1959 No. 2199

The Dominica (Constitution) Order in Council, 1959

Made - - - - 21*st December*, 1959

Coming into operation :—

Section 71 (3) - - 21*st December*, 1959
Remainder except Part IV 1*st January*, 1960
Part IV - - - *As provided in Section* 1 (3)

At the Court at Buckingham Palace, the 21st day of December, 1959

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of Her powers under the Dominica Act, 1938(a), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

PART I—INTRODUCTORY

Citation, commencement and revocation

1.—(1) This Order may be cited as the Dominica (Constitution) Order in Council, 1959.

(2) Save as otherwise provided in this Order, this Order shall come into operation on the first day of January, 1960.

(3) Part IV of this Order shall come into operation on the day subsequent to the first day of January, 1960, on which the Legislative Council established by the Orders in Council set out in the First Schedule to this Order is next dissolved, and thereupon those Orders in Council shall cease to have effect.

(4) The Letters Patent set out in the Second Schedule to this Order are revoked in so far as they relate to Dominica.

(5) Section 5 and section 36 of the Dominica Order in Council, 1939(b), are revoked.

Interpretation

2.—(1) In this Order, unless it is otherwise provided or required by the context—

" dollars " means dollars in the currency of Dominica ;

" Dominica " means the Colony of Dominica ;

" the Federal Constitution " means the Constitution of the West Indies annexed to the West Indies (Federation) Order in Council, 1957(c) ;

" the Federal Legislature " means the Federal Legislature established by the Federal Constitution ;

(a) 1 & 2 Geo. 6. c. 10.
(b) S.R. & O. 1939/1896 (Rev. XXIV, p. 231: 1939 I, p. 658).
(c) S.I. 1957/1364 (1957 I, p. 202).

" the Federation " means the Federation of the West Indies established by the West Indies (Federation) Order in Council, 1957 ;

" the Gazette " means the Dominica Official Gazette ;

" Government contract " means any contract made with the Government of Dominica, or a department of that Government, or an officer of that Government contracting as such ;

" the Judicial and Legal Service Commission " means the Judicial and Legal Service Commission established by the Windward Islands and Leeward Islands (Courts) Order in Council, 1959(a) ;

" minister of religion " means any person in holy orders and any other person the functions of whose principal occupation include teaching or preaching in any congregation for religious worship ;

" the Police Service Commission " means the Police Service Commission established by the Windward Islands and Leeward Islands (Police Service Commission) Order in Council, 1959(b) ;

" the principal law officer " means the principal law officer (by whatever name called) of Dominica ;

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

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

" the public seal " means the public seal of Dominica ;

" the public service " means the service of the Crown in a civil capacity in respect of the government of Dominica and includes service as a member of the Judicial and Legal Service Commission or the Police Service Commission but does not include service as a judge of the Supreme Court ;

" session " means, in relation to the Legislative Council, the sittings of the Council commencing when it first meets after Part IV of this Order comes into operation or after the prorogation or dissolution of the Council at any time and terminating when the Council is prorogued or is dissolved without having been prorogued ;

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

" the Supreme Court " means the Supreme Court of the Windward Islands and Leeward Islands established by the Windward Islands and Leeward Islands (Courts) Order in Council, 1959.

(2) In this Order, unless it is otherwise provided or required by the context—

(*a*) any reference to the date of commencement of this Order shall be construed as a reference to the day mentioned in subsection (2) of the preceding section ;

(*b*) any reference to a law enacted by the Legislature of Dominica shall be construed as including a reference to a law enacted by any Legislature established for Dominica at any time before the day on which Part IV of this Order comes into operation ;

(a) S.I. 1959/2197 (Pt. I. p. 563, of this vol.)
(b) S.I. 1959/2198 (Pt. I, p 558, of this vol.)

(*c*) any reference to Her Majesty's dominions shall be construed as including a reference to all countries and territories within the Commonwealth;

(*d*) any reference to power to make appointments to any office shall be construed as including a reference to power to make appointments on promotion and transfer to that office and to power to appoint a person to perform the functions of that office during any period during which it is vacant or the holder thereof is unable (whether by reason of absence or infirmity of body or mind or any other cause) to perform those functions;

(*e*) any reference to the holder of an office by a term designating or describing his office shall be construed as including a reference to any person who, under and to the extent of any authority in that behalf, is for the time being performing the functions of that office.

(3) In this Order, unless it is otherwise provided or required by the context, references to the functions of the Administrator shall be construed as references to his powers and duties in exercise of the executive authority of Dominica and to any other powers or duties conferred or imposed on him as Administrator by or under this Order or any other law.

(4) Where by this Order any person is directed, or power is conferred on any person or authority to appoint a person, to perform the functions of an office if the holder thereof is unable to perform those functions the validity of any performance of those functions by the person so directed or of any appointment made in exercise of that power shall not be called in question in any court on the ground that the holder of the office is not unable to perform the functions of the office.

(5) For the purposes of this Order, the resignation of the holder of any office that is required to be addressed to any person shall have effect from the time that it is received by that person.

(6) For the purposes of this Order a person shall not be considered to hold a public office by reason only—

(*a*) that he is in receipt of a pension or other like allowance in respect of public service; or

(*b*) that he is in receipt of any remuneration or allowances in respect of his tenure of the office of Minister or member of the Executive Council or Speaker, Deputy Speaker or member of the Legislative Council.

(7) If it is provided by any law enacted by the Legislature of Dominica that an office (not being an office constituted by this Order or the office of member of the Judicial and Legal Service Commission or the Police Service Commission) shall not be a public office for the purposes of Part IV of this Order, this Order shall have effect accordingly as if that provision of that law were enacted herein.

(8) (*a*) When the holder of any office constituted by or under this Order is on leave of absence pending relinquishment of that office the person or authority having power to make appointments to that office may appoint another person thereto.

(*b*) Where two or more persons are holding the same office by reason of an appointment made in pursuance of the preceding paragraph, then—

(i) for the purposes of any function conferred upon the holder of that office, and

(ii) for the purposes of any reference in this Order to the absence, illness or inability to perform the functions of his office of the holder of that office,

the person last appointed to the office shall be deemed to be the sole holder of the office.

(9) Where any power is conferred by this Order to make any proclamation, order, rules or regulations or to give any directions, the power shall be construed as including a power exercisable in like manner to amend or revoke any such proclamation, order, rules, regulations or directions.

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

(11) For the avoidance of doubts it is hereby declared that any person who has vacated his seat in any body, or has vacated any office, established by this Order may, if qualified, again be appointed or elected as a member of that body, or to that office, as the case may be, from time to time.

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

PART II—THE ADMINISTRATOR

The Administrator

3.—(1) There shall be an Administrator of Dominica who shall be appointed by Her Majesty by Commission under Her Sign Manual and Signet and shall hold office during Her Majesty's pleasure.

(2) The Administrator shall, for the purpose of administering the government of Dominica, have such powers and duties as are conferred or imposed on him by or under this Order or any other law and such other powers 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 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:

Provided that the question whether or not the Administrator has in any matter complied with any such instructions shall not be enquired into in any court.

(3) A person appointed to the office of Administrator shall, before entering upon the functions of that office make oaths or affirmations

(**a**) 11 & 12 Geo. 6. c. 56. (**b**) 12, 13 & 14 Geo. 6. c. 41. (**c**) 52 & 53 Vict. c. 63.

of allegiance and for the due execution of that office in the forms set out in the Third Schedule to this Order.

