1953 No. 1910

The British Guiana (Constitution) (Temporary Provisions) Order in Council, 1953

Made - - - - 22nd December, 1953

At the Court of Saint James, the 22nd day of December, 1953

Present,

Her Majesty Queen Elizabeth The Queen Mother.

Her Royal Highness The Princess Margaret.

Lord President	**Mr. Geoffrey Lloyd**
Mr. Secretary Head	**Commander Galbraith**

Whereas Her Majesty, in pursuance of the Regency Acts, 1937 to 1953, was pleased, by Letters Patent dated the twentieth day of November, 1953, to delegate to Her Majesty Queen Elizabeth The Queen Mother, Her Royal Highness The Princess Margaret, His Royal Highness The Duke of Gloucester, Her Royal Highness The Princess Royal and the Earl of Harewood, or any two or more of them, as Counsellors of State, full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval of anything for which Her Majesty's approval in Council is required :

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and Her Royal Highness The Princess Margaret, being authorized thereto by the said Letters Patent, and in exercise of the powers conferred on Her Majesty by the British Guiana Act, 1928(a), and of all other powers enabling Her Majesty in that behalf, do hereby, by and with the advice of Her Majesty's Privy Council, on Her Majesty's behalf order, and it is hereby ordered, as follows :—

PART I

Preliminary

Citation and commencement

1.—(1) This Order may be cited as the British Guiana (Constitution) (Temporary Provisions) Order in Council, 1953.

(2) Save as otherwise provided in subsection (3) of this section, this Order shall come into operation forthwith.

(3) Parts IV and V of this Order shall come into operation on such day as the Governor, by Proclamation in the Gazette, shall appoint ; and thereupon Part III of this Order shall, without prejudice to anything lawfully done thereunder, cease to have effect.

(4) This Order shall be published in the Gazette.

Interpretation

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

" the Colony " means the Colony of British Guiana ;

(a) 18 & 19 Geo. 5. c. 5.

" the Executive Council " means the Executive Council established by Part II of this Order ;

" the Gazette " means the Official Gazette of the Colony ;

" the Governor " means the Governor and Commander-in-Chief of the Colony and includes any other officer for the time being administering the Government of the Colony and, to the extent to which a Deputy for the Governor is authorized to act, that Deputy ;

" the Legislative Council " means the Legislative Council provided for by Part IV of this Order ;

" Nominated Official Member " means a Nominated Member of the Executive or Legislative Council, as the case may be, who, at the time of his appointment as such, holds an office of emolument under the Crown in the Colony ;

" Nominated Unofficial Member " means a Nominated Member of the Executive or Legislative Council, as the case may be, who, at the time of his appointment as such, does not hold an office of emolument under the Crown in the Colony ;

" public office " means any office of emolument in the public service ;

" public officer " means the holder of any public office and includes any person appointed to act in any such office ;

" the Public Seal " means the Public Seal of the Colony ;

" the public service " means the service of the Crown in respect of the Government of the Colony ;

" session " means the sittings of the Council commencing when the Council first meets after being constituted under this Order, or after its prorogation at any time, and terminating when the Council is prorogued ;

" sitting " means a period during which the Council is sitting continuously without adjournment, and includes any period during which the Council is in committee ;

" Speaker " means the Speaker of the Legislative Council.

(2) Where in this Order reference is made to any officer by the term designating his office, such reference shall be construed as a reference to the officer for the time being lawfully discharging the functions of that office.

(3) References in this Order to Her Majesty's dominions shall have effect as if they included references to all British protectorates and protected states and to all territories administered by the Government of any part of Her Majesty's dominions under the trusteeship system of the United Nations.

(4) (*a*) For the purposes of this Order a person shall not be considered to hold an office of emolument under the Crown if he is on leave of absence pending relinquishment of such office or by reason only that he is in receipt of a pension or other like allowance in respect of service under the Crown ; and if it shall be declared by any law in force in the Colony that an office shall not be an office of emolument under the Crown for all or any of the purposes of this Order, this Order shall have effect accordingly as if such law were enacted herein.

(*b*) For the purposes of this Order a person shall not be considered to be a public officer or otherwise to hold office of emolument under the Crown by reason of the fact that he is in receipt of a salary or other emoluments in respect of his tenure of the office of Speaker or Nominated Unofficial Member of the Legislative Council or Nominated Unofficial Member of the Executive Council.

(5) This Order shall be construed—

(*a*) as if subsection (1) of section 1 of the India (Consequential Provision) Act, 1949(**a**), applied to it in the same way as that section applies to laws in force on the date mentioned in that subsection; and

(*b*) as if subsection (2) of section 3 of the British Nationality Act, 1948(**b**) (as interpreted by subsection (1) of section 3 of the Ireland Act, 1949(**c**)), and subsection (2) of section 3 of the Ireland Act, 1949, applied to it as those subsections apply to laws in force at the dates of the commencement of those Acts respectively.

