STATUTORY INSTRUMENTS

1967 No. 477

PACIFIC ISLANDS

The British Solomon Islands Order 1967

Made - - - -	23*rd March* 1967
Laid before Parliament	31*st March* 1967
Coming into Operation	
Sections 49, 50 *and* 51	*On a day to be appointed under section* 1(3)
Remainder	*On a day to be appointed under section* 1(2)

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At the Court at Windsor Castle, the 23rd day of March 1967

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act 1890(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 :—

PART I

INTRODUCTORY

Citation and commencement.

1.—(1) This Order may be cited as the British Solomon Islands Order 1967.

(2) This Order shall be published by exhibition at the Public Office of the High Commissioner and, except for sections 49, 50 and 51, shall come into operation on such day (in this Order referred to as " the appointed day ") as the High Commissioner, in his discretion, by proclamation published in like manner shall appoint, which day shall not be earlier than the day when this Order is so published nor earlier than 1st April 1967.

(3) Sections 49, 50 and 51 of this Order shall come into operation on such day after the appointed day as the High Commissioner, in his discretion, by proclamation published by exhibition at the Public Office of the High Commissioner shall appoint.

Interpretation.

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

" Chief Secretary " means the Chief Secretary to the Western Pacific High Commission ;

" Financial Secretary " means the Financial Secretary to the Western Pacific High Commission ;

" Gazette " means the Western Pacific High Commission Gazette ;

" High Commissioner " means Her Majesty's High Commissioner for the Western Pacific ;

" meeting " means any sitting or sittings of the Legislative Council commencing when the Council first meets after being summoned at any time and terminating when the Council is adjourned *sine die*, or at the conclusion of a session ;

" the Protectorate " means the British Solomon Islands Protectorate ;

" public office " means, subject to the provisions of subsections (4) and (5) of this section, an office of emolument in the public service ;

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

" the public seal " means the official seal of the High Commissioner ;

" the public service " means the service of the Crown in a civil capacity in respect of the government of the Protectorate ;

(a) 1890 c. 37.

"session" means the sittings of the Legislative Council commencing when the Council first meets after being constituted under this Order, or after its prorogation or dissolution at any time, and terminating when the Council is prorogued or is dissolved without having been prorogued;

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

(2) Any reference in this Order to power to make appointments to any office shall be construed as including a reference to power to appoint a person to act or perform the functions of that office during any period during which it is vacant or during which the holder thereof is unable (whether by reason of absence or of infirmity of body or mind or any other cause) to perform those functions.

(3) In this Order, unless the context otherwise requires, a reference to the holder of an office by the term designating his office includes, to the extent of his authority, any person who is for the time being authorized to perform the functions of that office.

(4) (*a*) References to a public officer or public office in Parts IV and V of this Order shall be construed as including references to a judge of the High Court of the Western Pacific in the service of the Protectorate or, as the case may be, to the office of such a judge; but such references in other provisions of this Order shall not be so construed.

(*b*) The reference in paragraph (*a*) of this subsection to Part IV of this Order shall not include a reference to section 18A if that section, by virtue of section 58 of this Order, is included in the said Part.

(5) In this Order a person shall not be considered to hold a public office by reason only that he is in receipt of any remuneration or allowance as a member of the Public Service Commission.

(6) The Interpretation Act 1889(a) 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 Parliament of the United Kingdom.

Revocation.

3. The British Solomon Islands Order 1964(b) and the British Solomon Islands (Electoral Provisions) Order 1966(c) are revoked.

PART II

THE HIGH COMMISSIONER

High Commissioner's powers and duties.

4. The High Commissioner shall have such powers and duties as are conferred or imposed upon him by or under this Order or any other law for the time being in force in the Protectorate, and such other powers and duties as Her Majesty may from time to time be pleased to assign to him, and, subject to the provisions of this Order and of 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 (including the exercise of any powers with respect to which he is empowered by this Order to act in his discretion) according to such instructions, if any, as Her Majesty may from time to time see fit to give him; but the question

(a) 1889 c. 63.
(b) S.I. 1964/1572 (1964 III, p. 3524).
(c) S.I. 1966/1596 (1966 III, p. 5034).

whether he has in any matter complied with such instructions shall not be enquired into by any court.

High Commissioner's powers of pardon, etc.

5. Subject to the provisions of any Instructions given under Her Majesty's Sign Manual and Signet, the High Commissioner, in his discretion, may, in Her Majesty's name and on Her Majesty's behalf—

(*a*) grant to any person concerned in the commission of any offence for which he may be tried by any court established for the Protectorate or to any person convicted of any offence in any court established for the Protectorate a pardon, either free or subject to lawful conditions;

(*b*) grant to any person a respite, either indefinite or for a specified period, of the execution of any sentence passed on that person by any court established for the Protectorate;

(*c*) substitute a less severe form of punishment for that imposed by any sentence of any such court; 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 in respect of which a person has been convicted by any court established for the Protectorate.

High Commissioner's powers as respects offices.