(4) There shall be charged on the revenues of Dominica and paid thereout to the holder of the office of Administrator the salary and (save where some other person is performing the functions of his office under the next following section) the duty allowance specified in the Fourth Schedule to this Order or such salary and allowance as the Legislature of Dominica may by law provide in substitution therefor:

Provided that the salary of an Administrator shall not be reduced during his continuance in office.

Acting Administrator

4.—(1) During any period when the office of Administrator is vacant or the Administrator is absent from Dominica or is for any other reason unable to perform the functions of his office those functions shall, during Her Majesty's pleasure, be assumed and performed by—

(*a*) such person as Her Majesty may designate in that behalf by Instructions given under Her Sign Manual and Signet or through a Secretary of State, or

(*b*) if there is no person in Dominica so designated and able to perform those functions, the person who, if he were not directed by this section to perform the functions of the office of Administrator, would for the time being be performing the functions of the office of the principal law officer.

(2) Before assuming the functions of the office of Administrator, any such person as aforesaid shall make the oaths or affirmations directed by the last foregoing section to be made by the Administrator.

(3) Any such person as aforesaid shall not continue to perform the functions of the office of Administrator after the Administrator or some other person having a prior right to perform the functions of that office has notified him that he is about to assume or resume those functions.

(4) The Administrator or any other person as aforesaid shall not, for the purposes of this section, be regarded as absent from Dominica or as unable to perform the functions of the office of Administrator—

(*a*) by reason that he is in passage from one part of Dominica to another, or

(*b*) at any time when there is a subsisting appointment of a deputy under the next following section.

Deputy to Administrator

5.—(1) Whenever the Administrator—

(*a*) has occasion to be absent from the seat of Government but not from Dominica; or

(*b*) has occasion to be absent from Dominica for a period which he has reason to believe will be of short duration; or

(*c*) is suffering from an illness which he has reason to believe will be of short duration,

he may, acting in his discretion, by instrument under the public seal, appoint any person in Dominica to be his deputy during such absence or illness and in that capacity to perform on his behalf such of the

functions of the office of Administrator as may be specified in that instrument.

(2) The power and authority of the Administrator shall not be abridged, altered or in any way affected by the appointment of a deputy under this section, and a deputy shall conform to and observe all instructions that the Administrator, acting in his discretion, may from time to time address to him:

Provided that the question whether or not a deputy has conformed to and observed any such instructions shall not be enquired into by any court.

(3) A person appointed as a deputy under this section shall hold that appointment for such period as may be specified in the instrument by which he is appointed, and his appointment may be revoked at any time by Her Majesty by instructions given through a Secretary of State or by the Administrator acting in his discretion.

Exercise of Administrator's functions

6.—(1) In the exercise of his functions the Administrator shall, subject to the following provisions of this section, obtain and act in accordance with the advice of the Executive Council.

(2) The preceding subsection shall not apply to the exercise by the Administrator of—

(*a*) any function conferred upon him by this Order which is expressed to be exercisable by him in his discretion or in accordance with the advice of, or after consultation with, any person or authority other than the Executive Council;

(*b*) any function conferred upon him by any other law in terms which authorise him to exercise that function without obtaining the advice of the Executive Council; and

(*c*) the powers with respect to which provision is made by subsection (5) of this section.

(3) The Administrator shall not be required to obtain the advice of the Executive Council in any case in which, in his judgment, the urgency of the matter requires him to act before the Council can be consulted or the question for decision is too unimportant to require their advice; but in any such case of urgency he shall, as soon as is practicable, communicate to the Council the measures that he has adopted and the reasons therefor.

(4) When the Administrator has, in pursuance of this section, obtained the advice of the Executive Council he may act otherwise than in accordance with that advice if, in his judgment, he considers it necessary to do so in the interests of maintaining law and order in The West Indies or in order to maintain the efficiency of the Judiciary or the Public Service or any part thereof:

Provided that he shall not so act without first obtaining the approval of a Secretary of State unless, in the Administrator's judgment, the urgency of the matter requires him to act before such approval could be obtained; and in any such case of urgency he shall, as soon as practicable, report his action and the reasons therefor to a Secretary of State.

(5) The powers conferred upon the Administrator by the Emergency Powers Order in Council, 1939(a), as from time to time amended, or by any Order in Council replacing that Order, shall be exercised by him after consultation with the Chief Minister unless, in the Administrator's judgment, circumstances make it impracticable to consult with the Chief Minister.

(6) Where the Administrator is directed by this Order to exercise any function after consultation with any person or authority other than the Executive Council he shall not be obliged to exercise that function in accordance with the advice of that person or authority.

(7) Where the Administrator is directed by this Order to exercise any function in accordance with the advice of, or after consultation with, any person or authority, the question whether he has so exercised that function shall not be enquired into in any court.

Powers to dispose of land

7. Subject to the provisions of any law for the time being in force in Dominica, the Administrator or any person duly authorised by him in that behalf by writing under his hand, in Her Majesty's name and on Her Majesty's behalf, may, under the public seal, make grants and dispositions of lands or other immovable property in Dominica or interests in such property that are vested in Her Majesty for the purposes of the Government of Dominica.

Powers to constitute offices and make appointments, etc.

8. Subject to the provisions of this Order and of any law for the time being in force in Dominica, the Administrator, in Her Majesty's name and on Her Majesty's behalf, may—

(*a*) constitute offices for Dominica and make appointments, to be held during Her Majesty's pleasure, thereto, and

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

Powers of pardon, etc.

9.—(1) The Administrator, acting in his discretion, may, in Her Majesty's name and on Her Majesty's behalf—

(*a*) grant to any person concerned in or convicted of any offence to which this section applies 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 sentence passed on that person for such an offence;

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

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

(2) The offences to which this section applies are offences against any law in force in Dominica other than a law of the Federal Legislature.

Public seal

10. The Administrator shall keep and use the public seal for sealing all things whatsoever that shall pass the said seal.

(a) *See* S.I. 1952 I, at p. 621.

Part III—The Executive

Executive authority of Dominica

11.—(1) The executive authority of Dominica shall be vested in Her Majesty.

(2) Subject to the provisions of this Order, the executive authority of Dominica may be exercised on behalf of Her Majesty by the Administrator, either directly or through officers subordinate to him, but nothing in this subsection shall operate so as to prejudice the provisions of any law for the time being in force in Dominica whereby functions are, or may be, conferred on persons or authorities other than the Administrator.

Executive Council

12.—(1) There shall be an Executive Council in and for Dominica which, subject to section 16 of this Order, shall consist of a Chief Minister, three other Ministers and one other member who shall be appointed in accordance with the provisions of the next following section and one *ex officio* member, namely the principal law officer.

(2) Subject to the provisions of this Order, the Executive Council shall have the general direction and control of the government of Dominica and shall be collectively responsible therefor to the Legislative Council.

Appointment of members

13.—(1) The Administrator, acting in his discretion, shall appoint as the Chief Minister the elected member of the Legislative Council who, in his judgment, is most likely to command the confidence of a majority of the elected members of the Legislative Council.

(2) The other Ministers and the other appointed member of the Executive Council (hereinafter referred to as the member without portfolio) shall be appointed by the Administrator in accordance with the advice of the Chief Minister from among the nominated and elected members of the Legislative Council.

(3) If occasion arises for making an appointment under the last foregoing subsection while the Legislative Council is dissolved a person who was a nominated or elected member of the Legislative Council immediately before the dissolution may be appointed as if he were still a member of the Legislative Council.