(6) Save as in this Order otherwise provided or required by the context, the Interpretation Act, 1889(**d**), shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

British Guiana (Constitution) Orders in Council, 1953, to cease to have effect

3.—(1) Save as is otherwise provided in this section, from the date of this Order the British Guiana (Constitution) Orders in Council, 1953(**e**), shall have no effect unless and until Her Majesty, by order in Council, shall otherwise provide.

(2) The provisions of subsection (1) of this section shall not apply to Part VII (comprising sections 85 to 90 inclusive) or to section 92 of the British Guiana (Constitution) Order in Council, 1953(**f**) (hereinafter referred to as "the Constitution Order"), and accordingly section 1 of the Constitution Order shall continue to have effect in relation to that Part and that section:

Provided that section 88 of the Constitution Order shall be construed as if the words "subject to the provisions of subsection (3) of this section" in subsection (1), and as if subsection (3), were omitted.

(3) The provisions of subsection (2) of section 38 of the Interpretation Act, 1889, shall apply in relation to the operation of subsection (1) of this section as they apply to the repeal of an Act of Parliament.

PART II

Executive Council

Executive Council

4. There shall be an Executive Council in and for the Colony which shall consist of three *ex-officio* Members and not more than seven Nominated Members.

Ex-officio Members

5. The *ex-officio* Members of the Executive Council shall be the Chief Secretary, the Attorney-General and the Financial Secretary.

(**a**) 12, 13 & 14 Geo. 6. c. 92.
(**b**) 11 & 12 Geo. 6. c. 56.
(**c**) 12, 13 & 14 Geo. 6. c. 41.
(**d**) 52 & 53 Vict. c. 63.
(**e**) S.I. 1953/586, 1478, 1564, pp. 126, 160, 162 above.
(**f**) S.I. 1953/586, p. 126 above.

Nominated Members

6. The Nominated Members of the Executive Council shall be such persons as the Governor, in pursuance of instructions from Her Majesty through a Secretary of State, shall appoint by Instrument under the Public Seal:

Provided that, after Part IV of this Order comes into operation, no person shall be appointed to be a Nominated Unofficial Member of the Council who is not a Nominated Unofficial Member of the Legislative Council.

Tenure of office of Nominated Members

7.—(1) Every Nominated Member of the Executive Council shall hold his seat in the Council during Her Majesty's pleasure.

(2) Every such Nominated Member shall vacate his seat in the Council on such date (if any) as may be provided in the Instrument by which he is appointed, or before such date:—

(*a*) if, by writing under his hand addressed to the Governor, he shall resign his seat in the Executive Council ; or

(*b*) if, in the case of a Nominated Official Member, he shall cease to hold office of emolument under the Crown in the Colony ; or

(*c*) if, in the case of a Nominated Unofficial Member, he shall be appointed permanently to any office of emolument under the Crown in the Colony ; or

(*d*) if, without the written permission of the Governor, he shall be absent from the Colony ; or

(*e*) if, in the case of a Nominated Unofficial Member, he shall not, within one month after the coming into operation of Part IV of this Order, have been appointed to be a Member of the Legislative Council ; or

(*f*) if, in the case of a Nominated Unofficial Member, he shall, at any time after the coming into operation of Part IV of this Order, vacate his seat in the Legislative Council.

(3) If a Nominated Unofficial Member of the Executive Council shall be appointed temporarily to, or to act in, any office of emolument under the Crown in the Colony, he shall not sit as a Member or take part in the proceedings of the Council by virtue of his appointment as a Nominated Unofficial Member so long as he continues to hold or act in that office.

(4) A person whose seat in the Council has become vacant may be again appointed as a Nominated Member from time to time.

Suspension of Nominated Member

8.—(1) The Governor, acting in his discretion, may, by Instrument under the Public Seal, suspend any Nominated Member of the Executive Council from the exercise of his functions as such ; and while such suspension is in force the person suspended shall not sit in or take part in the proceedings of the Executive Council.

(2) Every such suspension shall forthwith be reported by the Governor to Her Majesty through a Secretary of State, and shall remain in force unless and until it shall be removed by the Governor, acting in his discretion, by Instrument under the Public Seal or by Her Majesty through a Secretary of State or the person suspended ceases to be a Member of the Executive Council.

(3) The Governor, acting in his discretion, may, by Instrument under the Public Seal, declare any Nominated Member to be temporarily incapable of discharging his functions as a Member of the Executive Council, and thereupon such Member shall not sit in or take part in the proceedings of the Council until he is declared, in manner aforesaid, again to be capable of discharging his said functions.

Temporary Members

9.—(1) Whenever there shall be a vacancy in the number of persons sitting in the Executive Council by reason of the fact that:—

(*a*) one person is lawfully discharging the functions of more than one of the three officers referred to in section 5 of this Order ; or

(*b*) no person is lawfully discharging the functions of one of those officers ; or

(*c*) a Nominated Official Member is lawfully discharging the functions of one of those officers ; or

(*d*) a Nominated Unofficial Member has been appointed temporarily to, or to act in, any office of emolument under the Crown in the Colony ; or

(*e*) a Nominated Member is, under section 8 of this Order, suspended by the Governor from the exercise of his functions or declared by the Governor to be temporarily incapable of discharging his functions ; or

(*f*) a Member is absent from the Colony ; or

(*g*) the seat of a Nominated Member is vacant from any cause,

the Governor, acting in his discretion, may, by Instrument under the Public Seal, appoint a person to be a temporary Member of the Executive Council for the period of such vacancy.

