1957 No. 1527

The British Guiana (Appeals) Order in Council, 1957

Made - - - - 23*rd August,* 1957
Coming into Operation *On the date referred to in section* 1.

At the Court at Balmoral, the 23rd day of August, 1957

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue of the powers conferred upon Her by section 2 of the British Caribbean Federation 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. This Order may be cited as the British Guiana (Appeals) Order in Council, 1957, and shall come into force on the date appointed under subsection (2) of section 1 of the West Indies (Federation) Order in Council, 1957(**b**).

Interpretation

2.—(1) In this Order "the Colony" means the Colony of British Guiana, "the Federation" means the Federation established by the West Indies (Federation) Order in Council, 1957, and "the Federal Legislature" and "the Federal Supreme Court" mean, respectively, the Federal Legislature and the Federal Supreme Court established for that Federation.

(2) Any reference in this Order to the holder of an office by the term designating his office shall be construed as including a reference to any person who, under and to the extent of any authority to act therein, is for the time being performing the functions of that office.

(3) References in this Order to a superior court of the Colony are references to any court that is or forms part of a superior court of record (other than the court established by the West Indian Court of Appeal Act, 1919(**c**)), established for the Colony.

(4) Save where the context otherwise requires, the Interpretation Act, 1889(**d**), shall apply for the purpose of interpreting this Order as it applies for the purpose of interpreting an Act of Parliament.

Appeals from superior courts of the Colony

3. The Federal Supreme Court shall have such jurisdiction to hear and determine appeals (including reserved questions of law and cases stated) from any superior court of the Colony and, in connection with such appeals, such powers and authorities as may be conferred upon it by any law of the Legislature of the Colony:

Provided that no such law shall have effect unless the Governor-General of the Federation has declared by notice in the official Gazette of the Federation that he consents to its having effect.

(**a**) 4 & 5 Eliz. 2. c. 63.
(**b**) S.I. 1957/1364 (p. 202 below).
(**c**) 9 & 10 Geo. 5. c. 47.
(**d**) 52 & 53 Vict. c. 63.

Where Federal Supreme Court shall sit

4.—(1) When exercising jurisdiction conferred on it under this Order, the Federal Supreme Court shall, subject to subsection (2) of this section, sit in such places within the Colony as the Chief Justice of the Federation may, with the approval of the Governor of the Colony, appoint.

(2) If it is so provided by a law of the Legislature of the Colony, the Federal Supreme Court when exercising jurisdiction conferred on it under this Order may, in such circumstances as may be prescribed by that law, sit in such places within the territories comprised in the Federation as the Chief Justice of the Federation may, with the approval of the Governor-General of the Federation, appoint:

Provided that no such law of the Legislature of the Colony shall have effect unless the Governor-General of the Federation has declared by notice in the official Gazette of the Federation that he consents to its having effect.

Conveyance of prisoners between the Colony and the Federation

5.—(1) The Legislature of the Colony may by law provide for the conveyance of prisoners on ships and aircraft to which this section applies between the Colony and any territory comprised in the Federation in which the Federal Supreme Court is sitting for the purpose of hearing or determining criminal appeals from a superior court of the Colony.

(2) The Federal Legislature may by law make provision for the reception and detention at any territory comprised in the Federation of prisoners conveyed to that territory under any law of the Legislature of the Colony enacted under this section and for the conveyance of such prisoners out of that territory in order that they may be returned to the Colony under any such law of the Legislature of the Colony.

(3) The ships and aircraft to which this section applies are ships and aircraft registered in the Federation or the Colony and Her Majesty's ships and aircraft belonging to the naval and air forces of the United Kingdom, the Federation or the Colony.

Jurisdiction of Federal Supreme Court to be in substitution for jurisdiction of West Indian Court of Appeal

6. No appeal shall lie from a superior court of the Colony to the court established by the West Indian Court of Appeal Act, 1919, in any case in which, by virtue of a law enacted under section 3 of this Order, an appeal lies to the Federal Supreme Court.

Practice and procedure of Federal Supreme Court

7.—(1) (*a*) Subject to the provisions of this section, the Chief Justice of the Federation and any two other judges of the Federal Supreme Court selected by him may make rules of court for regulating the practice and procedure of the Federal Supreme Court in exercise of jurisdiction conferred on it under this Order and, in relation to appeals brought to the Federal Supreme Court by virtue of this Order, the practice and procedure of any court from which such appeals are brought.