(4) Appointments made under this section shall be made by instrument under the public seal.

Tenure of office of members

14.—(1) If a motion that the Legislative Council should declare a lack of confidence in the Government of Dominica receives in the Legislative Council the affirmative votes of a majority of all the elected members thereof the Administrator shall, by instrument under the public seal, revoke the appointment of the Chief Minister:

Provided that before so revoking the Chief Minister's appointment the Adminstrator shall consult with the Chief Minister and, if the Chief Minister so requests, the Administrator, acting in his discretion, may dissolve the Legislative Council instead of revoking the appointment.

(2) A Minister or the member without portfolio shall vacate his office—

(*a*) if he resigns it by writing under his hand addressed to the Administrator;

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

(*c*) if, by virtue of subsection (4) of section 29 of this Order, he is required to cease to perform any of his functions as a member of the Legislative Council;

(*d*) if he is absent from Dominica without, in the case of the Chief Minister, having given the Administrator prior notice of such absence or, in any other case, having obtained the written permission of the Administrator, acting in accordance with the advice of the Chief Minister.

(3) A Minister (other than the Chief Minister) and the member without portfolio shall also vacate his office—

(*a*) whenever a Chief Minister is appointed; or

(*b*) if his appointment is revoked by the Administrator, acting in accordance with the advice of the Chief Minister, by instrument under the public seal.

(4) For the purposes of subsection (2) of this section—

(*a*) a person shall be deemed to have ceased to be a member of the Legislative Council for a reason other than a dissolution thereof when the Legislative Council first meets after any dissolution if he is not then a member of the Council; and

(*b*) a person shall not be regarded as absent from Dominica during his passage from one part of Dominica to another.

Performance of functions of Chief Minister in certain events

15.—(1) If the office of Chief Minister falls vacant while the Legislative Council is dissolved or the Chief Minister is unable, by reason of his illness or absence from Dominica, to perform the functions of his office, the Administrator may, by instrument under the public seal, authorise any other Minister to perform the functions conferred on the Chief Minister by this Order (other than the functions conferred upon him by subsection (3) of this section).

(2) The Administrator may, by instrument under the public seal, revoke any authority given under this section.

(3) The powers conferred upon the Administrator by this section shall be exercised by him acting in his discretion if the office of Chief Minister is vacant or if, in his judgment, it is impracticable to obtain the Chief Minister's advice owing to his illness or absence, and in any other case shall be exercised in accordance with the advice of the Chief Minister.

Temporary members

16.—(1) Whenever a Minister (other than the Chief Minister) or the member without portfolio is unable, by reason of his illness or absence from Dominica, to perform the functions of his office, the Administrator may, by instrument under the public seal, appoint a person who is an elected or nominated member of the Legislative Council (or, if

the Council is dissolved, was such a member immediately before its dissolution) to be a temporary Minister or, as the case may be, a temporary member of the Executive Council without portfolio.

(2) Subject to section 14 of this Order, a person appointed under this section shall hold office until he is notified by the Administrator that the circumstances giving rise to the appointment have ceased to exist.

(3) The powers conferred upon the Administrator by this section shall be exercised by him in accordance with the advice of the Chief Minister.

Assignment of responsibilities to Ministers

17.—(1) Subject to the provisions of this Order, the Administrator, acting in accordance with the advice of the Chief Minister, may, by directions in writing, charge any Minister with the responsibility for any subject or any department of government:

Provided that a Minister shall not be so charged with responsibility for the maintenance of law and order in Dominica or for matters relating to the Judiciary or the Public Service.

(2) Nothing in this section shall empower the Administrator to confer on any Minister authority to exercise any power or discharge any duty that is conferred or imposed by this Order or any other law on the Administrator or any person or authority other than that Minister.

(3) The Administrator, acting in his discretion, may at any time call for any official papers or seek any official information or advice available to a Minister with respect to a subject or department with responsibility for which that Minister is charged under this section.

Oaths

18. Every member of the Executive Council appointed under section 13 or section 16 of this Order shall, before entering upon the duties of his office, make before the Administrator an oath or affirmation of allegiance in the form set out in the Third Schedule to this Order and an oath or affirmation for the due execution of that office in such form as may be prescribed by any law enacted by the Legislature of Dominica or, if no such law in that behalf is for the time being in force, in the form set out in the said Schedule.

Summoning of Executive Council

19. The Executive Council shall not be summoned except by the authority of the Administrator, acting in his discretion:

Provided that the Administrator shall summon the Council if the Chief Minister so requests.

Proceedings in the Council

20.—(1) The Administrator shall, so far as is practicable, attend and preside at meetings of the Executive Council.

(2) In the absence of the Administrator there shall preside at any meeting of the Council either the Chief Minister or, in the absence of the Chief Minister, such other Minister as the Administrator, acting after consultation with the Chief Minister, may appoint.

(3) No business shall be transacted at any meeting of the Council if there are less than three members present.

(4) Subject to the last foregoing subsection, the Council shall not be disqualified for the transaction of business by reason of any vacancy in the membership of the Council (including any vacancy not filled when the Council is first constituted or is reconstituted at any time) and the validity of the transaction of business in the Council shall not be affected by reason only of the fact that some person who was not entitled so to do took part in those proceedings.

Summoning of persons to the Council

21. The Administrator, acting in his discretion, may summon any public officer to a meeting of the Executive Council whenever, in his opinion, the business before the Council renders the presence of that officer desirable.

Powers of principal law officer

22.—(1) The principal law officer shall have power, in any case in which he considers it desirable so to do—

(*a*) to institute and undertake criminal proceedings against any person before any civil court constituted for Dominica in respect of any offence against any law in force in Dominica alleged to have been committed by that person ;

(*b*) to take over and continue any criminal proceedings as aforesaid that have been instituted or undertaken by any other person or authority ; and

(*c*) to discontinue at any stage before judgment is delivered any criminal proceedings as aforesaid instituted or undertaken by himself or any other person or authority.

(2) The powers of the principal law officer under the last foregoing subsection may be exercised by him in person or by officers subordinate to him or, subject to any law in force in Dominica, other persons authorised by him, acting under and in accordance with his general or special instructions.

(3) The powers conferred upon the principal law officer by paragraphs (*b*) and (*c*) of subsection (1) of this section shall be vested in him to the exclusion of any other person :

Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court.

(4) For the purposes of this section, any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved for the purpose of any such proceedings, to any other court constituted for Dominica or the Federation or to the Judicial Committee of Her Majesty's Privy Council shall be deemed to be part of those proceedings.

(5) For the avoidance of doubts it is hereby declared that nothing in this section shall be construed as applying to any power in relation to criminal proceedings vested in any person by or under the Federal Constitution or applying to any criminal proceedings instituted or conducted by such a person by virtue of any power so vested.

(6) In the exercise of the powers conferred upon him by this section and section 49 of this Order the principal law officer shall not be subject to the direction or control of any other person or authority.

(7) There shall be charged on the revenues of Dominica and paid thereout to the principal law officer such salary as may from time to time be prescribed by any law in force in Dominica :

Provided that the salary of the principal law officer shall not be reduced during his continuance in office.

PART IV—THE LEGISLATURE

Composition

Constitution of Legislature

23. There shall be a Legislature for Dominica, which shall consist of Her Majesty and a Legislative Council.

Legislative Council

24.—(1) Subject to subsection (2) of this section and to section 31 of this Order, the Legislative Council shall consist of one *ex officio* member, namely the principal law officer, two nominated members and eleven elected members.