(2) If the vacancy is in the number of *ex-officio* Members the person so appointed shall be a person holding a public office.

(3) Save as otherwise provided in section 15 of this Order, every person so appointed shall, so long as his appointment shall subsist, be to all intents and purposes a Nominated Member of the Council ; and, subject to the provisions of this section, the provisions of section 7 (except those of paragraph (*e*) of subsection (2) thereof) and of section 8 of this Order shall apply accordingly.

(4) The Governor shall forthwith report any such temporary appointment to Her Majesty through a Secretary of State. Any such temporary appointment may (without prejudice to anything done by virtue thereof) be revoked by Her Majesty through a Secretary of State or by the Governor, acting in his discretion, by Instrument under the Public Seal.

(5) A temporary appointment shall cease to have effect on notification by the Governor to the person appointed of revocation by Her Majesty or by the Governor, or on supersession of the appointment by the definitive appointment of a person to fill the vacancy, or when the circumstances giving rise to the vacancy shall otherwise cease to exist.

Summoning of persons to Executive Council

10. Whenever the Governor desires to obtain the advice of any person in the Colony concerning the government thereof he may, in writing, summon such person to the Executive Council.

Summoning and quorum

11.—(1) The Executive Council shall not be summoned except by the authority of the Governor.

(2) No business except that of adjournment shall be transacted if objection is taken by any Member present that there are less than four Members present besides the Governor or Member presiding.

Council may transact business notwithstanding vacancies

12. The Executive Council shall not be disqualified for the transaction of business by reason of any vacancy among the Members thereof; and any proceedings therein shall be valid notwithstanding that some person, who was not entitled so to do, attended the Council or took part in the proceedings thereof.

Decision of questions as to membership

13. All questions which may arise as to the right of any person to be or remain a Member of the Executive Council or to sit in or take part in the proceedings of the Council shall be referred to and determined by the Governor acting in his discretion.

Governor to attend and preside

14. The Governor shall, so far as is practicable, attend and preside at all meetings of the Executive Council, and in his absence such Member as the Governor may appoint or, in the absence of such Member or if no Member be so appointed, the Member present who stands first in order of precedence shall preside.

Precedence of Members

15. The Members of the Executive Council shall take precedence among themselves as Her Majesty may specially assign, and, in default thereof, as follows:—

First, the *ex-officio* Members in the order in which they are referred to in section 5 of this Order;

Secondly, Members temporarily appointed under section 9 of this Order to fill a vacancy in the number of persons sitting in the Council as *ex-officio* Members, in such order as may be assigned by the Governor;

Thirdly, the Nominated Official Members in such order as may be assigned by the Governor;

Fourthly, the Nominated Unofficial Members according to the date of the Instruments by which they were respectively appointed, or, if appointed on the same day, in such order as may be assigned by the Governor.

Governor to consult Executive Council

16. Where, by or under this Order or any other law for the time being in force in the Colony, any power is conferred upon the Governor or the Governor in Executive Council, the Governor shall, in the exercise of such power, consult with the Executive Council, except—

(i) in the exercise of any power which he is directed or empowered to exercise in his discretion or in respect of which it is otherwise provided by law, either expressly or by implication, that the Governor shall not be obliged to consult with the Executive Council in the exercise thereof;

(ii) in cases—

(*a*) which are of such a nature that, in his judgment, the service of Her Majesty would sustain material prejudice by consulting the Council thereon ; or

(*b*) in which the matters to be decided are, in his judgment, too unimportant to require the advice of the Council ; or

(*c*) in which the matters to be decided are, in his judgment, too urgent to admit of the advice of the Council being given by the time within which it may be necessary for him to act.

In every case falling within subparagraph (*c*) of this paragraph the Governor shall, as soon as is practicable, communicate to the Executive Council the measures which he shall have adopted with the reasons therefor.

Governor may act in opposition to Council

17.—(1) The Governor may act in opposition to the advice given to him by the Members of the Executive Council, if he shall in any case consider it right so to do ; but in any such case he shall report the matter to a Secretary of State, at the first convenient opportunity, with the reasons for his action.

(2) Whenever the Governor shall so act against the advice of the Executive Council it shall be competent to any Member to require that there be recorded upon the minutes any advice or opinion he may give upon the question with the reasons therefor.

Governor to propose questions

18. The Governor shall alone be entitled to submit questions to the Executive Council ; but if the Governor shall decline to submit any question to the Council when requested in writing by any Member so to do, it shall be competent to such Member to require that there be recorded upon the minutes his written application, together with the answer returned by the Governor thereto.

Committee of Executive Council

19. There may be established, by or in pursuance of any Instructions under Her Majesty's Sign Manual and Signet and subject to the provisions of any such Instructions, a committee of the Executive Council to exercise such functions, in such manner, as may be prescribed by or in pursuance of any such Instructions.

