STATUTORY INSTRUMENTS

1970 No. 482

PACIFIC ISLANDS

The British Solomon Islands Order 1970

Made - - -	*24th March* 1970
Laid before Parliament	*2nd April* 1970
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)

At the Court of Saint James, the 24th day of March 1970

Present,

Her Majesty Queen Elizabeth The Queen Mother

Her Royal Highness The Princess Margaret, Countess of Snowdon

Lord President
Lord Chalfont
Chancellor of the Duchy of Lancaster
Mrs. Hart

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 27th day of February 1970, to delegate to the following Counsellors of State (subject to the exceptions hereinafter mentioned) or any two or more of them, that is to say, His Royal Highness The Prince Philip, Duke of Edinburgh, Her Majesty Queen Elizabeth The Queen Mother, His Royal Highness The Prince Charles, Prince of Wales, Her Royal Highness The Princess Margaret, Countess of Snowdon, His Royal Highness The Duke of Gloucester and His Royal Highness Prince William of Gloucester, 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 for anything for which Her Majesty's approval in Council is required :

And whereas Her Majesty was further pleased to except from the number of the said Counsellors of State His Royal Highness The Prince Philip, Duke of Edinburgh, His Royal Highness The Prince Charles, Prince of Wales, Her Royal Highness The Princess Margaret, Countess of Snowdon, and His Royal Highness Prince William of Gloucester while absent from the United Kingdom :

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and Her Royal Highness The Princess Margaret, Countess of Snowdon, being

authorised thereto by the said Letters Patent, and in pursuance of the powers conferred by the Foreign Jurisdiction Act 1890(a) and all other powers enabling Her Majesty, 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

INTRODUCTORY

Citation and commencement

1.—(1) This Order may be cited as the British Solomon Islands Order 1970.

(2) This Order shall be published in the Gazette 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 3rd April 1970.

(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 in the Gazette shall appoint.

Interpretation

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

"Chairman" means the person presiding in the Governing Council by virtue of section 40 of this Order ;

"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 British Solomon Islands Protectorate Gazette ;

"Governing Council" means the Governing Council established by section 7 of this Order ;

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

"meeting" means any sitting or sittings of the Governing Council (or committees of the Governing Council established under sections 25 and 26 of this Order), whether in public or in private, and commencing when the Council (or a committee of the Council) first meets after being summoned at any time and terminating when the Council (or committee of the Council) is adjourned *sine die* or the Council is reconstituted ;

"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 ;

(a) 1890 c. 37.

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

"public service members" means members of the Governing Council appointed under section 9 of this Order ;

"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 ;

"subsidiary instrument" means any proclamation, regulation, order, rule or other like instrument having the force of law.

(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) References to a public officer or public office in Parts IV, V and VI 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.

(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 1967(**b**) and the British Solomon Islands (Electoral Provisions) Order 1969(**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

(**a**) 1889 c. 63.
(**b**) S.I. 1967/477 (1967 I, p. 1449).
(**c**) S.I. 1969/1831 (1969 III, p. 5705).

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

High Commissioner's powers of pardon, etc.

5. The High Commissioner, in his discretion, may, in Her Majesty's name and on Her Majesty's behalf—

(*a*) grant to any person in respect of any offence against the law in force in 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, from the execution of any punishment imposed on that person for such an offence ;

(*c*) substitute a less severe form of punishment for that imposed on any person for such an offence ; or

(*d*) remit the whole or part of any punishment imposed on any person for such an offence or any penalty or forfeiture otherwise due to Her Majesty on account of such an offence.

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 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 or 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

THE GOVERNING COUNCIL

Governing Council

7.—(1) There shall be a Governing Council for the Protectorate.

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

(*a*) the High Commissioner ;

(*b*) three *ex-officio* members ;

(*c*) such public service members, not exceeding six in number, as may be appointed under section 9 of this Order ; and

(*d*) seventeen elected members.

Ex-officio members

8. The *ex-officio* members of the Governing Council shall be the Chief Secretary, the Attorney-General and the Financial Secretary.

Public service members

9.—(1) The public service members of the Governing 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

10.—(1) The elected members of the Governing 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 seventeen constituencies, and one member shall be elected for each constituency.

Qualifications for elected membership

11. Subject to the provisions of the next following section, a person shall be qualified for election as an elected member of the Governing 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 ; and

(*d*) 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.