6.—(1) Subject to the provisions of this Order and of any other law for the time being in force in the Protectorate, the High Commissioner, in his discretion, shall have power, in Her Majesty's name and on Her Majesty's behalf—

(*a*) to constitute such offices as may lawfully be constituted by Her Majesty and abolish any office so constituted by him;

(*b*) to make appointments (including appointments on promotion and transfer) to any office so constituted by him; and

(*c*) to terminate the appointment of or dismiss any person so appointed, or suspend him from performing the functions of his office, or take such other disciplinary action with respect to him as may be necessary.

(2) A person appointed to an office constituted under this section shall, unless it is otherwise provided by law, hold office during Her Majesty's pleasure.

PART III

EXECUTIVE COUNCIL

Executive Council.

7.—(1) There shall be an Executive Council for the Protectorate.

(2) Subject to the provisions of this Order, the Executive Council shall consist of—

(*a*) three ex officio members, that is to say, the Chief Secretary, the Attorney-General and the Financial Secretary;

(*b*) such other members, not exceeding five in number, as may be appointed by the High Commissioner, in his discretion, by instrument under the public seal, from among the members of the Legislative Council:

Provided that—

(i) not more than one member shall be appointed from among the public service members of the Legislative Council; and

(ii) if occasion arises for making an appointment between a dissolution of the Legislative Council and the date appointed for the completion of the voting in the next following general election, a person who was a member of the Legislative Council immediately before the dissolution may be appointed as if he were still a member of that Council.

(3) The High Commissioner shall, without delay, report to Her Majesty through a Secretary of State every appointment made under this section.

High Commissioner to consult Executive Council.

8.—(1) Subject to the provisions of this section, the High Commissioner shall consult the Executive Council in the exercise of all powers conferred upon him by this Order or by any other law for the time being in force in the Protectorate, except—

(*a*) any power conferred upon him by this Order which he is empowered to exercise in his discretion ; or

(*b*) any power conferred upon him by any other law which he is empowered, either expressly or by implication, to exercise without consulting the Council.

(2) The High Commissioner shall not be required to consult the Executive Council in any case in which, in his judgment—

(*a*) the service of Her Majesty would sustain material prejudice thereby ;

(*b*) the matters to be decided are too unimportant to require such consultation ; or

(*c*) the urgency of the matter requires him to act before the Council can be consulted.

(3) In every case falling within paragraph (*c*) of the last foregoing subsection the High Commissioner shall, as soon as practicable, communicate to the Executive Council the measures which he has adopted and the reasons for those measures.

High Commissioner may act against advice of Executive Council.

9.—(1) In any case in which the High Commissioner is required by the last foregoing section to consult the Executive Council he may, if he thinks it right to do so, act against the advice given to him by the Council ; but if he so acts he shall at the first convenient opportunity report the matter to a Secretary of State with the reasons for his action.

(2) Whenever the High Commissioner acts against the advice of the Executive 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.

Vacation of seats of appointed members of Executive Council.

10.—(1) Members of the Executive Council appointed under paragraph (*b*) of section 7(2) of this Order (in this Order referred to as " appointed members of the Executive Council ") shall hold their seats in the Council during Her Majesty's pleasure.

(2) An appointed member of the Executive Council shall vacate his seat—

(*a*) at such time or in such circumstances (if any) as may be specified in the instrument by which he is appointed ;

(*b*) if, being a nominated member of the Legislative Council, a declaration is made by the High Commissioner under the proviso

to section 39(2) of this Order (which proviso affects the voting rights of nominated members of the Legislative Council), unless he has resided in the Protectorate during the three years immediately before the date of such declaration for a period of, or periods amounting in the aggregate to, not less than two years, or he is domiciled in the Protectorate and is resident there at that date;

(*c*) if he resigns his seat by writing under his hand addressed to the High Commissioner and, in the case of a member appointed from among the public service members of the Legislative Council, if the High Commissioner, in his discretion, accepts his resignation;

(*d*) if he is absent from the Protectorate for a period of more than two weeks without written permission given by the High Commissioner, in his discretion;

(*e*) if after the completion of the voting in any general election and before the Legislative Council first meets thereafter, he is informed by the High Commissioner that the High Commissioner is about to reappoint him as a member of the Executive Council or to appoint another person in his place;

(*f*) if he ceases to be a member of the Legislative Council for any reason other than a dissolution thereof; or

(*g*) if he is not a member of the Legislative Council when that Council first meets after any dissolution thereof.

Temporary members of Executive Council.

11.—(1) Whenever an appointed member of the Executive Council is unable, because he is ill or absent from the Protectorate, or for any other reason, to perform his functions as a member of the Council, the High Commissioner, in his discretion, may, by instrument under the public seal, appoint to be temporarily a member of the Council—

(*a*) in the case of the inability of a member appointed from among the public service members of the Legislative Council, a person who holds a public office;

(*b*) in the case of the inability of any other member, an elected or nominated member of the Legislative Council:

Provided that, if occasion arises for making an appointment under this section between a dissolution of the Legislative Council and the date appointed for the completion of the voting in the next following general election, a person who was a member of the Legislative Council immediately before the dissolution may be appointed as if he were still a member of that Council.

(2) The High Commissioner shall, without delay, report to Her Majesty through a Secretary of State every appointment made under this section.

(3) A person appointed under this section to be temporarily a member of the Executive Council shall vacate his seat if the High Commissioner, in his discretion, revokes his appointment, or when he is informed by the High Commissioner that the member on account of whose inability he was appointed is again able to perform his functions as a member of the Council, or when the seat of that member becomes vacant.