Members may be charged with responsibility for Departments or subjects

20. The Governor, acting in his discretion, may, by directions in writing—

(*a*) charge any Member of the Executive Council with the responsibility for any Department or subject ; and

(*b*) revoke or vary any directions given under this section.

Temporary assignment of Departments

21.—(1) If it shall be decided by the Governor, acting in his discretion, that any Member of the Executive Council is for any cause temporarily unable to administer any Department or subject with the responsibility for which he is charged, then the Governor, acting in

his discretion, may, by directions in writing, charge any other Member of the Executive Council with the responsibility for that Department or subject until such time as the said Member is declared by the Governor, acting in his discretion, again to be able to administer the same.

(2) The Governor, acting in his discretion, may, by directions in writing, revoke or vary any directions given under this section.

Disagreement between Member and Head of Department

22. If the public officer who is for the time being head of any Department shall, on any question relating to the administration of the Department, disagree with the Member of the Executive Council who is charged with the responsibility for the Department, then—

(*a*) the said officer may submit to the Member a statement in writing of his reasons for disagreeing with the Member and of his own recommendations on the question at issue ;

(*b*) the Member shall send to the Governor's Secretary and Clerk to the Executive Council a copy of such statement together with any written statement which he himself may wish to make on the question at issue ; and

(*c*) the question shall be considered at a meeting of the Executive Council and shall be disposed of as the Governor may direct.

Governor's Secretary and Clerk to Executive Council

23.—(1) There shall be an officer to be styled the Governor's Secretary and Clerk to the Executive Council, who shall be appointed by the Governor.

(2) The said officer—

(*a*) in his capacity as Governor's Secretary, shall have such functions as the Governor, acting in his discretion, may from time to time direct ; and

(*b*) in his capacity as Clerk to the Executive Council shall be responsible for arranging the business for, and keeping the minutes of, meetings of the Executive Council, and shall have such other functions as the Governor may from time to time direct.

Leave of absence

24. The Governor, acting in his discretion, may grant leave of absence from his duties to any Member of the Executive Council.

PART III

Legislation enacted by the Governor

Governor's power to make laws

25.—(1) Subject to the provisions of this Order, it shall be lawful for the Governor to make laws for the peace, order and good government of the Colony.

(2) Every such law shall come into operation on the date of its publication in the Gazette, or, if it shall be provided either in such law or in some other law (including any law in force at the commencement of this Order) that it shall come into operation on some other date, on that date.

Royal Instructions

26. Subject to the provisions of this Order, the Governor shall, in the making of laws, conform as nearly as may be to the directions contained in any Instructions under Her Majesty's Sign Manual and Signet which may from time to time be addressed to the Governor in that behalf.

Disallowance of laws

27.—(1) Any law made by the Governor under the provisions of this Order may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever any law has been disallowed by Her Majesty, the Governor shall cause notice of such disallowance to be published in the Gazette.

(3) Every law so disallowed shall cease to have effect as soon as notice of such disallowance shall be published as aforesaid ; and thereupon any enactment repealed or amended by, or in pursuance of, the law disallowed shall have effect as if such law had not been made ; and, subject thereto, the provisions of subsection (2) of section 38 of the Interpretation Act, 1889, shall apply to such disallowance as they apply to the repeal of an Act of Parliament.

PART IV

Legislative Council

Constitution of Legislative Council

28. There shall be a Legislative Council in and for the Colony, which shall consist of a Speaker, three *ex-officio* Members and not more than twenty-four Nominated Members.

Speaker

29.—(1) The Speaker shall be a person who is not an *ex-officio* or Nominated Member of the Legislative Council and who does not hold any office of emolument under the Crown ; and he shall be appointed by the Governor, acting in his discretion, by Instrument under the Public Seal.

(2) The Speaker shall hold office during Her Majesty's pleasure and, subject thereto, for such period as may be specified in the Instrument by which he is appointed:

Provided that the Speaker may, by writing under his hand addressed to the Governor, resign his office ; and upon receipt of such resignation by the Governor the office of Speaker shall become vacant.

(3) The Governor may grant leave of absence from his duties to the Speaker.

(4) The Speaker shall be paid a salary at the rate of five thousand seven hundred and sixty dollars per annum, which is hereby charged upon the revenues of the Colony and shall be paid by the Treasurer upon warrant directed to him under the hand of the Governor.

(5) Nothing in subsection (4) of this section shall prevent the payment to the Speaker of such emoluments in excess of the salary therein mentioned as may be provided for by any law in force in the Colony.

Ex-officio Members

30. The *ex-officio* Members of the Legislative Council shall be the Chief Secretary, the Attorney-General and the Financial Secretary.

Nominated Members

31.—(1) The Nominated Members of the Legislative Council shall be such persons, qualified in accordance with the provisions of this Order, as the Governor, acting in his discretion, shall appoint by Instrument under the Public Seal.

(2) The Governor shall, without delay, report to Her Majesty, through a Secretary of State, every appointment of any person as a Nominated Member of the Council.