Disqualifications for elected membership

12.—(1) No person shall be qualified for election as an elected member of the Governing 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 of, or exceeding, six 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*) 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.

Term of office of elected members

13. Subject to section 14 of this Order, the term of office of an elected member of the Governing Council shall commence on the day upon which he assumes his functions as a member thereof in accordance with section 21 of this Order and shall end on the day, following the next general election to the Council after his election, upon which the Council is reconstituted.

Vacation of seats of public service and elected members

14.—(1) Public service members of the Governing Council shall hold their seats in the Council during Her Majesty's pleasure.

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

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

(*b*) 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.

(3) An elected member of the Governing Council shall vacate his seat—

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

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

(*c*) if any circumstance arises that, if he were not a member of the Council, would cause him to be disqualified for election thereto by virtue of paragraph (*a*), (*b*), (*c*), (*d*), (*f*) or (*g*) of subsection (1) of section 12 of this Order ; or

(*d*) in the circumstances mentioned in section 15 of this Order.

Vacation of seat on sentence, etc.

15.—(1) Subject to the provisions of this section, if an elected member of the Governing Council is sentenced by a court in any part of the Commonwealth to death or to imprisonment (by whatever name called) for a term of, or exceeding, six 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, in his discretion, 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 one hundred and fifty 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 six months or a punishment other than imprisonment is substituted, his seat in the 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 purposes of this section—

(*a*) 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 ; and

(*b*) no account shall be taken of a sentence of imprisonment imposed as an alternative to or in default of the payment of a fine.

Temporary public service members of Governing Council

16.—(1) Whenever a public service member of the Governing Council is unable, because he is ill or absent from the Protectorate or acting in the office of an *ex-officio* member, or for any other reason, to discharge his functions as a public service member of the Council, the High Commissioner may, in his discretion, by instrument under the public seal, appoint to be a temporary member of the Council a person who is a public officer.

(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 Governing 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 public service 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 a temporary member of the Governing Council as they apply in relation to the member on account of whose inability he was appointed.

Determination of questions as to membership

17.—(1) Any question whether a person has been validly elected as a member of the Governing Council, or whether an elected member of the Council

has vacated his seat therein shall be referred to and determined by the High Court of the Western Pacific in accordance with the provisions of any law for the time being in force in the Protectorate and the decision of that Court shall be final and not subject to any appeal.

(2) Any question whether—

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

(*b*) a public service member or a temporary member of the Council has vacated his seat therein,

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

Persons not to be treated as holding public offices

18.—(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 Governing Council ;

(*d*) is a special constable ;

(*e*) is a headman, or a member of a 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.

Privileges of Governing Council and its members

19. A law made under this Order may determine and regulate the privileges, immunities and powers of the Governing 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.

General elections

20.—(1) The first general election of members of the Governing Council shall be held at such time after the commencement of this Order as the High Commissioner, in his discretion, may, by proclamation published in the Gazette, appoint.

(2) Subject to subsection (1) of this section, a general election of members of the Governing Council shall be held at such time, being not less than two years

and nine months and not more than three years after the Council was last constituted or reconstituted, as the High Commissioner, in his discretion, may, by proclamation published in the Gazette, appoint:

Provided that the High Commissioner may, if he considers that it would be in the interests of the Protectorate to do so, appoint, in like manner, an earlier time for a general election of members of the Council.

(3) 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.

(4) A person shall be eligible for election at a general election of new members of the Governing Council notwithstanding that he is a member of the Council then in being.

Constitution and reconstitution of Governing Council

21.—(1) The Governing Council shall be first constituted on such day after the commencement of this Order as the High Commissioner shall, in his discretion, by proclamation published in the Gazette, appoint and upon that day the members of the Council (including the members elected at the first general election held after the commencement of this Order) shall, subject to section 38 of this Order, assume their functions as members thereof.

(2) Where a general election of members of the Governing Council has been held after the Council has been first constituted, the High Commissioner shall, in his discretion, by proclamation published in the Gazette, appoint a day upon which the Council shall be reconstituted, and upon that day the newly elected members and newly appointed public service members of the Council shall, subject to section 38 of this Order, assume their functions as members thereof.

(3) An elected member of the Governing Council elected otherwise than at a general election or a public service member or a temporary member of the Council shall, subject to section 38 of this Order, assume his functions as a member thereof at the date of his election or appointment, as the case may be.

