commissioner:

Provided that the Commissioner shall summon the Council if so requested in writing by four or more members of the Council.

(2) The Commissioner shall determine what business shall be transacted at each meeting of the Council:

Provided that, if the Commissioner is requested in writing by four or more members of the Council to cause any particular item of business to be placed before the Council, he shall cause that item to be placed before a meeting of the Council.

(3) No business shall be transacted in the Council if objection is taken by any member present that there are less than four members of the Council present besides any member presiding.

(4) Subject to the last foregoing subsection, the Council shall not be disqualified for the transaction of business by reason of any vacancy in the membership of the Council (including any vacancy when the Council is first constituted or is reconstituted at any time); and any proceedings in the Council shall be valid notwithstanding that some person who was not entitled to do so took part in those proceedings.

(5) (*a*) When the Commissioner or other person presiding in the Council considers that the business before the Council makes it desirable, he may summon any person to a meeting of the Council, notwithstanding that the person is not a member of the Council.

(*b*) Any person so summoned shall be entitled to take part, as if he were an appointed member of the Council, in the proceedings of the Council relating to the matter in respect of which he was summoned.

(6) (*a*) Where it is desirable to determine the opinion of the Council on any matter by voting, the opinion of the majority of the elected members present and voting shall be regarded as the opinion of the Council.

(*b*) If on any question the votes of the elected members are equally divided, the Commissioner may give a casting vote.

(7) The Commissioner, acting after consultation with the Council, may make rules regulating the procedure of the Council and the orderly conduct of its proceedings.

Consultation with Council

14.—(1) Subject to the provisions of this section, the Commissioner shall act in co-operation with the Anguilla Council and accordingly shall consult with the Council in the formulation of policy and in the exercise of the powers vested in him by any law other than this Order.

(2) The Commissioner shall not be obliged to consult with the Council in the exercise of any power conferred upon him by any law other than this Order that he is empowered or directed by that or any other law to exercise without consulting the Council.

(3) The Commissioner shall not be obliged by subsection (1) of this section to consult with the Council in any case in which in his judgment—

(*a*) the matters to be decided are too unimportant to require consultation with the Council thereon ;

(*b*) such consultation would involve material prejudice to Her Majesty's service ; or

(*c*) the matters to be decided are too urgent to admit of such consultation by the time within which it may be necessary for him to act:

Provided that in any case falling within paragraph (*c*) the Commissioner shall report the action he has taken to the Council at the first convenient opportunity.

(4) In every case in which the Commissioner is required by section 5(1), 7(2) or 13(7) of this Order or by subsection (1) of this section to consult with the Council, he shall act in accordance with the advice of the Council unless in any particular case he has first obtained the approval of a Secretary of State for acting otherwise:

Provided that, if in his judgment the matter is too urgent to admit of his obtaining such approval within the time in which it may be necessary for him to act in any particular case, he may act in that case without such approval, in which event he shall forthwith report the matter to a Secretary of State with the reasons for his action.

(5) Whenever the Commissioner acts against the advice of the Council, any member of the Council may require that there shall be recorded in the minutes any advice or opinion he may give upon the question at issue and his reasons; and if he does so the Commissioner shall forthwith transmit copies of the minutes to a Secretary of State.

Existing laws

15.—(1) It is hereby declared, for the avoidance of doubts, that, subject to the provisions of this Order, all laws for the time being in force in the Associated State have full force and effect in Anguilla:

Provided that so long as this Order is in operation no law enacted by the Legislature of the Associated State after the commencement of this Order shall extend to Anguilla unless it is provided in any ordinance made under section 5 of this Order that it shall so extend.

(2) Ordinances made under section 5 of this Order may provide that any law of the Associated State for the time being in force (except the Constitution and the Courts Order) shall have effect in relation to Anguilla with such amendments for the purposes mentioned in that section as may be specified in such ordinances:

Provided that no provision making amendments to any law of the Associated State shall be brought into effect without the approval of a Secretary of State.

Discharge of magistrate's functions

16.—(1) The Commissioner may appoint any fit and proper person to exercise within Anguilla any powers, duties or jurisdiction conferred upon any magistrate or justice of the peace by any law for the time being in force in Anguilla and, subject to the provisions of any instructions given to the Commissioner by Her Majesty through a Secretary of State concerning the tenure of office of any such person, may terminate any such appointment.

(2) Persons appointed under the preceding subsection shall, for the purposes of any law for the time being in force in Anguilla, be regarded as holding offices constituted for Anguilla.

Discharge of functions of Supreme Court

17.—(1) The Commissioner, acting in pursuance of instructions given by Her Majesty through a Secretary of State, may appoint fit and proper persons to exercise in or in relation to Anguilla any powers, duties or jurisdiction conferred upon the Court of Appeal or, as the case may be, the High Court established by the Courts Order or upon the Chief Justice or any other judge of either of those courts, or upon any officer of either of those courts, by any law for the time being in force in, or having effect in relation to, Anguilla and, subject to the provisions of any such instructions concerning the tenure of office of any such person, may terminate any such appointment.

(2) Any powers, duties or jurisdiction exercisable in or in relation to Anguilla by any person or persons appointed under the preceding subsection shall, to the extent that it is so provided in any instructions given to the Commissioner by Her Majesty through a Secretary of State, be so exercisable by that person or those persons, as the case may be, to the exclusion of any other person or persons.

(3) Any reference in any law for the time being in force in, or having effect in relation to, Anguilla to the Court of Appeal or, as the case may be, the High Court established by the Courts Order or to the Chief Justice or any other judge of either of those courts or to any officer of either of those courts shall, to the extent that any person or persons appointed under subsection (1) of this section are authorised to exercise in or in relation to Anguilla any powers, duties or jurisdiction, have effect in relation to such powers, duties or jurisdiction as if that reference included a reference to that person or, as the case may be, those persons.

(4) Persons appointed under subsection (1) of this section shall, for the purposes of any law for the time being in force in Anguilla, be regarded as holding offices constituted for Anguilla.

Transitional provisions

18.—(1) The person who immediately before the commencement of this Order holds office as Her Majesty's Commissioner in Anguilla shall be deemed to have been appointed as such for the purposes of this Order.

(2) Any regulation made for the purposes of the Anguilla (Temporary Provision) Order 1969 and in force immediately before the commencement of this Order shall, with effect from such commencement, have effect as if it were an ordinance made under section 5 of this Order and may be amended or revoked accordingly.

(3) The persons who, immediately before the commencement of this Order, were members of the existing Anguilla Council shall be deemed to be members of the Council established by section 7 of this Order until the next dissolution thereof; and the provisions of section 11 of this Order shall apply in relation to such persons.

W. G. Agnew,

SCHEDULE Section 9

FORMS OF OATHS AND AFFIRMATIONS

1. *Oath of Allegiance*

I, ..., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law. So help me God.

2. *Affirmation of Allegiance*

I, ..., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, according to law.

3. *Oath for due execution of office*

I, ..., do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of a member of the Anguilla Council. So help me God.

4. *Affirmation for due execution of office*

I, ..., do solemnly and sincerely affirm and declare that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of a member of the Anguilla Council.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order revokes the Anguilla (Temporary Provision) Order 1969, and makes new provision with respect to the functions of Her Majesty's Commissioner in Anguilla, including provision conferring upon him power to make ordinances. The Order also establishes a Council for Anguilla and provides for the Commissioner to act in co-operation with the Council.