(4) Subject to the provisions of this section, the provisions of this Order shall apply in relation to a person appointed to be temporarily a member of the Executive Council as they apply in relation to the member on account of whose inability he was appointed.

Determination of questions as to membership.

12. Any question whether a person is a member of the Executive Council shall be determined by the High Commissioner, in his discretion.

Oath or affirmation by members of Executive Council.

13. Before assuming the functions of his office a member of the Executive Council shall make before the High Commissioner, or some person authorized in that behalf by the High Commissioner, an oath or affirmation for the due execution of his office in the form set out in Schedule 1 to this Order together with any other oath or affirmation that may be prescribed by any law for the time being in force in the Protectorate.

Summoning of Executive Council.

14. The Executive Council shall not be summoned except by the authority of the High Commissioner, in his discretion.

Presiding in Executive Council.

15.—(1) The High Commissioner shall, so far as is practicable, attend and preside at all meetings of the Executive Council.

(2) In the absence of the High Commissioner there shall preside at any meeting of the Executive Council—

(*a*) such member of the Council as the High Commissioner, in his discretion, may either generally or specially appoint; or

(*b*) in the absence of that member, or if no member be so appointed, the senior ex officio member of the Council; and for this purpose the Chief Secretary, the Attorney-General and the Financial Secretary shall rank in that order.

Proceedings in Executive Council.

16.—(1) No business except that of adjournment shall be transacted in the Executive Council if objection is taken by any member present that there are less than three members present besides the High Commissioner or the member presiding.

(2) Subject to the provisions of the last foregoing subsection, the Executive Council shall not be disqualified for the transaction of business by reason of any vacancy in the membership of the Council, 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.

(3) The High Commissioner or the member presiding, when in his opinion the business before the Executive Council makes it desirable, may, in his discretion, summon any person to a meeting of the Council, notwithstanding that that person is not a member of the Council.

High Commissioner to submit questions.

17. The High Commissioner shall alone be entitled to submit questions to the Executive Council; but if the High Commissioner declines to submit any question to the Council when requested in writing by any member of the Council to do so, that member may require that there shall be recorded in the minutes his written application, together with the High Commissioner's answer.

PART IV

LEGISLATIVE COUNCIL

Legislative Council.

18.—(1) There shall be a Legislative Council for the Protectorate.

(2) Subject to the provisions of this Order, the Legislative Council shall consist of—

(*a*) the High Commissioner, who shall be President;

(*b*) three ex officio members;

(*c*) such members, not exceeding twelve in number, as may be appointed under section 20 of this Order (in this Order referred to as "public service members");

(*d*) fourteen elected members; and

(*e*) such members, not exceeding two in number, as may be appointed under section 22 of this Order (in this Order referred to as "nominated members").

Ex officio members.

19. The ex officio members of the Legislative Council shall be the Chief Secretary, the Attorney-General and the Financial Secretary.

Public service members.

20.—(1) The public service members of the Legislative Council shall be appointed by the High Commissioner, in his discretion, by instrument under the public seal, from among persons who are public officers.

(2) The High Commissioner shall, without delay, report to Her Majesty through a Secretary of State every appointment made under this section.

Elected members.

21.—(1) The elected members of the Legislative Council shall be persons qualified for election as such under the provisions of this Order, and shall be elected in the manner provided by any law for the time being in force in the Protectorate.

(2) For the purposes of the election of the elected members the Protectorate shall be divided in the manner provided by any such law into fourteen constituencies, and one member shall be elected for each constituency.

Nominated members.

22.—(1) The nominated members of the Legislative Council shall be persons qualified for appointment as such under the provisions of this Order, and shall be appointed by the High Commissioner, in his discretion, by instrument under the public seal.

(2) The High Commissioner shall, without delay, report to Her Majesty through a Secretary of State every appointment made under this section.

Qualifications for elected and nominated membership.

23. Subject to the provisions of the next following section, a person shall be qualified for election as an elected member or for appointment as a nominated member of the Legislative Council if, and shall not be so qualified unless—

(*a*) he is a British subject or a British protected person;

(*b*) he has attained the age of twenty-one years;

(*c*) he can speak and read English well enough to be able to understand and take part in the proceedings of the Council.

(*d*) in the case of an elected member, he has resided in the Protectorate during the three years immediately before the date of his election for a period of, or periods amounting in the aggregate to, not less than two years, or is domiciled in the Protectorate and is resident there at that date; and

Disqualifications for elected and nominated membership.

24.—(1) No person shall be qualified for election as an elected member or for appointment as a nominated member of the Legislative Council who—

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

(*b*) holds, or is acting in, any public office ;

(*c*) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law for the time being in force in any part of the Commonwealth ;

(*d*) is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in the Protectorate ;

(*e*) is under sentence of death imposed on him by a court in any part of the Commonwealth, or is under a sentence of imprisonment (by whatever name called) for a term exceeding twelve months, other than a sentence in lieu of a fine, but including a suspended sentence, imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court ;

(*f*) is disqualified for membership of the Council or for registration as a voter or for voting at elections under any law for the time being in force in the Protectorate relating to offences connected with elections ; or

(*g*) in the case of an elected member, holds, or is acting in, any office the functions of which involve any responsibility for, or in connection with, the conduct of any election to the Council or the compilation or revision of any electoral register for that purpose.