PART IV

EXECUTIVE FUNCTIONS

High Commissioner to consult Governing Council

22.—(1) The High Commissioner shall consult with the Governing Council in the formulation of policy and 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 in the exercise of—

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

(*b*) any power conferred by any law which he is empowered or directed, either expressly or by necessary implication, by that or any other law to exercise without consulting the Council; or

(*c*) any power that in his opinion relates to

(i) defence;

(ii) external affairs;

(iii) internal security;

(iv) the police; or

(v) the appointment (including the appointment on promotion or transfer, appointment on contract and appointment to act in an office) of any person to any public office, the suspension, termination of employment, dismissal, or retirement of any public officer or taking of disciplinary action in respect of such an officer, the application to any public officer of the terms or conditions of employment of the public service (including salary scales, allowances, leave, passages or pensions) for which financial provision has been made, or the organisation of the public service to the extent that it does not involve new financial provision.

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

(*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 Governing Council the measures which he has adopted and the reasons for those measures.

(4) Subject to section 23 of this Order, the High Commissioner shall act in accordance with the advice of the Governing Council in exercising any power in the exercise of which he is obliged by this section to consult the Council.

(5) The question whether the High Commissioner has exercised any power after consultation with or in accordance with the advice of the Governing Council shall not be enquired into by any court of law.

(6) The references in this section to the powers of the High Commissioner shall not include references to the power to make laws for the peace, order and good government of the Protectorate conferred upon the High Commissioner by section 33 of this Order but shall include references to any power to make subsidiary instruments conferred upon the High Commissioner (whether by a law enacted under that section or otherwise).

High Commissioner may act against advice of Governing Council

23.—(1) In any case in which the High Commissioner is required by section 22 of this Order to consult the Governing Council he may act against the advice given to him by the Council, if he considers it expedient in the interests of public order, public faith or good government (which expressions shall, without prejudice to their generality, include maintaining or securing the financial or economic stability of the Protectorate or securing that a condition attached to a financial grant or loan made by the United Kingdom Government to the Government of the Protectorate is complied with).

(2) Where the High Commissioner acts against the advice of the Governing Council in pursuance of subsection (1) of this section he shall at the first convenient opportunity report the matter to a Secretary of State with the reasons for his action.

(3) Whenever the High Commissioner acts against the advice of the Governing Council any member of the Council may require that there shall be recorded in the minutes any advice or opinion that member may give upon the question at issue and his reasons.

Committees of Governing Council

24.—(1) There shall be a Finance committee of the Governing Council and such number of other committees as the High Commissioner, in his discretion, may determine.

(2) In exercise of his powers under sections 25 and 26 of this Order, the High Commissioner shall, as far as practicable, ensure that each elected member of the Governing Council is a member of at least one of the committees of the Council.

Composition of Finance committee

25.—(1) The Finance committee of the Governing Council shall consist of—

(*a*) the Financial Secretary who, subject to the proviso to section 30(1) of this Order, shall be the chairman;

(*b*) the chairman of each of the other committees of the Council; and

(*c*) such other members of the Council as the High Commissioner, in his discretion, may appoint:

Provided that of the members of the Council with a seat on the committee the elected members shall be in a majority.

(2) The Chief Secretary, or any public officer authorised by him, may attend and shall be entitled to address any meeting of the Finance committee but shall not be a member of the committee.

(3) The High Commissioner, in his discretion, may designate a public officer as an alternate member of the Finance committee in place of the Financial Secretary and any officer so designated may take part in proceedings of the committee at any time when the Financial Secretary is absent from those proceedings; any reference in section 30 of this Order to the Financial Secretary or to a member of the Finance committee includes a reference to such an alternate member when so acting.

Composition of other committees

26.—(1) Every other committee of the Governing Council shall consist of—

(*a*) a chairman, who shall be appointed from amongst the members of the Council;

(*b*) not more than five elected members of the Council;

(*c*) not more than two public service members of the Council.

(2) The Chief Secretary, or any public officer authorised by him, may attend and address any committee referred to in this section but shall not be a member of the committee.

(3) The chairman and the other members of every committee referred to in this section shall be appointed by the High Commissioner in his discretion.

