STATUTORY INSTRUMENTS

1965 No. 1920

OVERSEAS TERRITORIES

The British Indian Ocean Territory Order 1965

Made - - - - 8th November 1965

At the Court at Buckingham Palace, the 8th day of November 1965

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Colonial Boundaries Act 1895(a), 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.

1. This Order may be cited as the British Indian Ocean Territory Order 1965.

Interpretation.

2.—(1) In this Order—

"the Territory" means the British Indian Ocean Territory;

"the Chagos Archipelago" means the islands mentioned in schedule 2 to this Order;

"the Aldabra Group" means the islands as specified in the First Schedule to the Seychelles Letters Patent 1948(b) and mentioned in schedule 3 to this Order.

(2) The Interpretation Act 1889(c) shall apply, with the necessary modifications, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting and otherwise in relation to Acts of Parliament of the United Kingdom.

British Indian Ocean Territory to be a separate colony.

3. As from the date of this Order—

(*a*) the Chagos Archipelago, being islands which immediately before the date of this Order were included in the Dependencies of Mauritius, and

(*b*) the Farquhar Islands, the Aldabra Group and the Island of Desroches, being islands which immediately before the date of this Order were part of the Colony of Seychelles,

shall together form a separate colony which shall be known as the British Indian Ocean Territory.

Establishment of office of Commissioner.

4. There shall be a Commissioner for the Territory who shall be appointed by Her Majesty by Commission under Her Majesty's Sign Manual and Signet and shall hold office during Her Majesty's pleasure.

Powers and duties of Commissioner.

5. The Commissioner shall have such powers and duties as are conferred or imposed upon him by or under this Order or any other law and such other functions as Her Majesty may from time to time be

(a) 58 & 59 Vict. c. 34. (b) Rev. XX, p. 688: 1948 I, p. 4730.
(c) 52 & 53 Vict. c. 63.

pleased to assign to him, and, subject to the provisions of this Order and 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 according to such instructions, if any, as Her Majesty may from time to time see fit to give him.

Oaths to be taken by Commissioner.

6. A person appointed to hold the office of Commissioner shall, before entering upon the duties of that office, take and subscribe the oath of allegiance and the oath for the due execution of his office in the form set out in schedule 1 to this Order.

Discharge of Commissioner's functions during vacancy, etc.

7.—(1) Whenever the office of Commissioner is vacant or the Commissioner is absent from the Territory or is from any other cause prevented from or incapable of discharging the functions of his office, those functions shall be performed by such person as Her Majesty may designate by Instructions given under Her Sign Manual and Signet or through a Secretary of State.

(2) Before any person enters upon the performance of the functions of the office of Commissioner under this section he shall take and subscribe the oaths directed by section 6 of this Order to be taken by a person appointed to hold the office of Commissioner.

(3) For the purposes of this section—

(*a*) the Commissioner shall not be regarded as absent from the Territory, or as prevented from, or incapable of, discharging the functions of his office, by reason only that he is in the Colony of Seychelles or is in passage between that Colony and the Territory or between one part of the Territory and another; and

(*b*) the Commissioner shall not be regarded as absent from the Territory, or as prevented from, or incapable of, discharging the functions of his office at any time when an officer is discharging those functions under section 8 of this Order.

Discharge of Commissioner's functions by deputy.

8.—(1) The Commissioner may, by Instrument under the Official Stamp of the Territory, authorize a fit and proper person to discharge for and on behalf of the Commissioner on such occasions and subject to such exceptions and conditions as may be specified in that Instrument such of the functions of the office of Commissioner as may be specified in that Instrument.

(2) The powers and authority of the Commissioner shall not be affected by any authority given to such person under this section otherwise than as Her Majesty may at any time think proper to direct, and such person shall conform to and observe such instructions relating to the discharge by him of any of the functions of the office of Commissioner as the Commissioner may from time to time address to him.

(3) Any authority given under this section may at any time be varied or revoked by Her Majesty by instructions given through a Secretary of State or by the Commissioner by Instrument under the Official Stamp of the Territory.

Official Stamp.

9. There shall be an Official Stamp for the Territory which the Commissioner shall keep and use for stamping all such documents as may be by any law required to be stamped therewith.

Constitution of offices.

10. The Commissioner, in the name and on behalf of Her Majesty, may constitute such offices for the Territory as may lawfully be constituted by Her Majesty and, subject to the provisions of any law for the time being in force in the Territory and to such instructions as may

from time to time be given to him by Her Majesty through a Secretary of State, the Commissioner may likewise—

(*a*) make appointments, to be held during Her Majesty's pleasure, to any office so constituted; and

(*b*) dismiss any person so appointed or take such other disciplinary action in relation to him as the Commissioner may think fit.

Power to make laws.

11.—(1) The Commissioner may make laws for the peace, order and good government of the Territory, and such laws shall be published in such manner as the Commissioner may direct.

(2) Any laws made by the Commissioner may be disallowed by Her Majesty through a Secretary of State.

(3) Whenever any law has been disallowed by Her Majesty, the Commissioner shall cause notice of such disallowance to be published in such manner as he may direct.

(4) Every law disallowed shall cease to have effect as soon as notice of disallowance is published as aforesaid, and thereupon any enactment amended or repealed by, or in pursuance of, the law disallowed shall have effect as if the law had not been made.

(5) Subject as aforesaid, 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 enactment by an Act of Parliament.

Commissioner's powers of pardon, etc.