(2) If any person who is not a member of the Legislative Council is elected to be Speaker of the Legislative Council he shall, by virtue of holding the office of Speaker, be a member of the Legislative Council in addition to the members aforesaid.

Nominated members

25.—(1) Subject to section 28 of this Order, the nominated members of the Legislative Council shall be British subjects of the age of twenty-one years or upwards and shall be appointed by the Administrator after consultation with the Chief Minister, by instrument under the public seal.

(2) The Administrator shall forthwith report to Her Majesty through a Secretary of State every appointment made under this section.

Elected members

26. The elected members of the Legislative Council shall be persons qualified for election as members in accordance with the provisions of this Order and elected in the manner provided by or under any law enacted by the Legislature of Dominica.

Qualifications for elected membership

27. Subject to the next following section, a person shall be qualified to be elected as a member of the Legislative Council if, and shall not be qualified to be so elected unless, he—

(*a*) is a British subject of the age of twenty-one years or upwards, and

(*b*) has resided in Dominica for a period of twelve months immediately before the date of his nomination for election or is domiciled and resident in Dominica at that date, and

(*c*) is able to speak and, unless incapacitated by blindness or other physical cause, to read the English language with a degree of

proficiency sufficient to enable him to take an active part in the proceedings of the Council.

Disqualifications for nominated and elected membership

28.—(1) No person shall be qualified to be appointed or elected as a 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 or the office of judge of the Supreme Court;

(*c*) is a minister of religion;

(*d*) has been adjudged or otherwise declared bankrupt under any law in force in any part of Her Majesty's dominions and has not been discharged;

(*e*) is disqualified for membership of the Legislative Council by any law enacted by the Legislature of Dominica by reason of his having any such interest in any such Government contract as may be prescribed by any such law;

(*f*) is a person certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Dominica;

(*g*) subject to the provisions of the next following subsection, is under sentence of death imposed on him by a court in any part of Her Majesty's dominions, or is serving a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court, or is under such a sentence of imprisonment the execution of which has been suspended;

(*h*) is disqualified for membership of the Legislative Council by virtue of any law enacted by the Legislature of Dominica relating to offences connected with elections; or

(*j*) in the case of an elected member, is disqualified for election by any law enacted by the Legislature of Dominica by reason of his holding, or acting in, any office the functions of which involve—

(i) any responsibility for, or in connection with, the conduct of any election; or

(ii) any responsibility for the compilation or revision of any electoral register.

(2) For the purposes of paragraph (*g*) of the last foregoing subsection—

(*a*) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds twelve months, but if any one of such sentences exceeds that term they shall be regarded as one sentence; 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.

Tenure of office of nominated and elected members

29.—(1) Subject to the provisions of this Order, every nominated member of the Legislative Council shall hold his seat therein during Her Majesty's pleasure.

(2) Every nominated or elected member of the Legislative Council shall vacate his seat therein at the next dissolution of the Council after his appointment or election.

(3) A nominated or elected member of the Legislative Council shall also vacate his seat therein—

(*a*) if he resigns it by writing under his hand addressed to the Speaker;

(*b*) if he is absent from the sittings of the Council for such period and in such circumstances as may be prescribed in the Standing Orders of the Council;

(*c*) if he ceases to be a British subject;

(*d*) if any circumstances arise that, if he were not a member of the Council, would cause him to be disqualified for appointment or election as such by virtue of paragraphs (*a*), (*b*), (*c*), (*d*), (*f*), (*h*) or (in the case of an elected member) (*j*) of subsection (1) of the last foregoing section;

(*e*) subject to the provisions of any law enacted by the Legislature of Dominica, if he acquires any such interest in any such Government contract as may be prescribed by any such law.

(4) (*a*) Subject to the provisions of the next following paragraph, if any nominated or elected member of the Legislative Council is sentenced by a court in any part of Her Majesty's dominions to death or to imprisonment (by whatever name called) for a term exceeding twelve months, he shall forthwith cease to perform any of his functions as a member and his seat in the Council shall become vacant at the expiration of a period of thirty days thereafter:

Provided that the Administrator, acting in his discretion (in the case of a nominated member) or the Speaker of the Legislative Council (in the case of an elected member) may, at the request of the member, from time to time extend that period for further periods of 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, signified by resolution, of the Legislative Council.

(*b*) 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 twelve months or less or a punishment other than imprisonment is substituted, his seat shall not become vacant under the last foregoing paragraph and he may resume the performance of his functions as a member.

(*c*) For the purposes of this subsection—

(i) where a person is sentenced to two or more terms of imprisonment that are required to be served consecutively each of those terms shall be regarded as a separate term of imprisonment; and

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

Incapacity of nominated members

30. The Administrator acting in his discretion may, by instrument under the public seal, declare a nominated member of the Legislative Council to be, by reason of illness, temporarily incapable of

performing his functions as a member of the Council and thereupon such member shall not perform his said functions until he is declared, in manner aforesaid, again to be capable of performing them.

Temporary members

31.—(1) Whenever—

(*a*) the *ex officio* member is absent from Dominica or is performing the functions of the office of Administrator ; or

(*b*) a nominated member is absent from Dominica or is incapable of performing his functions as a member by virtue of the provisions of subsection (4) of section 29 of this Order or by reason of a declaration made under the last foregoing section,

a person may be appointed by the Administrator, by instrument under the public seal, to be a temporary member of the Legislative Council.

(2) Where an appointment is made under this section in circumstances mentioned in paragraph (*a*) of the last foregoing subsection—

(*a*) the person appointed shall be a person holding a public office ;

(*b*) subject to the provisions of this section, he shall hold his appointment during Her Majesty's pleasure ; and

(*c*) so long as his appointment shall subsist the provisions of this Order shall, subject as aforesaid, apply to him as if he were an *ex officio* member of the Legislative Council.

(3) Where an appointment is made under this section in circumstances mentioned in paragraph (*b*) of subsection (1) of this section—

(*a*) the person appointed shall be a person qualified for appointment as a nominated member ; and

(*b*) so long as his appointment shall subsist the provisions of this Order (including the provisions of section 29) shall, subject to the provisions of this section, apply to him as if he were a nominated member of the Legislative Council.

(4) The Administrator shall forthwith report to Her Majesty through a Secretary of State every appointment made under this section.

(5) An appointment made under this section may be revoked by the Administrator by instrument under the public seal and shall in any case cease to have effect if the person appointed is notified by the Administrator that the circumstances giving rise to the appointment have ceased to exist.

(6) In the exercise of the powers conferred upon him by this section the Administrator shall act in his discretion:

Provided that the Administrator shall consult the Chief Minister with respect to the making of any appointment in circumstances mentioned in paragraph (*b*) of subsection (1) of this section and the revocation of any appointment so made.

Speaker and Deputy Speaker

32.—(1) When the Legislative Council first meets after any general election and before it proceeds to the despatch of any other business, it shall elect a person to be the Speaker of the Council ; and, if

the office of Speaker falls vacant for any reason other than a dissolution of the Council, the Council shall, as soon as practicable, elect another person to that office.