Qualifications for nominated membership

32. Subject to the provisions of section 33 of this Order, any person who is a British subject of the age of twenty-one years or upwards shall be qualified to be appointed a Nominated Member of the Legislative Council, and no other person shall be qualified to be so appointed or, having been so appointed, shall sit or vote in the Council.

Disqualifications for nominated membership

33. No person shall be qualified to be appointed a Nominated Member of the Legislative Council, or, having been appointed thereto, shall sit or vote in the Council, who, at the time of appointment—

(*a*) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign Power or State; or

(*b*) holds the office of Speaker; or

(*c*) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of Her Majesty's dominions; or

(*d*) is a person adjudged to be of unsound mind or detained as a criminal lunatic under any law in force in the Colony; or

(*e*) has been sentenced in any part of Her Majesty's dominions to death or to imprisonment (by whatever name called) for a term exceeding twelve months, and has not either suffered the punishment to which he was sentenced or such other punishment as may by competent authority have been substituted therefor, or received a free pardon; or

(*f*) is, in the case of a Nominated Unofficial Member, a party to, or a partner in a firm, or director or manager of a company, which is a party to, any contract with the Government of the Colony for or on account of the public service, and has not disclosed to the Governor the nature of such contract and his interest, or the interest of any such firm or company, therein.

Tenure of office of Nominated Members

34.—(1) Every Nominated Member of the Legislative Council shall hold his seat in the Council during Her Majesty's pleasure.

(2) Every Nominated Member shall cease to be a Member of the Council on such date (if any) as may be provided in the Instrument by which he is appointed, or previously thereto if his seat shall become vacant under the provisions of this Order.

(3) The seat of a Nominated Member of the Council shall become vacant—

(*a*) upon his death; or

(*b*) if he shall be absent from the sittings of the Council for such period and in such circumstances as the Governor may by regulation prescribe ; or

(*c*) if he shall cease to be a British subject ; or shall take any oath, or make any declaration or acknowledgment, of allegiance, obedience or adherence to any foreign Power or State ; or shall do, concur in or adopt any act done with the intention that he shall become a subject or citizen of any foreign Power or State ; or

(*d*) if he shall be adjudged or otherwise declared bankrupt under any law in force in any part of Her Majesty's dominions ; or

(*e*) if he shall be sentenced in any part of Her Majesty's dominions to death or to imprisonment (by whatever name called) for a term exceeding twelve months ; or

(*f*) if he shall become subject to the disqualification specified in paragraph (*d*) of section 33 of this Order ; or

(*g*) if, in the case of a Nominated Unofficial Member, he shall become a party to any contract with the Government of the Colony for or on account of the public service, or if any firm in which he is a partner, or any company of which he is a director or manager, shall become a party to any such contract, or if he shall become a partner in a firm or a director or manager of a company which is a party to any such contract:

Provided that, if in the circumstances it shall appear to him to be just so to do, the Governor may exempt any such Member from vacating his seat under the provisions of this paragraph, if such Member shall, before becoming a party to such contract as aforesaid or before, or as soon as practicable after, becoming otherwise interested in such contract (whether as partner in a firm or director or manager of a company), disclose to the Governor the nature of such contract and his interest or the interest of any such firm or company therein ; or

(*h*) in the case of a Nominated Official Member, if he shall cease to hold office of emolument under the Crown in the Colony ; or

(*i*) in the case of a Nominated Unofficial Member, if he shall be appointed permanently to any office of emolument under the Crown in the Colony.

(4) A Nominated Member of the Council may, by writing under his hand addressed to the Governor, resign his seat in the Council ; and upon receipt of such resignation by the Governor the seat of such Member shall become vacant.

(5) If a Nominated Unofficial Member of the Council shall be appointed temporarily to, or to act in, any office of emolument under the Crown in the Colony, he shall not sit or vote in the Council so long as he continues to hold or to act in that office.

(6) Whenever it appears to the Speaker that the seat of a Nominated Member has become vacant under subsection (3) of this section or that a Member is temporarily disqualified from sitting or voting in the Council under subsection (5) of this section, he shall send a report in writing to that effect to the Governor.

(7) Any person whose seat in the Council has become vacant may, if qualified, be again appointed as a Nominated Member from time to time.

Suspension of Nominated Member

35.—(1) The Governor, acting in his discretion, may, by Instrument under the Public Seal, suspend any Nominated Member of the Legislative Council from the exercise of his functions as such; and while such suspension is in force the person suspended shall not sit or vote in the Council.

(2) Every such suspension shall forthwith be reported by the Governor to Her Majesty through a Secretary of State, and shall remain in force unless and until it shall be removed by the Governor, acting in his discretion, by Instrument under the Public Seal or by Her Majesty through a Secretary of State or the person suspended ceases to be a Member of the Legislative Council.

(3) The Governor, acting in his discretion, may, by Instrument under the Public Seal, declare any Nominated Member to be temporarily incapable of discharging his functions as a Member of the Legislative Council; and thereupon such Member shall not sit or vote in the Council until he is declared, in manner aforesaid, again to be capable of discharging his said functions.