Tenure of office of committee members

27. A member of the Finance committee of the Governing Council appointed under section 25(1)(*c*) of this Order and the chairman and any other member of any other committee of the Council shall vacate his seat in the committee—

(*a*) if the High Commissioner, in his discretion, so directs; or

(*b*) if he ceases to be a member of the Council.

Functions of committees

28.—(1) Subject to the provisions of this section, a committee of the Governing Council shall have such functions in relation to the conduct of the business of the Government of the Protectorate in respect of such matters as the High Commissioner may, in his discretion, by directions in writing, prescribe.

(2) The functions of a committee of the Governing Council, other than the Finance committee, shall not include functions in relation to the conduct of business in respect of the matters specified in section 22(1)(*c*) of this Order.

Committee to act under authority of Governing Council

29.—(1) A committee of the Governing Council shall be responsible to the Council in the exercise of its functions and shall act in accordance with the policies of the Government of the Protectorate and with such general or special directions as may be given by the High Commissioner in his discretion:

Provided that the question of whether it has so acted shall not be enquired into by any court of law.

(2) The recommendations of a committee of the Governing Council as to the policy to be adopted or other action to be taken in the Council with respect to any matter within the competence of the committee shall be submitted to the Council by means of reports of the committee, and a committee shall also make reports to the Council—

(*a*) for the purpose of keeping the Council informed of the conduct by the committee of the business within its competence;

(*b*) upon any matter within the competence of the committee in respect of which the High Commissioner requires the committee to make a report; and

(*c*) in such other cases as may be specified in directions to the committee under section 28 of this Order.

(3) If the High Commissioner, in his discretion, so directs, a committee of the Governing Council shall cease to deal with any particular business within its competence which is under consideration by the committee.

Procedure of committees of Governing Council

30.—(1) At any meeting of the Finance committee of the Governing Council the Financial Secretary shall preside:

Provided that if the Chief Secretary attends any meeting of the committee he shall preside.

(2) At any meeting of a committee of the Governing Council (other than the Finance committee) the chairman of the committee shall preside or, in his absence, such member of the committee as the committee may elect for the purpose.

(3) In proceedings of a committee of the Governing Council, every member of the committee present shall have an original vote and if upon any question the votes are equally divided the person presiding shall also have a casting vote.

(4) The chairman of a committee of the Governing Council may summon any other person to a meeting of the committee, notwithstanding that that person is not a member of the committee, when in the opinion of the committee the business before it makes the presence of that person desirable:

Provided that no person so summoned shall be under any obligation to answer any question put to him by any member of the committee.

(5) Subject to the rules of procedure relating to a quorum in the committee, a committee of the Governing Council shall not be disqualified for the transaction of business by reason of any vacancy in the membership of the committee at any time and the validity of any proceedings of the committee shall not be affected by reason only that some person who was not entitled to do so took part therein.

(6) The proceedings of a committee of the Governing Council shall be held in private.

(7) Subject to the provisions of this Order, the High Commissioner may make rules for regulating the procedure of any committee of the Governing Council.

(8) Without prejudice to the generality of subsection (7) of this section, rules made by the High Commissioner under this section for regulating the procedure of a committee of the Governing Council may include provision—

(*a*) for the exercise, at times when the committee is not meeting, by the chairman of the committee of such of the functions of the committee as may be specified in the rules;

(*b*) for the manner in which a committee shall make reports to the Council.

High Commissioner may authorise committee to exercise statutory functions

31.—(1) The High Commissioner, in his discretion, may, by order published in the Gazette, provide that, subject to such limitations and conditions as may be prescribed in the order, any of the powers or duties under any local enactment of the High Commissioner or of any public officer that are specified in the order may be exercised or shall be performed by a committee of the Governing Council.

(2) Where an order under subsection (1) of this section in relation to any power or duty is in force—

(*a*) the High Commissioner or public officer, as the case may be, shall not exercise that power or perform that duty;

(*b*) the committee of the Governing Council by which the power is exercisable or the duty is to be performed may vary or rescind anything previously done in the exercise or performance thereof to the same extent as the High Commissioner or public officer, as the case may be, could have done.

(3) Where, by reason of the revocation or amendment of an order under subsection (1) of this section, a power or duty ceases to be exercisable or is no longer to be performed by a committee of the Governing Council anything done by the committee in the exercise or performance thereof and having effect immediately before the revocation or amendment shall continue to have effect, but without prejudice to the power of the High Commissioner or public officer or any other committee of the Council authorised under this section to exercise the power or perform the duty to rescind or vary the same.