(2) For the purpose of paragraph (*e*) of the last foregoing subsection two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms.

Vacation of seats of public service, elected and nominated members.

25.—(1) Public service members and nominated members of the Legislative Council shall hold their seats in the Council during Her Majesty's pleasure.

(2) A public service member of the Legislative Council shall vacate his seat—

(*a*) on a dissolution of the Council ;

(*b*) if he ceases to be a public officer ;

(*c*) if he resigns his seat by writing under his hand addressed to the High Commissioner, and the High Commissioner, in his discretion, accepts his resignation ; or

(*d*) in the circumstances mentioned in the next following section.

(3) An elected member or a nominated member of the Legislative Council shall vacate his seat—

(*a*) on a dissolution of the Council ;

(*b*) in the case of a nominated member, at such time (if any) as may be specified in the instrument by which he was appointed ;

(*c*) if he resigns his seat by writing under his hand addressed to the High Commissioner ;

(*d*) if, being an elected member, he accepts appointment as a nominated member, or, being a nominated member, he accepts nomination as a candidate for election to the Council ;

(*e*) if he is absent from two consecutive meetings of the Council without having obtained from the High Commissioner, before the termination of either meeting, permission to be or to remain absent therefrom ;

(*f*) if any circumstance arises that, if he were not a member of the Council, would cause him to be disqualified for election or appointment thereto by virtue of paragraph (*a*), (*b*), (*c*), (*d*), (*f*) or (*g*) of subsection (1) of the last foregoing section; or

(*g*) in the circumstances mentioned in the next following section.

Vacation of seat on sentence, etc.

26.—(1) Subject to the provisions of this section, if a public service member, an elected member or a nominated member of the Legislative Council is sentenced by a court in any part of the Commonwealth to death or to imprisonment (by whatever name called) for a term exceeding twelve months, he shall forthwith cease to perform his functions as a member of the Council, and his seat in the Council shall become vacant at the expiration of a period of thirty days thereafter:

Provided that the High Commissioner may, at the request of the member, from time to time extend that period for thirty days to enable the member to pursue any appeal in respect of his conviction or sentence so however that extensions of time exceeding in the aggregate three hundred and thirty days shall not be given without the approval of the Council signified by resolution.

(2) If at any time before the member vacates his seat he is granted a free pardon or his conviction is set aside or his sentence is reduced to a term of imprisonment of less than twelve months or a punishment other than imprisonment is substituted, his seat in the Legislative Council shall not become vacant under the provisions of this section, and he may again perform his functions as a member of the Council.

(3) For the purpose of this section two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms.

Temporary members of Legislative Council.

27.—(1) Whenever a public service member or a nominated member of the Legislative Council is unable, because he is ill or absent from the Protectorate, or for any other reason, to perform his functions as a member of the Council, the High Commissioner, in his discretion, may, by instrument under the public seal, appoint to be temporarily a member of the Council—

(*a*) in the case of the inability of a public service member, a person who is a public officer;

(*b*) in the case of the inability of a nominated member, a person who is qualified for appointment as a nominated member.

(2) The High Commissioner shall, without delay, report to Her Majesty through a Secretary of State every appointment made under this section.

(3) A person appointed under this section to be temporarily a member of the Legislative Council shall vacate his seat if the High Commissioner, in his discretion, revokes his appointment, or when he is informed by the High Commissioner that the member on account of whose inability he was appointed is again able to perform his functions as a member of the Council, or when the seat of that member becomes vacant.

(4) Subject to the provisions of this section, the provisions of this Order shall apply in relation to a person appointed to be temporarily a member of the Legislative Council as they apply in relation to the member on account of whose inability he was appointed.

Determination of questions as to membership.

28.—(1) Any question whether—

(*a*) a person has been validly elected to be an elected member of the Legislative Council ; or

(*b*) an elected member of the Council has vacated his seat therein or is required under section 26 of this Order to cease to perform his functions as a member,

shall be determined in accordance with any law for the time being in force in the Protectorate.

(2) Any question whether—

(*a*) a person has been validly appointed to be a public service member or a nominated member of the Legislative Council ; or

(*b*) a public service member or a nominated member of the Council has vacated his seat therein or is required under section 26 of this Order to cease to perform his functions as a member,

shall be determined by the High Commissioner, in his discretion.

Persons not to be treated as holding public offices.

29.—(1) For the purposes of this Part of this Order a person shall not be treated as holding, or acting in, a public office by reason only that he—

(*a*) is on leave of absence pending relinquishment of a public office, or is on leave of absence without salary from a public office ;

(*b*) is receiving a pension or other like allowance from the Crown ;

(*c*) is receiving any remuneration or allowance as a member of the Executive Council or of the Legislative Council ;

(*d*) is a retired or reserve member of Her Majesty's forces or a special constable ;

(*e*) is a headman, or an assistant headman, or a member of a town council or other local government council established under any law for the time being in force in the Protectorate ; or

(*f*) is the holder of an office in the service or appointment of the Crown, or is performing any functions on behalf of the Crown, if the only payments he receives in respect of that office or those functions are by way of travelling or subsistence allowances or a refund of out-of-pocket expenses.