Decision of questions as to membership

36.—(1) All questions which may arise as to the right of any person to be or remain a Member of the Legislative Council or to sit or vote therein shall be referred to and determined by the Governor acting in his discretion.

(2) The Governor may, by regulations, prescribe the persons by whom and the manner in which such questions shall be referred to him.

Temporary Members

37.—(1) Whenever there shall be a vacancy in the number of persons sitting in the Legislative Council by reason of the fact that—

(*a*) one person is lawfully discharging the functions of more than one of the three officers referred to in section 30 of this Order; or

(*b*) no person is lawfully discharging the functions of one of those officers; or

(*c*) a Nominated Official Member is lawfully discharging the functions of one of those officers; or

(*d*) a Nominated Unofficial Member has been appointed temporarily to, or to act in, any office of emolument under the Crown in the Colony; or

(*e*) a Nominated Member is, under section 35 of this Order, suspended by the Governor from the exercise of his functions or declared by the Governor to be temporarily incapable of discharging his functions; or

(*f*) a Member is absent from the Colony; or

(*g*) the seat of a Nominated Member is vacant from any cause,

a person may be appointed by the Governor, acting in his discretion, by Instrument under the Public Seal, to be a Temporary Member of the Council for the period of such vacancy.

(2) If the vacancy is in the number of persons sitting in the Council as *ex-officio* Members, the person appointed shall be a person holding a public office; and if the vacancy is in the number of persons sitting in the Council as Nominated Members, the person appointed shall be a person qualified for appointment as a Nominated Member.

(3) If a person is appointed under the provisions of this section to be a temporary Member to fill a vacancy in the number of persons sitting in the Council as *ex-officio* Members, then, so long as his appointment shall subsist, the provisions of this Order shall, subject to the provisions of this section, apply to him as if he were an *ex-officio* Member.

(4) If a person is appointed under the provisions of this section to be a temporary Member to fill a vacancy in the number of persons sitting in the Council as Nominated Members, then, so long as his appointment shall subsist, he shall be to all intents and purposes a Nominated Member and, subject to the provisions of this section, the provisions of sections 34 and 35 of this Order shall have effect accordingly.

(5) The Governor shall forthwith report every temporary appointment made under this section to Her Majesty through a Secretary of State, and such appointment may (without prejudice to anything done by virtue thereof) be revoked by the Governor, acting in his discretion, by Instrument under the Public Seal.

(6) A temporary appointment made under this section shall cease to have effect on notification by the Governor to the person appointed of revocation by the Governor, or on supersession of the appointment by the definitive appointment of a person to fill the vacancy, or when the circumstances giving rise to the vacancy shall otherwise cease to exist.

Presiding in the Council

38. The Speaker, or in his absence or if the office of Speaker is vacant, such Member of the Legislative Council as the Governor may from time to time appoint, or in default of such appointment or in the absence of the Member so appointed, the Member present who stands first in order of precedence, shall preside at the sittings of the Council.

Precedence of Members

39.—(1) The Speaker shall take precedence before the other Members of the Legislative Council, who shall take precedence among themselves as Her Majesty may specially assign and, in default thereof, as follows:—

First, the *ex-officio* Members in the order in which their offices are referred to in section 30 of this Order;

Secondly, Members temporarily appointed under section 37 of this Order to fill a vacancy in the number of persons sitting in the Council as *ex-officio* Members, in such order as may be assigned by the Governor;

Thirdly, the Nominated Official Members in such order as may be assigned by the Governor;

Fourthly, the Nominated Unofficial Members according to the length of time during which they have been continuously Members of the Council, Members appointed at the same time taking precedence amongst themselves in such order as may be assigned by the Governor.

(2) In ascertaining, for the purposes of subsection (1) of this section, the period for which any person shall have been continuously a Member of the Council, no account shall be taken of any interval between the vacation by that person of his seat in the Council in consequence of the expiration of his tenure of office under the terms of the Instrument by which he was appointed and the date of his re-appointment to fill a vacancy in the Council caused by that expiration of tenure.

Penalty for unqualified person sitting or voting

40.—(1) Any person who—

(*a*) having been appointed a Member of the Legislative Council, but not having been at the time of such appointment qualified to be so appointed, shall sit or vote in the Council ; or

(*b*) shall sit or vote in the Council after his seat therein has become vacant or he has become disqualified from sitting or voting therein,

knowing, or having reasonable grounds for knowing, that he was so disqualified, or that his seat has become vacant, as the case may be, shall be liable to a penalty not exceeding ninety-six dollars for every day on which he so sits or votes.

(2) The said penalty shall be recoverable by action in the Supreme Court of the Colony at the suit of the Attorney-General.

PART V

Legislation and procedure in Legislative Council

Power to make laws

41. Subject to the provisions of this Order, it shall be lawful for the Governor, with the advice and consent of the Legislative Council, to make laws for the peace, order, and good government of the Colony.

Royal Instructions

42. Subject to the provisions of this Order, the Governor and the Council shall, in the transaction of business and the making of laws, conform as nearly as may be to the directions contained in any Instructions under Her Majesty's Sign Manual and Signet which may from time to time be addressed to the Governor in that behalf.