(4) Nothing in this section shall apply to—

(*a*) any power or duty to make any subsidiary instrument;

(*b*) any power or duty of any judge, magistrate or court of law.

(5) In this section—

"local enactment" means any law made under this Order, any subsidiary instrument made under any such law and any existing law for the purposes of section 56 of this Order.

Saving

32. The provisions of this Part of this Order shall be without prejudice to the establishment, by or under the rules of procedure of the Governing Council, of committees of the Council for the purpose of the exercise of its functions under Part V of this Order or the establishment by the High Commissioner of committees of the Council for special purposes relating to any of the matters mentioned in section 22(1)(*c*) of this Order, and nothing in sections 24, 25, 26, 27, 28, 29, 30 or 31 of this Order shall apply to any such committee.

PART V

LEGISLATION

Powers to make laws

33.—(1) Subject to the provisions of this Order, the High Commissioner with the advice and consent of the Governing Council, may make laws for the peace, order and good government of the Protectorate.

(2) The power to make laws conferred by this section shall be exercised by bills passed by the Governing Council and assented to in accordance with section 35 of this Order.

(3) In the making of laws the High Commissioner and the Governing Council shall 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.

(4) Nothing in this section shall be construed as requiring subsidiary instruments to be made in the manner prescribed by this section.

High Commissioner's reserved power

34.—(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 salary or other conditions of service of any public officer), that any Bill introduced, or any motion proposed, in the Governing 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 rules of procedure 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 thereupon 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 Governing 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 in the Gazette; 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 section 38(2) of the Interpretation Act 1889**(a)** 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

35.—(1) A Bill passed by the Governing 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 in the Gazette together with the law.

(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 Governing Council or of its members unless he has been authorised by a Secretary of State to assent to it.

(a) 1889 c. 63.

Publication and commencement of laws

36. A law made under section 33 of this Order—

(*a*) shall be published in the Gazette; 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

37.—(1) Any law to which the High Commissioner has assented 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 in the Gazette.

(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.

PART VI

PROCEDURE OF THE GOVERNING COUNCIL

Oaths to be taken by members of the Governing Council

38. Before assuming the functions of his office a member of the Governing Council shall make before the High Commissioner, or some person authorized by the High Commissioner in that behalf, an oath or affirmation of allegiance and an oath or affirmation for the due execution of his office in the form set out in the Schedule to this Order:

Provided that if a person has been a member of the Council *ex-officio*, a public service member, or a temporary member of the Council and again becomes such a member it shall not be necessary for that person to make the oaths or affirmations referred to in this section before assuming the functions of his office as a member of the Council unless the Council has been re-constituted under section 21 of this Order since he last made those oaths or affirmations in the manner required by this section.

Summoning of Governing Council

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

Presiding in Governing Council

40.—(1) The High Commissioner shall, so far as is practicable, attend and preside at all meetings of the Governing Council not held in public.

(2) In the absence of the High Commissioner there shall preside at any meeting of the Governing Council not held in public—

(*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;

(3) At meetings of the Governing Council held in public there shall preside—

(*a*) such person, not being a member of the Council, as the High Commissioner, in his discretion, may either generally or specially appoint; or

(*b*) in the absence of that person, such person as the High Commissioner, in his discretion, may either generally or specially appoint; or

(*c*) in the absence of that person, or if no person is appointed under paragraphs (*a*) or (*b*), the High Commissioner; or

(*d*) in the absence of the High Commissioner, the senior *ex-officio* member of the Council.

(4) For the purposes of subsections (2)(*b*) and (3)(*d*) of this section the Chief Secretary, the Attorney-General and the Financial Secretary shall rank in that order.

(5) The person who presides at any meetings of the Governing Council shall be known and addressed as the "Chairman".

Proceedings in Governing Council

41.—(1) No business except that of adjournment shall be transacted in the Governing Council if objection is taken by any member present that there are less than twelve members present besides the Chairman.

(2) Subject to the provisions of the last foregoing subsection, the Governing Council shall not be disqualified for the transaction of business by reason of any vacancy in the membership of the Council at any time (including any vacancy unfilled when the Council is first constituted or is re-constituted) 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 Chairman when in his opinion the business before the Governing 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:

Provided that a person shall not be so summoned to a meeting of the Council held in public and shall not be under any obligation to answer any question put to him by any member of the Council.