(2) A provision in any law for the time being in force in the Protectorate that a person shall not be treated as holding, or acting in, a public office for all or any of the purposes of this Part of this Order shall have effect as if it were included in this Order.

Law as to elections.

30. Subject to the provisions of this Order, a law made under this Order may provide for the election of the elected members of the Legislative Council, and in particular, and without prejudice to the generality of the foregoing power, may provide for—

(*a*) the qualifications and disqualifications of electors ;

(*b*) the registration of electors ;

(*c*) the nomination of candidates for election (including the number of persons required to support nominations) ;

(*d*) the ascertainment of the qualifications of electors and of candidates for election;

(*e*) the division of the Protectorate into constituencies for the purposes of elections, and the division of such constituencies for any purposes connected with elections;

(*f*) the holding of elections;

(*g*) the establishment, composition and procedure of electoral colleges;

(*h*) the determination of any question whether any person has been validly elected an elected member of the Legislative Council or whether an elected member of the Legislative Council has vacated his seat therein; and

(*i*) the definition and trial of offences connected with elections and the imposition of penalties therefor, including disqualification for membership of the Legislative Council, or for registration as an elector, or for voting at elections, of any person concerned in any such offence.

PART V

LEGISLATION AND PROCEDURE OF LEGISLATURE

Power of High Commissioner and Legislative Council to make laws.

31. Subject to the provisions of this Order, the High Commissioner, with the advice and consent of the Legislative Council, may make laws for the peace, order and good government of the Protectorate.

Power of High Commissioner to make laws when Legislative Council is dissolved.

32. Subject to the provisions of this Order, the High Commissioner may make laws for the peace, order and good government of the Protectorate during any period beginning with the appointed day or the day on which the Legislative Council is dissolved and ending when the Council first meets thereafter.

Royal Instructions.

33. Subject to the provisions of this Order, the High Commissioner and the Legislative 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 given under Her Majesty's Sign Manual and Signet which may from time to time be addressed to the High Commissioner in that behalf.

Standing Orders.

34.—(1) Subject to the provisions of this Order and of any Instructions given 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 High Commissioner for assent; but no such Standing Orders or amendment or revocation thereof shall have effect until they have been approved by the High Commissioner.

(2) Until other provision is made under this section, the Standing Orders of the Legislative Council shall be the Standing Orders of the Legislative Council established by the British Solomon Islands Order 1964 which were in force immediately before the appointed day, and those Standing Orders shall be read and construed with such adaptations

and modifications, if any, as may be necessary for the purposes of this Order, and may be amended or revoked by the Council under this section:

Provided that the High Commissioner, in his discretion, may at any time after the appointed day and before the first sitting of the Council amend those Standing Orders to conform with the provisions of this Order.

Privileges of Legislative Council and its members.

35. A law made under section 31 of this Order may determine and regulate the privileges, immunities and powers of the Legislative Council and its members, 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 its members.

Oath or affirmation of allegiance.

36. No member of the Legislative Council shall be permitted to take part in the proceedings of the Council (other than proceedings necessary for the purpose of this section) until he has made before the Council an oath or affirmation of allegiance in the form set out in Schedule 1 to this Order.

Presiding in Legislative Council.

37.—(1) The High Commissioner shall, so far as is practicable, attend and preside at all sittings of the Legislative Council.

(2) In the absence of the High Commissioner there shall preside at any sitting of the Legislative Council—

(*a*) such member of the Council as the High Commissioner, in his discretion, may either generally or specially appoint; or

(*b*) in the absence of that member or if no member be so appointed, the senior ex officio member of the Council; and for this purpose the Chief Secretary, the Attorney-General and the Financial Secretary shall rank in that order.

Proceedings in Legislative Council.

38.—(1) If at any sitting of the Legislative Council a quorum is not present and any member of the Council who is present objects on that account to the transaction of business and, after such interval as may be prescribed in the Standing Orders of the Council, the person presiding at the sitting ascertains that a quorum is still not present, he shall adjourn the Council.

(2) For the purposes of this section a quorum shall consist of nine members of the Legislative Council in addition to the person presiding.

(3) Subject to the foregoing provisions of this section, the Legislative Council shall not be disqualified for the transaction of business by reason of any vacancy in the membership of the Council, 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.

Voting.

39.—(1) Save as otherwise provided in this Order, any question proposed for decision in the Legislative Council shall be determined by a majority of the votes of the members present and voting.

(2) Subject to the next following subsection, a nominated member of the Legislative Council shall have no vote:

Provided that, if the High Commissioner so declares by notice published by exhibition at the Public Office of the High Commissioner, this subsection shall not, as from the date of such publication, apply to any nominated member who is for the time being a member of the Executive Council.

(3) If upon any question before the Legislative Council the votes are equally divided, the High Commissioner or other member presiding shall have a casting vote (which, in the case of any member other than a nominated member to whom the last foregoing subsection applies, shall be in addition to his original vote).

(4) The High Commissioner shall exercise his power to vote according to his discretion.

Introduction of Bills, etc.

40.—(1) Subject to the provisions of this Order and to the Standing Orders of the Legislative Council, any member may introduce any Bill or propose any motion for debate in, or may present any petition to, the Council, and the Bill, motion or petition shall be debated and disposed of according to the Standing Orders of the Council.