(2) The Speaker may be elected either from among the members of the Legislative Council who are not members of the Executive Council or from among persons who are not members of the Legislative Council:

Provided that a person who is not a member of the Legislative Council shall not be elected as Speaker if—

(*a*) he is not a British subject;

(*b*) he is a person disqualified for election as an elected member of the Council by virtue of paragraph (*a*), (*b*), (*c*), (*d*), (*f*), (*g*), (*h*) or (*j*) of subsection (1) of section 28 of this Order; or

(*c*) he is disqualified for election as Speaker by any law enacted by the Legislature of Dominica by reason of his having any such interest in any such Government contract as may be prescribed by any such law.

(3) When the Legislative Council first meets after any general election and before it proceeds to the despatch of any other business except the election of the Speaker, it shall elect a member of the Legislative Council who is not a member of the Executive Council to be Deputy Speaker of the Legislative Council; and if the office of Deputy Speaker falls vacant for any reason other than a dissolution of the Council, the Council shall, as soon as convenient, elect another such member to that office.

(4) A person shall vacate the office of Speaker or Deputy Speaker—

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

(*b*) in the case of a Speaker elected from among the members of the Council or in the case of the Deputy Speaker, if he ceases to be a member of the Council for any reason other than a dissolution of the Council or if, by virtue of subsection (4) of section 29 of this Order, he is required to cease to perform any of his functions as a member or if he is appointed to be a member of the Executive Council;

(*c*) in the case of a Speaker elected from among persons who are not members of the Legislative Council, if he ceases to be a British subject or if any circumstances arise that would cause him to be disqualified for election as an elected member of the Council by virtue of paragraph (*a*), (*b*), (*c*), (*d*), (*f*), (*h*) or (*j*) of subsection (1) of section 28 of this Order or that, if he were an elected member, would, by virtue of subsection (4) of section 29 of this Order, require him to cease to perform any of his functions as a member or, subject to the provisions of any law enacted by the Legislature of Dominica, if he acquires any such interest in any such Government contract as may be prescribed by any such law;

(*d*) if he announces the resignation of his office to the Legislative Council or if, by writing under his hand addressed, in the case of the Speaker to the Clerk of the Council and in the case of the Deputy Speaker to the Speaker (or, if the office of Speaker is vacant or the Speaker is absent from Dominica, to the Clerk) he resigns that office;

(*e*) in the case of the Deputy Speaker, if he is elected to be Speaker.

Powers and Procedure

Power to make laws

33. Subject to the provisions of the West Indies (Federation) Order in Council, 1957, and of this Order, the Legislature shall have power to make laws for the peace, order and good government of Dominica.

Standing Orders

34. Subject to the provisions of this Order, the Legislative Council may make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the despatch of business, and the passing, intituling and numbering of Bills and the presentation of the same to the Administrator for assent.

Oath of allegiance

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

Provided that the election of a Speaker and Deputy Speaker of the Legislative Council may take place before the members thereof have made such oath or affirmation.

Presiding in the Council

36.—(1) The Speaker or, in his absence, the Deputy Speaker or, if they are both absent, a member of the Legislative Council (not being a member of the Executive Council) elected by the Legislative Council for that sitting shall preside at each sitting of the Legislative Council.

(2) References in this section to circumstances in which the Speaker or Deputy Speaker is absent include references to circumstances in which the office of Speaker or Deputy Speaker is vacant.

Voting

37. All questions proposed for decision in the Legislative Council shall be determined by a majority of the votes of the members present and voting:

Provided that the person presiding shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote.

Validity of proceedings

38. The Legislative Council shall not be disqualified for the transaction of business by reason of any vacancy in the membership thereof (including any vacancy not filled when the Council is first constituted or is reconstituted at any time), and any proceedings therein shall be valid notwithstanding that some person who was not entitled so to do sat or voted in the Council or otherwise took part in the proceedings.

Quorum

39.—(1) If at any sitting of the Legislative Council any member who is present draws the attention of the person presiding at the sitting to the absence of a quorum 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 of the Council is still not present the Council shall be adjourned.

(2) A quorum of the Council shall consist of seven members besides the person presiding at the sitting.

Introduction of Bills, etc.

40.—(1) Subject to the provisions of this Order and of 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 same shall be debated and disposed of according to the Standing Orders of the Council.

(2) Except on the recommendation of the Administrator signified by a Minister, 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, would dispose of or charge any public revenue or public funds of Dominica or alter any disposition thereof or charge thereon or impose, alter or repeal any rate, tax or duty ;

(*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.

Assent to Bills

41.—(1) A Bill shall not become a law until either—

(*a*) the Administrator has assented thereto in Her Majesty's name and on Her Majesty's behalf and has signed the same in token of such assent, or

(*b*) Her Majesty has given Her assent thereto through a Secretary of State and the Administrator has signified such assent by proclamation published in the Gazette.

(2) When a Bill is presented to the Administrator for assent he shall declare that he assents or refuses to assent thereto or that he reserves the Bill for the signification of Her Majesty's pleasure:

Provided that, unless he has been authorised by a Secretary of State to assent thereto, the Administrator shall reserve for the signification of Her Majesty's pleasure any Bill—

(*a*) which appears to him, acting in his discretion—

(i) to be inconsistent with any obligation of Her Majesty or of Her Majesty's Government in the United Kingdom towards any other state or power or any international organisation ;

(ii) to be likely to prejudice the Royal prerogative, or the maintenance of law and order in Dominica, or the efficiency of the Judiciary or the Public Service or any part thereof ;

(*b*) which is in any way repugnant to or inconsistent with the provisions of this Order.

Words of enactment

42. In every Bill presented to the Administrator for assent the words of enactment shall be as follows:—

"Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council of Dominica, and by the authority of the same as follows:—".

Disallowance of laws

43.—(1) Any law assented to by the Administrator may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever any law has been disallowed by Her Majesty the Administrator shall cause notice of such disallowance to be published in the Gazette and the law shall be annulled with effect from the date of publication of that notice.

(3) On the annulment of any law under this section, any enactment repealed or amended 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; but save as provided by the foregoing provisions of this subsection the provisions of subsection (2) of section 38 of the Interpretation Act, 1889, shall apply to that annulment as they apply to the repeal of an Act of Parliament.

Privileges, etc. of Council

44. The Legislature may by law determine and regulate the privileges, immunities and powers of the Legislative Council and the members thereof, but no such privileges, immunities or powers shall exceed those of the Commons' House of Parliament of the United Kingdom or of the members thereof.

Miscellaneous

Sessions of Council

45.—(1) Subject to the provisions of this section, the sessions of the Legislative Council shall be held at such times and places as the Administrator may appoint by proclamation published in the Gazette.

(2) The first session of the Council shall commence within a period of six months after the commencement of this Part of this Order, and thereafter there shall be a session of the Council from time to time so that a period of twelve months does not intervene between the last sitting in one session and the first sitting in the next session.

Prorogation and dissolution

46.—(1) The Administrator acting in accordance with the advice of the Chief Minister may at any time, by proclamation published in the Gazette, prorogue the Legislative Council.

(2) The Administrator, acting after consultation with the Chief Minister, may at any time, by proclamation published in the Gazette, dissolve the Legislative Council.

(3) The Administrator shall dissolve the Legislative Council at the expiration of five years from the date when the Council first meets after any general election unless it has been sooner dissolved.

General elections

47. A general election of elected members of the Legislative Council shall be held at such time within three months after the commencement of this Part of this Order and after every dissolution of the Council as the Administrator shall appoint by proclamation published in the Gazette.