(*b*) Without prejudice to the generality of paragraph (*a*) of this subsection, rules of court may be made for any of the following purposes:—

(i) for regulating the sittings of the Federal Supreme Court and the selection of judges for any purpose;

(ii) for regulating the right of practising in the Federal Supreme Court and the representation of persons concerned in any proceedings in the Court;

(iii) for prescribing cases in which, and conditions upon which, an appellant in a criminal appeal to the Federal Supreme Court shall be entitled to be present at the hearing of the appeal;

(iv) for providing for the summary determination of any appeal which appears to the Federal Supreme Court to be frivolous or vexatious or to be brought for the purpose of delay;

(v) for prescribing forms and fees in respect of proceedings in the Federal Supreme Court and regulating the costs of and incidental to any such proceedings;

(vi) for prescribing and regulating the powers and duties of officers of the Federal Supreme Court; and

(vii) for prescribing the time within which any requirement of the rules is to be complied with.

(2) Rules of court made under this section may fix the number of judges of the Federal Supreme Court who are to sit for any purpose, so, however, that no matter shall be finally determined by less than three judges.

(3) (*a*) The Federal Legislature may by law make provision for any matters in respect of which rules of court may be made under this section.

(*b*) If any rule of court made under this section is inconsistent with a law enacted under this section, the law shall, to the extent of the inconsistency, prevail over the rule of court.

(4) Unless it is otherwise provided by any law of the Federal Legislature, any final determination of the Federal Supreme Court made in exercise of jurisdiction conferred on it under this Order shall be delivered in open court and shall require the concurrence of a majority of the judges present at the hearing of the matter.

(5) No provision made in pursuance of this section, whether contained in a rule of court or in a law of the Federal Legislature, shall have effect unless the Governor of the Colony has by notice in the official Gazette of the Colony approved of that provision.

Enforcement of orders of Federal Supreme Court

8.—(1) All authorities in the Colony shall act in aid of the Federal Supreme Court, and any judgment, decree, order or sentence of the Federal Supreme Court given, made or passed in exercise of any jurisdiction conferred on the Federal Supreme Court under this Order shall be enforced by all courts and authorities in the Colony as if it were a judgment, decree, order or sentence of a superior court of the Colony.

(2) Subject to any law of the Legislature of the Colony enacted under section 3 of this Order, the Federal Supreme Court shall, in connection with any jurisdiction conferred on it under this Order, have power to make any order for the purpose of securing the attendance of any person, the discovery or production of any document, or the investigation or punishment of any contempt of court that any superior court of the Colony has power to make.

Appeals to Her Majesty in Council from Federal Supreme Court

9. The Federal Legislature may by law confer a right of appeal to Her Majesty in Council from determinations of the Federal Supreme Court made in exercise of jurisdiction conferred on it under this Order in such cases and subject to such conditions as may be prescribed by or under any such law, but save as provided by any such law there shall be no right of appeal to Her Majesty in Council from any such determination of the Federal Supreme Court.

Appeals to Her Majesty in Council from superior courts of the Colony

10.—(1) Except with the leave of the Federal Supreme Court, which shall be granted only in such circumstances as the Federal Legislature may by law prescribe, there shall be no right of appeal direct to Her Majesty in Council from a superior court of the Colony in any case in which an appeal lies to the Federal Supreme Court.

(2) The provisions of this section shall not affect any appeal from a superior court of the Colony to Her Majesty in Council in any case in which leave (either conditional or final) to appeal to Her Majesty in Council has been granted by that superior court before the date on which the Federal Supreme Court acquires jurisdiction to hear an appeal in that case.

Appeals to Her Majesty in Council with special leave

11. For the avoidance of doubt it is hereby declared that nothing in the last two foregoing sections shall be construed as purporting to impair any right which Her Majesty in Council may be pleased to exercise to grant special leave to appeal to Her Majesty in Council from the Federal Supreme Court or from a superior court of the Colony.

Transitional provision

12. Until such time as two judges of the Federal Supreme Court in addition to the Chief Justice of the Federation have been appointed and have assumed the functions of their office rules of court may be made under section 7 of this Order by the Chief Justice of the Federation alone.

W. G. Agnew.

EXPLANATORY NOTE

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

This Order provides for conferring on the Federal Supreme Court of the Federation established by the West Indies (Federation) Order in Council, 1957, jurisdiction to hear and determine appeals from superior courts of British Guiana, provides that any such jurisdiction shall be in substitution for jurisdiction conferred by the West Indian Court of Appeal Act, 1919, on the court established thereby to hear and determine appeals from those courts, and makes provision for certain incidental, consequential and transitional matters.