(2) Except on the recommendation of the High Commissioner the Legislative Council shall not—

(*a*) proceed upon any Bill (including any amendment to a Bill) which, in the opinion of the person presiding in the Council—

(i) makes provision for imposing or increasing any tax, for imposing or increasing any charge on the revenues or other funds of the Protectorate, or for altering any such charge otherwise than by reducing it, or for compounding or remitting any debt due to the Protectorate ; or

(ii) effects any alteration in the salary, allowances or other conditions of service (including leave, passages and promotion) of any public officer or in the law, regulations or practice governing the payment of pensions, gratuities or other like benefits to any public officer or former public officer or his widow, children, dependants or personal representatives ;

(*b*) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding in the Council, is that provision should be made for any of the purposes aforesaid ; or

(*c*) receive any petition which, in the opinion of the person presiding in the Council, requests that provision be made for any of the purposes aforesaid.

High Commissioner's reserved power.

41.—(1) If the High Commissioner considers that it is expedient in the interest of public order, public faith or good government (which expressions shall, without prejudice to their generality, include the responsibility of the Protectorate as a territory within the Commonwealth, and all matters pertaining to the creation or abolition of any public office or to the 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 to carry such motion within such time and in such form as the High Commissioner thinks reasonable and expedient, the High Commissioner may, at any time that he thinks fit, and 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 High Commissioner thinks fit that have been moved or proposed in the Council, including any committee thereof ; and the Bill or the motion shall be deemed there-

upon to have been so passed or carried, 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 High Commissioner shall forthwith report to a Secretary of State every case in which he makes 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 High Commissioner 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 High Commissioner as soon as practicable to a Secretary of State.

(4) Any declaration made under this section other than a declaration relating to a Bill may be revoked by a Secretary of State and the High Commissioner shall cause notice of such revocation to be published by exhibition at the Public Office of the High Commissioner; and from the date of such publication any motion that is deemed to have been carried by virtue of the declaration 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.

(5) The powers conferred on the High Commissioner by this section shall be exercised by him in his discretion.

Assent to Bills.

42.—(1) A Bill passed by the Legislative Council shall not become a law until either—

(*a*) the High Commissioner has assented to it in Her Majesty's name and on Her Majesty's behalf and has signed it in token of his assent; or

(*b*) Her Majesty has given Her assent to it through a Secretary of State, and the High Commissioner has signified Her assent by proclamation published together with the law by exhibition at the Public Office of the High Commissioner.

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

Provided that the High Commissioner 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 of its members unless he has been authorized by a Secretary of State to assent to it.

Publication and commencement of laws.

43. A law made under section 31 or section 32 of this Order—

(*a*) shall be published by exhibition at the Public Office of the High Commissioner; and

(*b*) shall come into operation on the date of such publication or, if it is enacted either in the law or in some other law, that it shall come into operation on some other date, on that date.

Disallowance of laws.

44.—(1) Any law made by the High Commissioner under section 32 or assented to by him under section 42 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 High Commissioner shall cause notice of the disallowance to be published by exhibition at the Public Office of the High Commissioner.

(3) A law disallowed by Her Majesty shall be annulled with effect from the date of publication of notice of the disallowance.

(4) Section 38(2) of the Interpretation Act 1889 shall apply to the annulment of any law under this section as it applies to the repeal of an Act of Parliament, save that any enactment amended or repealed by or in pursuance of that law shall have effect as from the date of the annulment as if that law had not been made.

Sessions.

45. The sessions of the Legislative Council shall be held at such place and begin at such time as the High Commissioner may from time to time appoint by proclamation published by exhibition at the Public Office of the High Commissioner; but a period of twelve months shall not elapse between the date when the Council last sat in one session and the date appointed for its first sitting in the next session.

Prorogation and dissolution.

46.—(1) The High Commissioner, in his discretion, may at any time prorogue or dissolve the Legislative Council by proclamation published by exhibition at the Public Office of the High Commissioner.

(2) The High Commissioner shall dissolve the Legislative Council at the expiration of three years from the date when the Council first meets after any general election if it is not sooner dissolved.

General elections.

47. There shall be a general election at such time within six months after the appointed day, and thereafter within six months after every dissolution of the Legislative Council, as the High Commissioner shall appoint by proclamation published by exhibition at the Public Office of the High Commissioner:

Provided that nothing in this section shall be construed as preventing the appointment, in pursuance of any law in that behalf, of different dates for the voting in a general election in different parts of the Protectorate.

PART VI

THE PUBLIC SERVICE

Appointment, etc., of public officers.

48.—(1) Subject to the provisions of this Order, power to appoint to public offices, and to promote, transfer, terminate the appointment of, dismiss, and exercise disciplinary control over, public officers, shall vest in the High Commissioner, in his discretion.

(2) The High Commissioner, in his discretion, may delegate to any public officer, in such manner and on such conditions as he may think fit, any of the powers conferred upon him by this section.

(3) If any law or other instrument in force in the Protectorate immediately before the appointed day confers upon any public officer any power to appoint, promote, transfer, terminate the appointment of,

dismiss, or exercise disciplinary control over, other public officers, that power shall be deemed to have been delegated to that officer by the High Commissioner under this section, and shall be exercisable by that officer until it is revoked by the High Commissioner or until the provision conferring it has been repealed or revoked.