Determination of questions as to membership

48.—(1) Any question whether—

(*a*) any person has been validly elected as a member of the Legislative Council;

(*b*) any elected member of the Council has vacated his seat therein or is required by virtue of subsection (4) of section 29 of this Order to cease to exercise any of his functions as a member; or

(*c*) any person has been validly elected as Speaker of the Council from among persons who are not members of the Council or, having been so elected, has vacated the office of Speaker,

shall be referred to and determined by the Supreme Court in accordance with the provisions of any law enacted by the Legislature of Dominica in that behalf and, subject to any such law, in accordance with any direction given in that behalf by the Chief Justice of the Supreme Court.

(2) Any question whether—

(*a*) any person has been validly appointed as a nominated member of the Legislative Council; or

(*b*) any nominated member of the Council has vacated his seat therein or is required by virtue of subsection (4) of section 29 of this Order to cease to exercise any of his functions as a member,

shall be referred to the Administrator in accordance with any directions given in that behalf by the Administrator acting in his discretion, and shall be determined by him acting as aforesaid.

Penalty for unauthorised person sitting or voting

49.—(1) Any person who sits or votes in the Legislative Council knowing or having reasonable grounds for knowing that he is not entitled so to do shall be liable to a penalty not exceeding one hundred dollars for every day upon which he so sits or votes.

(2) The said penalty shall be recoverable by action in the Supreme Court at the suit of the principal law officer.

PART V—THE PUBLIC SERVICE

Interpretation

50. For the purposes of this Part of this Order, "public office" does not include office as a member of any board, panel, committee or other similar body (whether incorporated or not) established by any law for the time being in force in Dominica.

Public Service—General

Public Service Commission

51.—(1) There shall be in and for Dominica a Public Service Commission which shall consist of a Chairman and such number of other members, not being less than two nor more than four, as the Administrator, acting in his discretion, may from time to time decide.

(2) The members of the Public Service Commission shall be appointed by the Administrator, acting after consultation with the Chief Minister, by instrument under the public seal.

(3) No person shall be qualified to be appointed as a member of the Public Service Commission if he holds or is acting in any public office other than the office of member of the Judicial and Legal Service Commission or member of the Police Service Commission.

(4) The office of a member of the Public Service Commission shall become vacant—

(*a*) at the expiration of five years from the date of his appointment or such earlier time as may be specified in the instrument by which he was appointed ;

(*b*) if he resigns his office by writing under his hand addressed to the Administrator :

(*c*) if he is appointed to or to act in any public office other than the office of member of the Judicial and Legal Service Commission or of the Police Service Commission ; or

(*d*) if the Administrator, acting in his discretion, directs that he shall be removed from office for inability to discharge the functions thereof (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(5) If the office of a member of the Public Service Commission is vacant or a member is for any reason unable to perform the functions of his office, the Administrator, acting after consultation with the Chief Minister, may appoint a person who is qualified for appointment as a member of the Commission to act as a member of the Commission, and any person so appointed shall, subject to the provisions of the preceding subsection, continue to act until he is notified by the Administrator, acting in his discretion, that the circumstances giving rise to the appointment have ceased to exist.

(6) There shall be charged on the revenues of Dominica and paid thereout to the members of the Public Service Commission such salary as may be prescribed by any law for the time bing in force in Dominica :

Provided that the salary of a member of the Commission shall not be reduced during his continuance in office.

Appointment, etc. of public officers

52. Save as otherwise provided by this Part of this Order or the Windward Islands and Leeward Islands (Courts) Order in Council, 1959, power to make appointments to public offices and to dismiss and to exercise disciplinary control over persons holding or acting in any such offices shall vest in the Administrator acting after consultation with the Public Service Commission :

Provided that—

(*a*) before making an appointment to the office of any Permanent Secretary of a Ministry or Head or Deputy Head of a Department of Government on transfer from another such office carrying the same salary the Administrator shall also consult the Chief Minister ; and

(*b*) before exercising any power conferred by this section in relation to the office of the principal audit officer (by whatever name called) of Dominica, the Administrator shall also consult the Director-General of the Overseas Audit Service.

Delegation of Administrator's powers

53.—(1) The Administrator, acting after consultation with the Public Service Commission, may, by instrument under the public seal, direct that, subject to such conditions as may be specified in that instrument, power to make appointments to such offices, being offices to which this section applies, as may be specified in that instrument and power to dismiss and power to exercise disciplinary control over persons holding or acting in those offices, or any of those powers, shall (without prejudice to the exercise of such powers by the Administrator acting after consultation with the Public Service Commission) be exercisable by such one or more members of the Commission or by such other authority or public officer as may be so specified.

(2) The offices to which this section applies are offices in respect of which—

(*a*) the Administrator has power to make appointments under the last foregoing section, and

(*b*) the maximum annual emoluments attaching to the office do not for the time being exceed 2,400 dollars.

(3) The emoluments referred to in the last foregoing subsection include in relation to any office only such classes of emoluments as would be taken into account, if the holder of the office were eligible for a pension in respect of his service in the office, in the computation of that pension under the law governing the grant of that pension.

Regulations regarding Public Service Commission

54. Subject to the provisions of this Order, the Administrator, acting after consultation with the Public Service Commission, may make regulations for giving effect to the three last foregoing sections and, without prejudice to the generality of the foregoing power, may by such regulations provide for any of the following matters, that is to say—

(*a*) the organisation of the work of the Commission and the manner in which it shall perform its functions ;

(*b*) consultation by the Commission with persons or authorities other than members of the Commission ;

(*c*) the appointment, tenure of office and terms of service of staff to assist the Commission in the performance of its functions.

Legal Service

Appointments, etc. of certain legal officers

55.—(1) Power to make appointments to the offices to which this section applies and to dismiss and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Administrator acting after consultation with the Judicial and Legal Service Commission.

(2) This section applies to the office of the principal law officer and to such other offices in the public service, for appointment to which persons are required to possess legal qualifications, as may be prescribed by any law enacted by the Legislature of Dominica.

The Police

Appointment, etc. of head of Police Force

56. Power to make appointments to the office of head (by whatever name called) of the Police Force of Dominica and to dismiss and to exercise disciplinary control over any person holding or acting in that office shall vest in the Administrator acting in his discretion.

Appointment, etc. of gazetted ranks of Police Force

57. Save as provided in the last foregoing section, power to make appointments to offices in the Police Force of Dominica of or above the rank of Assistant Superintendent and to dismiss and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Administrator acting after consultation with the Police Service Commission.

Appointment, etc. of other ranks of Police Force

58.—(1) Power to make appointments to offices in the Police Force of Dominica below the rank of Assistant Superintendent and to dismiss and to exercise disciplinary control over persons holding or acting in any such offices shall vest in the head of the Police Force and, to such extent as may be prescribed by or under any law enacted by the Legislature of Dominica, in such other officers of that Force as may be so prescribed.

(2) In such cases and subject to such conditions as may be prescribed by any law enacted by the Legislature of Dominica an appeal shall lie—

(*a*) to the Administrator from a decision of the head of the Police Force to dismiss or otherwise to exercise disciplinary control over any such person as aforesaid ; and

(*b*) to the head of the Police Force from any such decision of any other officer of that Force.

(3) In determining any such appeal as is referred to in the last foregoing subsection the Administrator shall act after consultation with the Police Service Commission.

(4) Any power to dismiss or to exercise disciplinary control and any power to determine appeals from a decision to exercise such a power as aforesaid that is vested in any person by or by virtue of this section shall be exercised in accordance with such provision as may, subject to the provisions of this section, be made in that behalf by or under any law enacted by the Legislature of Dominica and, in particular, offences against Police Force discipline, and the punishment that may be imposed for any such offence, shall be such as may be prescribed by or under any such law.