Standing Orders

43.—(1) Subject to the provisions of this Order and of any Instructions under Her Majesty's Sign Manual and Signet, the Legislative Council may from time to time make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the despatch of business, and for the passing, intituling and numbering of Bills, and for the presentation thereof to the Governor for assent ; but no such Orders shall have effect until they shall have been approved by the Governor.

(2) The first Standing Orders of the Council shall be made by the Governor and may be amended or revoked by the Council under subsection (1) of this section.

Governor's right to address Council

44. The Governor may address the Legislative Council at any time while it is in session after giving previous notice to the Speaker or other Member presiding.

Council may transact business notwithstanding vacancies

45. The Legislative Council shall not be disqualified for the transaction of business by reason of any vacancy among the Members thereof, and any proceedings therein shall be valid notwithstanding that some person, who was not entitled so to do, sat or voted in the Council or otherwise took part in the proceedings.

Quorum

46. No business except that of adjournment shall be transacted in the Legislative Council if objection is taken by any Member present that there are less than nine Members present besides the Speaker or other Member presiding.

Voting

47.—(1) Save as otherwise provided in this Order, all questions proposed for decision in the Legislative Council shall be determined by a majority of the votes of the Members present and voting; and if, upon any question before the Council, the votes of the Members are equally divided the motion shall be lost.

(2) (*a*) The Speaker shall have neither an original nor a casting vote; and

(*b*) any other Member when presiding in the Council shall have an original but no casting vote.

Introduction of Bills, etc.

48.—(1) Save as is provided in subsection (2) of this section and subject to the Standing Orders of the Council, any Member may introduce any Bill or propose any motion for debate in, or may present any petition to, the Legislative Council, and the same shall be debated and disposed of according to the Standing Orders of the Council.

(2) Except with the recommendation or consent of the Governor signified thereto, the Council shall not proceed upon any Bill, amendment, motion or petition which, in the opinion of the Speaker or other Member presiding, would—

(*a*) dispose of or charge any public revenue or public funds of the Colony, or revoke or alter any disposition thereof or charge thereon, or impose, alter or repeal any rate, tax or duty; or

(*b*) suspend the Standing Orders of the Council or any of them.

Governor's reserved power

49.—(1) If the Governor shall consider that it is expedient in the interests of public order, public faith or good government (which expressions shall, without prejudice to their generality, include the responsibility of the Colony as a territory within the British Commonwealth of Nations, and all matters pertaining to the creation or abolition of any public office or to the appointment, salary or other conditions of service of any public officer) that any Bill introduced, or any motion proposed, in the Legislative Council should have effect, then, if the Council fail to pass such Bill or motion within such time and in such form as the Governor may think reasonable and expedient, the Governor, at any time that he thinks fit, may, notwithstanding any provisions of this Order or of any Standing Orders of the Council, declare that such Bill or motion shall have effect as if it had been passed or carried by the Council, either in the form in which it was so introduced or proposed or with such amendments as the Governor shall think fit that have been moved or proposed in the Council or in any committee thereof; and thereupon the said Bill or motion shall be deemed to have been so passed or carried at the time when such declaration shall have been made, and the provisions of this Order, and in particular the provisions relating to assent to Bills and disallowance of laws, shall have effect accordingly.

(2) The Governor shall forthwith report to a Secretary of State every case in which he shall make any such declaration and the reasons therefor.

(3) If any Member of the Legislative Council objects to any declaration made under this section, he may, within seven days of the making thereof, submit to the Governor a statement in writing of his reasons for so objecting, and a copy of such statement shall, if furnished by such Member, be forwarded by the Governor as soon as practicable to a Secretary of State.

(4) Any such declaration relating to a motion may be revoked by a Secretary of State and the Governor shall cause notice of such revocation to be published in the Gazette; and from the date of such publication any motion that shall have been deemed to have been carried by virtue of the declaration revoked shall cease to have effect; and the provisions of subsection (2) of section 38 of the Interpretation Act, 1889, shall apply to such revocation as they apply to the repeal of an Act of Parliament.

Assent to Bills

50.—(1) No Bill shall become a law until either the Governor shall have assented thereto in Her Majesty's name and on Her Majesty's behalf, and shall have signed the same in token of such assent, or Her Majesty shall have given Her assent thereto through a Secretary of State.

(2) When a Bill is presented to the Governor for his assent, he shall, according to his discretion, but subject to the provisions of this Order and of any Instructions addressed to him under Her Majesty's Sign Manual and Signet or through a Secretary of State, declare that he assents, or refuses to assent, thereto, or that he reserves the Bill for the signification of Her Majesty's pleasure:

Provided that the Governor shall reserve for the signification of Her Majesty's pleasure any Bill which determines or regulates the privileges, immunities, or powers of the Legislative Council or the Members thereof.

(3) A law assented to by the Governor shall come into operation on the date of its publication in the Gazette, or, if it shall be enacted either in such law or in some other law (including any law in force when this Part of this Order comes into operation) that it shall come into operation on some other date, on that date.