Public Service Commission.

49.—(1) There shall be for the Protectorate a Public Service Commission, and subject to the provisions of subsection (3) of this section, the Commission shall consist of a Chairman and such other members as may be appointed by the High Commissioner in such manner as may be prescribed by regulations made under section 51 of this Constitution.

(2) The High Commissioner may terminate the appointment of any member of the Commission at any time and, subject as aforesaid, the members of the Commission shall hold office upon such terms and conditions as may be prescribed by regulations made under section 51 of this Constitution.

(3) No person shall be appointed, or shall remain, a member of the Public Service Commission if he is, or becomes—

(*a*) a member of the Legislative Council;

(*b*) a public officer;

(*c*) an officer of any society or association which the High Commissioner is satisfied is of a political nature.

(4) The powers conferred on the High Commissioner by this section shall be exercised by him in his discretion.

Functions of Public Service Commission.

50.—(1)(*a*) The High Commissioner, in his discretion, may refer to the Public Service Commission for their advice any question which relates to the appointment, promotion, transfer, termination of appointment, dismissal or disciplinary control of public officers, and any other question which, in his opinion, affects the public service or any public officer.

(*b*) The power conferred on the High Commissioner by this subsection to refer to the Commission any question relating to or affecting any public officer shall not apply in relation to—

(i) the Attorney-General or any officer subordinate to the Attorney-General who is required to possess legal qualifications; or

(ii) any person holding any office in the public service or class of office in the public service, excluded from the purview of the Public Service Commission by regulations made by the High Commissioner in his discretion.

(2) The High Commissioner, in his discretion, may, by regulations, authorize any public officer or class of public officer to seek on his behalf, subject to such conditions as may be prescribed in the regulations, the advice of the Public Service Commission on any question on which the High Commissioner may seek advice under the last foregoing subsection.

(3) It shall be the duty of the Public Service Commission to advise the High Commissioner, or any public officer authorized to seek their advice on his behalf, on any question referred to them in accordance with the provisions of this section, but the High Commissioner shall not be obliged to act in accordance with their advice.

Regulations regarding Public Service Commission.

51.—(1) Subject to the provisions of this Part of this Order, the High Commissioner, in his discretion, may make regulations for giving effect to the provisions of the two last foregoing sections, and in particular and without prejudice to the generality of the foregoing power, may by such regulations provide for all or any of the following matters relating to the Public Service Commission :—

(*a*) the number of members of the Commission additional to the Chairman ;

(*b*) the appointment, tenure of office and terms of service of members of the Commission and of their staff ;

(*c*) the organization of the work of the Commission ;

(*d*) consultation by the Commission with other persons or authorities ;

(*e*) the delegation to any member of the Commission of all or any of the functions of the Commission ;

(*f*) the protection and privileges of members of the Commission in performing their functions, and the privilege in legal proceedings of communications to and from the Commission or members of the Commission ;

(*g*) the attendance of persons for the purpose of answering questions arising at any enquiry held by the Commission or relating to their functions ; and

(*h*) the definition and trial of offences connected with the functions of the Commission and the imposition of penalties for such offences :

Provided that no such penalty shall exceed a fine of two hundred and fifty dollars and imprisonment for a term of one year.

(2) Regulations made under this section or the last foregoing section shall be published by exhibition at the Public Office of the High Commissioner and shall have effect as from the date of publication.

PART VII

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Executive Council.

52. Notwithstanding the revocation by this Order of the British Solomon Islands Order 1964, the Executive Council established by that Order—

(*a*) shall continue on and after the appointed day to exist as if the provisions of Part III of that Order (other than sections 9 and 10) were still in force, until such time as the High Commissioner, in his discretion, shall appoint by proclamation published by exhibition at the Public Office of the High Commissioner ; and

(*b*) shall, until that time, perform its functions and be consulted by the High Commissioner in accordance with the provisions of this Order and of any Instructions given under Her Majesty's Sign Manual and Signet.

Electoral regulations.

53. Any regulations made under the British Solomon Islands (Electoral Provisions) Order 1966 and subsisting immediately before the appointed day shall have effect on and after that day as if they were a law made in pursuance of section 30 of this Order, but may thereafter be amended or revoked by regulations made by the High Commissioner or by a law made under section 31 of this Order.

Existing offices and officers.

54.—(1) Any office constituted, or deemed to be constituted for the Protectorate by the High Commissioner under section 6 of the British Solomon Islands Order 1964 and subsisting immediately before the appointed day shall, on and after that day, be deemed to be an office constituted by the High Commissioner under section 6 of this Order.

(2) Any person who, immediately before the appointed day, holds or is acting in any such office or any public office otherwise constituted, shall, on and after that day, continue to hold or to act in his office as if he had been appointed to it in accordance with the provisions of this Order.

(3) Any person to whom the last foregoing subsection applies who, before the appointed day, has made any oath or affirmation required to be made by him before assuming the functions of his office shall not, by reason only of that subsection, be required to make a like oath or affirmation.

Concurrent appointments, reappointment and re-election.