Pensions

Applicability of pensions law

59.—(1) Subject to the provisions of section 61 of this Order, the law applicable to the grant and payment to any officer, or to his widow, children, dependents or personal representatives, of any pension, gratuity or other like allowance (in this section and the two next following sections referred to as an "award") in respect of the service of that officer in a public office shall be that in force on the relevant day or any later law not less favourable to the person concerned.

(2) For the purposes of this section the relevant day is—

(*a*) in relation to an award granted before the date of commencement of this Order, the day on which the award was granted;

(*b*) in relation to an award granted or to be granted on or after the date of commencement of this Order to or in respect of a person who was a public officer before that date, the day immediately before that date;

(*c*) in relation to an award granted or to be granted to or in respect of a person who first becomes a public officer on or after the date of commencement of this Order, the day on which he becomes a public officer.

(3) For the purposes of this section, in so far as the law applicable to an award depends on the option of the person to or in respect of whom it is granted or to be granted, the law for which he opts shall be taken to be more favourable to him than any other law for which he might have opted.

Pensions, etc. charged on revenues of Dominica

60. Awards granted under any law for the time being in force in Dominica shall be charged on and paid out of the revenues of Dominica.

Grant and withholding of pensions, etc.

61.—(1) The power to grant any award under any pensions law enacted by the Legislature of Dominica (other than an award to which, under that law, the person to whom it is payable is entitled as of right) and, in accordance with any provisions in that behalf contained in any such law, to withhold, reduce in amount or suspend any award payable under any such law is hereby vested in the Administrator acting in his discretion.

(2) In this section "pensions law" means any law relating to the grant to any person, or to the widow, children, dependants or personal representatives of that person, of an award in respect of the services of that person in a public office, and includes any instrument made under any such law.

PART VI—FINANCE

Interpretation

62. In this Part of this Order—

"financial year" means the twelve months ending on the thirty-first day of December in any year or on such other date as may from time to time be prescribed by any law enacted by the Legislature of Dominica;

"statutory expenditure" means expenditure charged on the revenues or public funds of Dominica by any provision of this Order or of any other law for the time being in force in Dominica.

Estimates

63.—(1) The Minister responsible for finance shall, before the end of each financial year, cause to be prepared annual estimates of

revenue and expenditure for public services during the succeeding financial year, which shall be laid before the Legislative Council.

(2) The estimates of expenditure shall show separately the sum required to meet statutory expenditure and the sums required to meet other expenditure.

Authorisation and meeting of expenditure

64.—(1) The Minister responsible for finance shall, in respect of each financial year, at the earliest convenient moment, introduce in the Legislative Council an appropriation Bill containing, under appropriate heads, for the several services required, the estimated aggregate sums which are proposed to be expended (otherwise than by the way of statutory expenditure) during that financial year.

(2) Whenever—

(*a*) any expenditure is incurred or is likely to be incurred in any financial year upon any service which is in excess of the sum provided for that service by the appropriation law relating to that year; or

(*b*) any expenditure (other than statutory expenditure) is incurred or is likely to be incurred in any financial year upon any service not provided by the appropriation law relating to that year,

a supplementary appropriation Bill, which shall contain that expenditure under appropriate heads, shall be introduced in the Legislative Council.

(3) No moneys shall be withdrawn from the public funds of Dominica except upon the authority of a warrant under the hand of the Administrator or the Minister responsible for finance.

(4) No such warrant shall be issued for the purpose of meeting any expenditure other than statutory expenditure unless that expenditure has been authorised by an appropriation law for the financial year during which the withdrawal is to take place or except in accordance with the provisions of any law enacted by the Legislature of Dominica making moneys available in advance of appropriation for the purpose of meeting unforeseen expenditure or for the purpose of covering any period not exceeding four months between the end of a financial year and the coming into force of the law authorising the appropriation for the next following year.

Public debt

65. The public debt of Dominica, including the interest thereon, sinking fund payments in respect of that debt and the costs, charges and expenses incidental to the management of that debt, is hereby charged on the revenues of Dominica.

Audit of accounts and principal audit officer

66.—(1) The accounts of all departments of the Government of Dominica, the Public Service Commission, the subordinate courts of Dominica and all other offices and authorities of Dominica shall be audited annually by the principal audit officer (by whatever name called) of Dominica, who, with his deputies, shall at all times be

entitled to have access to all books, records and returns relating to those accounts, and the principal audit officer shall make annual reports to the Administrator concerning the audit of those accounts which the Administrator shall cause to be laid before the Legislative Council.

(2) In the exercise of his functions under this section the principal audit officer shall not be subject to the direction or control of any other person or authority except the Director-General of the Overseas Audit Service.

(3) There shall be charged on the revenues of Dominica and paid thereout to the principal audit officer such salary as may from time to time be prescribed by any law enacted by the Legislature of Dominica:

Provided that the salary of the principal audit officer shall not be reduced during his continuance in office.

PART VII—TEMPORARY, TRANSITIONAL AND MISCELLANEOUS PROVISIONS

Transitional provisions relating to Legislative Council

67.—(1) Any reference to the Legislative Council in any Part of this Order other than Part IV shall be construed, in relation to any period before Part IV comes into operation, as a reference to the Legislative Council established by the Orders in Council set out in the First Schedule to this Order.

(2) Any reference to a period while the Legislative Council is dissolved in any Part of this Order other than Part IV shall be construed as including a reference to the period between the coming into operation of Part IV and the date on which the Legislative Council thereby established first meets.

(3) The provisions of the Dominica (Legislative Council) Order in Council, 1951(a) (as amended by the other Orders in Council set out in the First Schedule to this Order) specified in the first column of the Fifth Schedule to this Order shall (until Part IV of this Order comes into operation) have effect subject to the respective revocations and amendments specified in the second column of that Schedule.

(4) For the avoidance of doubts it is hereby declared that any appointment of a person as a Nominated Member or a temporary Member of the Legislative Council and any suspension of a Nominated Member or declaration that such a member is temporarily unable to discharge his functions as a member of the Legislative Council that is subsisting or in force at the date of commencement of this Order shall not cease to have effect by reason only of the coming into force of the amendments specified in the Fifth Schedule to this Order.

Standing Orders

68. The Standing Rules and Orders of the Legislative Council as in force immediately before Part IV of this Order comes into operation

(a) S.I. 1951/1392 (1951 II, p. 1349).

shall, with such adaptations and modifications as may be necessary to bring them into conformity with this Order, be the first Standing Orders of the Legislative Council established by this Order as if they had been made in pursuance of section 34 of this Order.

Transitional provisions relating to Executive Council

69.—(1) Until Part IV of this Order comes into operation—

(*a*) the member of the Executive Council without portfolio and any temporary member without portfolio shall, notwithstanding the provisions of subsection (2) of section 13 or subsection (1) of section 16 of this Order, be appointed by the Administrator, acting in his discretion, from among the nominated members of the Legislative Council, and

(*b*) the powers conferred on the Administrator by paragraph (*d*) of subsection (2) and paragraph (*b*) of subsection (3) of section 14 and by subsection (2) of section 16 of this Order shall, in relation to any such member of the Executive Council, be exercised by the Administrator acting in his discretion.

(2) For the avoidance of doubts it is hereby declared that a Minister or the member without portfolio shall not, for the purposes of paragraph (*b*) of subsection (2) of section 14 of this Order, be regarded as ceasing to be a member of the Legislative Council for any reason other than a dissolution thereof when the Orders in Council set out in the First Schedule to this Order cease to have effect.