(4) A Bill reserved for the signification of Her Majesty's pleasure shall become a law so soon as Her Majesty shall have given Her assent thereto through a Secretary of State and the Governor shall have signified such assent by Proclamation published in the Gazette. Every such law shall come into operation on the date of such Proclamation or, if it shall be enacted either in such law or in some other law (including any law in force when this Part of this Order comes into operation) that it shall come into operation on some other date, on that date.

Disallowance of laws

51.—(1) Any law to which the Governor shall have given his assent may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever any law has been disallowed by Her Majesty, the Governor shall cause notice of such disallowance to be published in the Gazette.

(3) Every law so disallowed shall cease to have effect as soon as notice of such disallowance shall be published as aforesaid ; and thereupon any enactment repealed or amended by, or in pursuance of, the law disallowed shall have effect as if such law had not been made, and, subject thereto, the provisions of subsection (2) of section 38 of the Interpretation Act, 1889, shall apply to such disallowance as they apply to the repeal of an Act of Parliament.

Privileges of Council

52. It shall be lawful, by laws enacted under this Part of this Order, to determine and regulate the privileges, immunities and powers of the Legislative Council and the Members thereof respectively ; but no such privileges, immunities or powers shall exceed those of the Commons' House of Parliament of the United Kingdom of Great Britain and Northern Ireland or of the Members thereof.

Oath of Allegiance

53. Except for the purpose of enabling this section to be complied with, no Member of the Legislative Council shall sit or vote therein until he shall have taken and subscribed before the Council the oath of allegiance in the form set out in the Promissory Oaths Ordinance(a) or any law amending or replacing that Ordinance, or shall have made the appropriate affirmation in lieu thereof as provided in the said Ordinance or law:

Provided that if, between the time when a person becomes a Member of the Council and the time when the Council next meets thereafter, a meeting takes place of any committee of the Council of which such person is a Member, such person may, in order to enable him to attend the meeting, and take part in the proceedings of the committee, take and subscribe the said oath or make the said affirmation before a judge of the Supreme Court of the Colony ; and the taking and subscribing of the oath, or the making of the affirmation, in such manner shall suffice for all purposes of this section. In any such case the judge shall forthwith report to the Council through the Speaker that the person in question has taken and subscribed the said oath or made the said affirmation before him.

Sessions of the Council

54.—(1) Subject to the provisions of subsections (2) and (3) of this section, the sessions of the Legislative Council shall be held at such times and places as the Governor shall from time to time by Proclamation published in the Gazette appoint.

(2) There shall be a session of the Council once at least in every year, so that a period of twelve months shall not intervene between the last sitting in one session and first sitting in the next session.

(3) The first session of the Council shall commence within six months after this Part of this Order comes into operation.

Prorogation of the Council

55. The Governor, acting in his discretion, may at any time, by Proclamation published in the Gazette, prorogue the Legislative Council.

(a) Cap. 256.

PART VI

Miscellaneous

Application of Emergency Powers Orders in Council, 1939 and 1952

56. For the avoidance of doubts, it is hereby declared that the Emergency Powers Orders in Council, 1939 and 1952(a), apply, and have always applied, to the Colony.

Removal of difficulties

57.—(1) If any difficulty shall arise in bringing into operation any of the provisions of this Order or in giving effect to the purposes thereof, a Secretary of State may, by Order, make such provision as seems to him necessary or expedient for the purpose of removing the difficulty and may by such Order amend or add to any provision of this Order.

(2) Any Order made under this section may be amended, added to, or revoked by a further Order, and may be given retrospective effect to a date not earlier than the date of this Order.

Powers reserved to Her Majesty

58.—(1) Her Majesty hereby reserves to Herself, Her Heirs and Successors, power, with the advice of Her or Their Privy Council, to amend or revoke this Order as to Her or Them shall seem fit.

(2) Her Majesty hereby reserves to Herself, Her Heirs and Successors, full power by Order in Council from time to time to make laws for the peace, order and good government of the Colony.

W. G. Agnew.

EXPLANATORY NOTE

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

This Order in Council provides that, as from the date of the Order, the British Guiana (Constitution) Orders in Council, 1953, shall, with the exception of certain provisions concerning the public service of British Guiana, have no effect unless and until Her Majesty, by Order in Council, shall otherwise provide.

The Order also establishes for British Guiana an Executive Council, consisting of three ex-officio Members and not more than seven Nominated Members, and provides that the Governor shall, except in certain cases, consult with the Council in the exercise of his powers. The Governor may charge Members of the Council with responsibility for departments or subjects.

Part III of the Order provides for the enactment of legislation for British Guiana by the Governor. Parts IV and V of the Order provide for the establishment of a Legislative Council, consisting of a Speaker, three ex-officio Members and not more than twenty-four Nominated Members, and for the enactment of legislation for British Guiana by the Governor with the advice and consent of the Legislative Council. Parts IV and V of the Order will come into operation on a day to be appointed by the Governor, and thereupon Part III will cease to have effect.

(a) *See* S.I. 1952/2031 ; 1952 I, p. 620.