Business of Governing Council

42.—(1) The High Commissioner shall, in his discretion, decide what business shall be considered at any meeting of the Governing Council held in private.

(2) Subject to section 43(1) of this Order, the business to be considered at any meeting of the Governing Council held in public shall be determined in accordance with the rules of procedure of the Council.

Certain proceedings of Governing Council to be held in public

43.—(1) The proceedings of the Governing Council for the purpose of the exercise of its functions under Part V of this Order shall be held in public.

(2) The proceedings of the Governing Council other than proceedings mentioned in subsection (1) of this section shall be in private unless the High Commissioner, in his discretion, determines in any case that they shall be in public.

Summoning of meetings to be held in public

44.—(1) Any meeting of the Governing Council for the purpose of proceedings to be held in public shall be summoned by notice of the High Commissioner published in the Gazette.

(2) Where the Governing Council meets in pursuance of a summons under subsection (1) of this section the meeting may be adjourned from time to time to a subsequent time; but for the purpose of that subsection a meeting shall be regarded as having been terminated if the Council is adjourned *sine die*.

Voting at proceedings in public

45.—(1) Subject to the provisions of this Order, all questions proposed for decision at any proceedings of the Governing Council held in public shall be determined by a majority of the votes of the members present and voting.

(2) The Chairman of the Governing Council shall not have an original nor a casting vote at any proceedings of the Council held in public.

(3) If upon any question before the Governing Council at any proceedings of the Council held in public the votes are equally divided the motion shall be declared lost.

Introduction of Bills, etc.

46. Except on the recommendation of the High Commissioner the Governing Council shall not—

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

(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) would effect 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 Chairman, is that provision should be made for any of the purposes aforesaid; or

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

Rules of procedure of Governing Council

47.—(1) Subject to the provisions of this Order, the High Commissioner may make rules of procedure for the regulation and orderly conduct of the proceedings of the Governing Council and the discharge of business at meetings of the Council.

(2) Subject to section 33(3) of this Order and without prejudice to the generality of subsection (1) of this section, rules of procedure made under this section may include provision for the publication, passing, entitling and numbering of Bills and their presentation to the High Commissioner for assent.

PART VII

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 Order.

(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 Order.

(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 Governing 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, authorise 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 in the Gazette and shall have effect as from the date of publication.

PART VIII

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Executive Council and High Commissioner's interim power to make laws

52. Notwithstanding the revocation by this Order of the British Solomon Islands Order 1967**(a)**, until such time as the Governing Council has been constituted under section 21(1) of this Order—

(*a*) the Executive Council established by the British Solomon Islands Order 1967 shall continue on and after the appointed day to exist as if the provisions of Part III of that Order were still in force and shall perform its functions and be consulted by the High Commissioner in accordance with the provisions of that Order and of any Instructions given under Her Majesty's Sign Manual and Signet.

(*b*) Subject to the provisions of this Order, the High Commissioner may make laws for the peace, order and good government of the Protectorate during the period beginning with the appointed day and ending when the Governing Council is first constituted under this Order.

Electoral regulations

53. Any regulations made under the British Solomon Islands (Electoral Provisions) Order 1969**(b)** and subsisting immediately before the appointed day shall have effect on and after that day as if they were a law made under this Order, but may thereafter be amended or revoked by regulations made by the High Commissioner or by a law made under 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 1967 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.

(a) S.I. 1967/477 (1967 I, p. 1449). **(b)** S.I. 1969/1831 (1969 III, p. 5705).

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 Governing 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 1967 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 in the Gazette, 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 56(4) of the British Solomon Islands Order 1967, are styled "Ordinances", and which continue to have effect on and after the appointed day, shall continue to be so styled.

Power reserved to Her Majesty

57. 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.

N. E. Leigh.

SCHEDULE

Section 38

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 Governing 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 Governing Council. So help me God.

4. Affirmation for due execution of office of member of Governing 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 Governing Council.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order provides a new Constitution for the British Solomon Islands. The Executive and Legislative Councils are replaced by a single Governing Council which exercises both executive and legislative functions. There is also provision for the Council to work through a number of executive committees of the Council. The other provisions of the Constitution remain substantially the same.

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