Public officers to continue in service

70. Subject to the provisions of this Order, every person who, immediately before the date of commencement of this Order, holds a public office (except the office of Administrator) shall, as from that date, continue to hold the like office as if he had been appointed thereto in accordance with the provisions of this Order.

Existing laws

71.—(1) Notwithstanding the revocation of the instruments set out in the First and Second Schedules to this Order, all other laws which are in force in Dominica immediately before either of the respective dates on which those instruments are revoked shall (subject to amendment or repeal by the competent authority) continue in force thereafter but shall, subject to any such amendment and to any adaptation or modification made under subsection (3) of this section, be construed with such adaptations and modifications as may be necessary to bring them into conformity with the provisions of this Order.

(2) Without prejudice to the generality of the preceding subsection, any reference to the Governor of the Windward Islands in any such law which continues in force after the commencement of this Order shall, subject as provided in that subsection, be construed as a reference to the Administrator, and in subsection (2) of section 41 of the Dominica Order in Council, 1939, the reference to the Governor of the Leeward Islands shall be construed as a reference to the Administrator of the Colony of Dominica.

(3) (*a*) The Administrator may, by order made at any time within a period of one year commencing with the coming into operation of this subsection and published in the Gazette, make such adaptations and modifications in any law in force in Dominica immediately before the commencement of this Order as appear to him to be necessary or expedient by reason of anything contained in this Order.

(*b*) An order made under this subsection shall have effect from such date, not being earlier than the date of commencement of this Order, as may be specified therein, and may be revoked or amended in relation to any law affected thereby by the authority competent to repeal or amend that law.

(*c*) This subsection shall come into operation forthwith, and in relation to any period before the date of commencement of this Order the reference to the Administrator in this subsection shall be construed as if it were a reference to the Administrator of Dominica appointed under the Letters Patent set out in the Second Schedule to this Order.

Powers reserved to Her Majesty

72. Her Majesty hereby reserves to Herself power, with the advice of Her Privy Council, to revoke, add to or amend this Order and to make laws for the peace, order and good government of Dominica.

W. G. Agnew.

(Section 1 (3)) THE FIRST SCHEDULE

Orders in Council ceasing to have effect when Part IV of this Order comes into operation

The Dominica (Legislative Council) Order in Council, 1951
The Dominica (Legislative Council) (Amendment) Order in Council, 1953
The Dominica (Legislative Council) (Amendment) Order in Council, 1954
The Dominica (Legislative Council) (Amendment) Order in Council, 1955
The Dominica (Legislative Council) (Amendment) Order in Council, 1956
The Dominica (Legislative Council) (Amendment) Order in Council, 1957 } (a)

(Section 1 (4)) THE SECOND SCHEDULE

Letters Patent revoked in relation to Dominica

The Windward Islands Letters Patent, 1951.
The Windward Islands Letters Patent, 1954.
The Windward Islands Letters Patent, 1955.
The Windward Islands Letters Patent, 1958. } (b)

(Sections 3 (3), 18 and 35) THE THIRD SCHEDULE

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.

(a) S.I. 1951/1392, 1953/399, 1954/1037, 1955/1815, 1956/1580, 1957/1742 (1951 II, p. 1349; 1953 I, p. 583; 1954 I, p. 711; 1955 I, p. 679; 1956 I, p. 691; 1957 I, p. 182).
(b) 1951 II, p. 1445; 1954 II, p. 3011; 1955 II, p. 3229; 1958 II, p. 2892.

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*

I.....do swear that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of (here insert the description of the office). So help me God.

4. *Affirmation for due execution of office*

I.....do solemnly and sincerely affirm and declare that I will well and truly serve Her Majesty Queen Elizabeth the Second in the office of (here insert the description of the office).

(Section 3 (4))

THE FOURTH SCHEDULE

Salary and allowance of the Administrator

1. Salary	12,000 dollars per annum.
2. Duty allowance	2,880 dollars per annum.

(Section 67 (3))

THE FIFTH SCHEDULE

Revocation and amendments of provisions of the Dominica (Legislative Council) Order in Council, 1951

Provision of Order	*Revocation or amendment*
Section 1 ...	In subsection (1)— (*a*) at the end of the definition of " the Administrator " there shall be added the words " and, to the extent to which a deputy for the Administrator is authorised to act, that deputy "; (*b*) in the definition of " the Governor " the word " former " shall be inserted after the words " means the " and for the word " is " there shall be substituted the word " was "; (*c*) the words " the Governor or " shall be omitted from the definition of " Proclamation ". After subsection (1) there shall be inserted the following subsection:— " (1A) The Administrator shall not be obliged to obtain the advice of the Executive Council in relation to the exercise of any function conferred upon him by this Order which is expressed to be exercisable by him in his discretion."
Section 5 ...	For the words " the Crown Attorney " there shall be substituted the words " the principal law officer (by whatever name called) ", and the words " of Dominica " shall be added at the end of the section.
Sections 6, 12, 13, 14, 15, 17, 18 and 19.	For the words " the Governor " wherever they may occur there shall be substituted the words " the Administrator ", and in subsection (1) of section 15 for the words " Crown Attorney " there shall be substituted the words " the principal law officer "
Section 22 ...	The section is revoked.
Section 24 ...	The words " and of any Instructions from time to time addressed to the Governor under the Royal Sign Manual and Signet " in subsection (1) and the words " Subject to the provisions of any Instructions as aforesaid " in subsection (2) shall be omitted.

Provision of Order	*Revocation or amendment*
Section 26 ...	The section is revoked.
Section 27 ...	The section is revoked and in place thereof there shall be inserted the following section:—

"Assent to Bills.

27.—(1) A Bill shall not become law until either—

(*a*) the Administrator has assented thereto in Her Majesty's name and on Her Majesty's behalf and has signed the same in token of such assent; or

(*b*) Her Majesty has given Her assent thereto through a Secretary of State and the Administrator has signified such assent by proclamation.

(2) When a Bill is presented to the Administrator for assent he shall declare that he assents or refuses to assent thereto or that he reserves the Bill for the signification of Her Majesty's pleasure:

Provided that, unless he has been authorised by a Secretary of State to assent thereto, the Administrator shall reserve for the signification of Her Majesty's pleasure any Bill—

(*a*) which appears to him, acting in his discretion—

(i) to be inconsistent with any obligation of Her Majesty or of Her Majesty's Government in the United Kingdom towards any other state or power or any international organisation;

(ii) to be likely to prejudice the Royal prerogative, or the maintenance of law and order in Dominica, or the efficiency of the Judiciary or the Public Service or any part thereof;

(*b*) which is in any way repugnant to or inconsistent with the provisions of this Order."

Section 28 ...	For the words " the Governor " in subsection (2) there shall be substituted the words " the Administrator ".
Section 30 ...	For the words " the Governor " wherever they occur there shall be substituted the words " the Administrator ".
Section 32A ...	For the words " the Governor or the Administrator, as the case may be," there shall be substituted the words " the Administrator ".
Section 34 ...	For the words " the Crown Attorney " there shall be substituted the words " the principal law officer ".

EXPLANATORY NOTE

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

This Order makes new provision for the government of Dominica. In particular it provides for an Administrator appointed by Her Majesty, an Executive Council, and a Legislative Council and contains certain provisions relating to the Public Service and financial matters.