12. The Commissioner may, in Her Majesty's name and on Her Majesty's behalf—

(*a*) grant to any person concerned in or convicted of any offence against the laws of the Territory a pardon, either free or subject to lawful conditions; or

(*b*) grant to any person a respite, either indefinite or for a specified period, of the execution of any sentence imposed on that person for any such offence; or

(*c*) substitute a less severe form of punishment for any punishment imposed by any such sentence; or

(*d*) remit the whole or any part of any such sentence or of any penalty or forfeiture otherwise due to Her Majesty on account of any offence.

Concurrent appointments.

13. Whenever the substantive holder of any office constituted by or under this Order is on leave of absence pending relinquishment of his office—

(*a*) another person may be appointed substantively to that office;

(*b*) that person shall, for the purpose of any functions attaching to that office, be deemed to be the sole holder of that office.

Disposal of land.

14. Subject to any law for the time being in force in the Territory and to any Instructions from time to time given to the Commissioner by Her Majesty under Her Sign Manual and Signet or through a Secretary of State, the Commissioner, in Her Majesty's name and on Her Majesty's behalf, may make and execute grants and dispositions of any lands or other immovable property within the Territory that may be lawfully granted or disposed of by Her Majesty.

Existing laws.

15.—(1) Except to the extent that they may be repealed, amended or modified by laws made under section 11 of this Order or by other lawful authority, the enactments and rules of law that are in force

immediately before the date of this Order in any of the islands comprised in the Territory shall, on and after that date, continue in force therein but shall be applied with such adaptations, modifications and exceptions as are necessary to bring them into conformity with the provisions of this Order.

(2) In this section "enactments" includes any instruments having the force of law.

Exercise of jurisdiction by courts.

16.—(1) The Commissioner, with the concurrence of the Governor of any other colony, may, by a law made under section 11 of this Order, confer jurisdiction in respect of the Territory upon any court established for that other colony.

(2) Any such court as is referred to in subsection (1) of this section and any court established for the Territory by a law made under section 11 of this Order may, in accordance with any directions issued from time to time by the Commissioner, sit in the Territory or elsewhere for the purpose of exercising its jurisdiction in respect of the Territory.

Judicial proceedings.

17.—(1) Notwithstanding any other provision of this Order but subject to any law made under section 11 thereof,

(*a*) any proceedings that, immediately before the date of this Order, have been commenced in any court having jurisdiction in any of the islands comprised in the Territory may be continued and determined before that court in accordance with the law that was applicable thereto before that date;

(*b*) where, under the law in force in any such island immediately before the date of this Order, an appeal would lie from any judgment of a court having jurisdiction in that island, whether given before that date or given on or after that date in pursuance of paragraph (*a*) of this subsection, such an appeal shall continue to lie and may be commenced and determined in accordance with the law that was applicable thereto before that date;

(*c*) any judgment of a court having jurisdiction in any such island given, but not satisfied or enforced, before the date of this Order, and any judgment of a court given in any such proceedings as are referred to in paragraph (*a*) or paragraph (*b*) of this subsection, may be enforced on and after the date of this Order in accordance with the law in force immediately before that date.

(2) In this section "judgment" includes decree, order, conviction, sentence and decision.

Amendment of Seychelles Letters Patent 1948 and Mauritius (Constitution) Order 1964, etc.

18.—(1) The Seychelles Letters Patent 1948 as amended by the Seychelles Letters Patent 1955(**a**) are amended as follows:—

(*a*) the words "and the Farquhar Islands" are omitted from the definition of "the Colony" in Article 1(1);

(*b*) in the First Schedule the word "Desroches" and the words "Aldabra Group consisting of", including the words specifying the islands comprised in that Group, are omitted.

(2) Section 90(1) of the Constitution set out in schedule 2 to the Mauritius (Constitution) Order 1964(**b**) is amended by the insertion of the following definition immediately before the definition of "the Gazette":—

(**a**) S.I. 1955 II, p. 3217. (**b**) S.I. 1964 I, p. 1163.

" " Dependencies " means the islands of Rodriques and Agaléga, and the St. Brandon Group of islands often called Cargados Carajos ; ".

(3) Section 2(1) of the Seychelles (Legislative Council) Order in Council 1960(a) as amended by the Seychelles (Legislative Council) (Amendment) Order in Council 1963(b) is further amended by the deletion from the definition of " the Colony " of the words " as defined in the Seychelles Letters Patent 1948 ".

Power reserved to Her Majesty.

19. There is reserved to Her Majesty full power to make laws from time to time for the peace, order and good government of the British Indian Ocean Territory (including, without prejudice to the generality of the foregoing, laws amending or revoking this Order).

W. G. Agnew.

SCHEDULE 1 Section 6

OATH (OR AFFIRMATION) OF ALLEGIANCE

I, do swear (*or* do solemnly affirm) 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.

OATH (OR AFFIRMATION) FOR THE DUE EXECUTION OF THE OFFICE OF COMMISSIONER

I, do swear (*or* do solemnly affirm) that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, in the office of Commissioner of the British Indian Ocean Territory.

SCHEDULE 2 Section 2(1)

Diégo Garcia
Egmont or Six Islands
Péros Banhos
Salomon Islands
Trois Frères, including Danger Island and Eagle Island.

SCHEDULE 3 Section 2(1)

West Island
Middle Island
South Island
Cocoanut Island
Euphratis and other small Islets.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes provision for the constitution of the British Indian Ocean Territory consisting of certain islands hitherto included in the Dependencies of Mauritius and certain other islands hitherto forming part of the Colony of Seychelles.

(a) S.I. 1960 III, p. 4201. (b) S.I. 1963 II, p. 2775.