55.—(1) Whenever the holder of any office constituted for the Protectorate by or under this Order, or any public office otherwise constituted, is on leave of absence pending relinquishment of his office—

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

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

(2) Any person who has vacated his seat in the Executive Council or in the Legislative Council, or has vacated any other office constituted for the Protectorate under this Order, may, if qualified, be reappointed or re-elected, as the case may require, from time to time.

Existing laws.

56.—(1) All laws made under, or continued in force by, the British Solomon Islands Order 1964 and having effect as part of the law of the Protectorate immediately before the appointed day shall, notwithstanding the revocation of that Order, have effect on and after that day as if they had been made under this Order.

(2)(*a*) The High Commissioner, in his discretion, may, by order published by exhibition at the Public Office of the High Commissioner, at any time within twelve months after the appointed day, provide that an existing law shall be read and construed with such adaptations and modifications as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of this Order or otherwise for giving effect, or enabling effect to be given, to those provisions ; and any existing law shall have effect accordingly from such date as may be specified in the order.

(*b*) In this subsection " an existing law " means a law made by any legislature in the Protectorate, or an instrument made in exercise of a power conferred by a law so made, that is in force in the Protectorate immediately before the appointed day.

(3) An order made under this section may be amended, revoked or replaced by a further order so made or, in relation to any law or instrument affected thereby, by any authority having power to amend, repeal or revoke that law or instrument.

(4) All laws, which, by virtue of section 51(4) of the British Solomon Islands Order 1964, are styled " Ordinances ", and which continue to have effect on and after the appointed day, shall continue to be so styled.

57. Where in this Order it is provided that any Proclamation, notice or law shall be published by exhibition at the Public Office of the High Commissioner then such Proclamation, notice or law shall be printed in the Gazette as soon as maybe after the date of such publication. Proclamations, etc., to be printed in the Gazette.

58. The modifications to this Order set out in Schedule 2 to this Order shall have effect on and after such day as the High Commissioner, by proclamation published by exhibition at the Public Office of the High Commissioner, may appoint. Bringing into operation of modifications in Schedule 2.

59. Nothing in this Order shall affect the power of Her Majesty in Council to make laws from time to time for the peace, order and good government of the Protectorate. Power reserved to Her Majesty.

W. G. Agnew.

SCHEDULE 1 Sections 13 and 36

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 of member of Executive Council*

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

4. *Affirmation for due execution of office of member of Executive Council*

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 member of the Executive Council.

SCHEDULE 2 Section 58

Modifications to the Order making provision for a Speaker of the Legislative Council

1. In paragraph (*a*) of section 18(2) there shall be substituted the words "a Speaker" for the words "the High Commissioner, who shall be President".

2. There shall be inserted after section 18 the following new section:—

"The Speaker and Acting Speaker.

18A.—(1) The Speaker shall be a person who is not an elected or nominated member of the Legislative Council and who is not a public officer, and shall be appointed by the High Commissioner, in his discretion, by instrument under the public seal.

(2) The Speaker shall hold office during Her Majesty's pleasure and shall not vacate his office by reason of a dissolution of the Legislative Council; but he shall vacate his office—

(*a*) at such time or in such circumstances (if any) as may be specified in the instrument by which he is appointed;

(*b*) if, with his consent, he is nominated as a candidate for election to the Legislative Council;

(*c*) if he becomes a public officer; or

(*d*) if he resigns his office by writing under his hand addressed to the High Commissioner.

(3) The High Commissioner, in his discretion, may by instrument under the public seal appoint a person to act as Speaker during any period when the office of Speaker is vacant, or the Speaker is for any reason unable to perform the functions of his office: and the provisions of this Order, other than subsection (1) and paragraph (*b*) and (*c*) of subsection (2) of this section shall apply in relation to that person as they apply in relation to the Speaker."

3. In section 25(3) there shall be inserted after the word "addressed" in paragraph (*c*) the words "in the case of an elected member to the Speaker and in the case of a nominated member" and after the word "obtained" in paragraph (*e*) the words "in the case of an elected member from the Speaker and in the case of a nominated member".

4. In the proviso to section 26(1) there shall be inserted after the word "Commissioner" the words "in the case of a public service or nominated member and the Speaker in the case of an elected member".

5. In section 28(2) the words "the Speaker" shall be inserted after the words "to be" in paragraph (*a*) and at the beginning of paragraph (*b*).

6. For section 37 there shall be substituted the following section—

"Presiding in Legislative Council.

37. There shall preside at any sitting of the Legislative Council the Speaker, or in his absence the Acting Speaker, or in their absence—

(*a*) such member of the Council as the High Commissioner, in his discretion, may specially appoint; or

(*b*) in the absence of that member or if no member be so appointed, the senior ex officio member of the Council; and for this purpose the Chief Secretary, the Attorney-General and the Financial Secretary shall rank in that order.".

7. In section 39—

(*a*) in subsection (2) the words "the Speaker or" shall be inserted after the words "next following subsection";

(*b*) in subsection (3) the words "High Commissioner or other" shall be deleted and the words "the Speaker or" shall be inserted after the words "other than"; and

(*c*) Subsection (4) shall be deleted.

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

This Order provides a new Constitution for the British Solomon Islands. Both the Executive Council and the Legislative Council are reconstituted and provision is made for the establishment of a Public Service Commission.