GOLD COAST

1952 No. 455

The Gold Coast (Constitution) (Amendment) Order in Council, 1952

Made - - - -	10*th March*, 1952
Laid before Parliament	11*th March*, 1952
Coming into Operation	*On a day to be appointed by the Governor under section* 1 (2)*

At the Court at Clarence House, the 10th day of March, 1952

Present,

The Queen's Most Excellent Majesty in Council

Whereas by the Gold Coast (Constitution) Order in Council, 1950(a), (hereinafter called "the principal Order") provision is made for the constitution of an Executive Council and a Legislative Assembly for the Gold Coast Colony, Ashanti, the Northern Territories of the Gold Coast and Togoland under United Kingdom Trusteeship:

And Whereas by the principal Order the power is reserved to Her Majesty, with the advice of Her Privy Council, to amend the said Order as to Her should seem fit:

And Whereas it is expedient to amend the principal Order in the manner hereinafter appearing:

Now, therefore, Her Majesty, by virtue and in exercise of the powers vested in Her by the British Settlements Acts, 1887 and 1945(b), the Foreign Jurisdiction Act, 1890(c), 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:—

Short Title and commencement

1.—(1) This Order may be cited as the Gold Coast (Constitution) (Amendment) Order in Council, 1952, and shall be construed as one with the principal Order; and the principal Order and this Order may be cited together as the Gold Coast (Constitution) Orders in Council, 1950 and 1952.

(2) This Order shall be published in the Gazette and shall come into operation on a day to be appointed by the Governor by Proclamation in the Gazette, which day shall not be earlier than the day after the day on which this Order shall have been laid before both Houses of Parliament.*

(a) S.I. 1950/2094; 1950 I, p. 831.
(b) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7.
(c) 53 & 54 Vict. c. 37.
* The date thus appointed was 21st March, 1952.

Amendment of section 1 (1) *of the principal Order*

2. In subsection (1) of section 1 of the principal Order, immediately after the definition of "the Northern Territories", there shall be inserted the following:—

'"the Prime Minister" means the person appointed as such under this Order;'

Amendment of section 4 *of the principal Order*

3. In section 4 of the principal Order, immediately after the word "Council", there shall be inserted the words and brackets "(which may be referred to otherwise as 'the Cabinet')".

Amendment of section 6 (1) *of the principal Order*

4. In pararaph (*a*) of subsection (1) of section 6 of the principal Order, immediately after the word "discretion", there shall be inserted the words "or after consultation with the Prime Minister".

Insertion of new section 7A in principal Order

5. Immediately after section 7 of the principal Order there shall be inserted the following new section:—

"Prime Minister.

7A.—(1) There shall be a Prime Minister, who shall be appointed in accordance with the provisions of subsection (2) of this section, and who, by virtue of such appointment, shall be a Representative Member of the Executive Council; and, save as is otherwise expressly provided in this Order, the provisions of this Order shall apply accordingly.

(2) Whenever there shall be occasion for the appointment of a Prime Minister—

(i) the Governor, acting in his discretion, shall submit to the Assembly, for its approval, the name of the person, being a Member of the Assembly, whom he proposes for appointment;

(ii) the Assembly shall, before the conclusion of the meeting in which the name of any person proposed for appointment as Prime Minister has been submitted to it in accordance with the provisions of paragraph (i) of this subsection, consider and resolve whether the appointment of such person shall be approved;

(iii) the Governor shall, by Instrument under the Public Seal, appoint to be Prime Minister the person of whose appointment the Assembly shall by resolution approve as provided in paragraph (ii) of this subsection.

(3) The office of Prime Minister shall become vacant if the holder thereof for the time being ceases to be a Member of the Executive Council."

Amendment of section 8 *of the principal Order*

6. Section 8 of the principal Order shall be amended as follows:—

(i) immediately after the words "Representative Members" there shall be inserted the words "(other than the Prime Minister)";

(ii) in paragraph (i), for the words " acting in his discretion ", there shall be substituted the words " after consultation with the Prime Minister ".

Amendment of Section 9 (3) *of the principal Order*

7. In subsection (3) of section 9 of the principal Order, for the words " If the Governor, acting in his discretion, shall consider that any Representative Member has failed to carry out any policy or decision of the Executive Council, he ", there shall be substituted the words " The Governor, after consultation with the Prime Minister," and for the word " such ", where that word first occurs, there shall be substituted the words " a Representative ".

Amendment of section 10 *of the principal Order*

8. Section 10 of the principal Order shall be amended as follows:—

(i) Subsection (1) shall be revoked and the following two subsections shall be substituted therefor:—

" (1) Whenever the office of Prime Minister has become vacant, and a person has been appointed to be Prime Minister in accordance with the provisions of subsection (2) of section 7A of this Order, the seats of all the other Representative Members of the Executive Council shall become vacant.

(2) The seat of a Representative Member of the Executive Council shall in any case become vacant—

(*a*) if he shall cease to be a Member of the Assembly:

Provided that, if a Member of the Executive Council shall cease to be a Member of the Assembly by reason of a dissolution thereof, he shall not on that account vacate his seat in the Executive Council until such time as the Assembly shall, after such dissolution, have resolved that a person shall be appointed to be Prime Minister in accordance with the provisions of subsection (2) of section 7A of this Order ; or

(*b*) if he shall be absent from the Gold Coast without written permission given by the Governor after consultation with the Prime Minister ".

(ii) Subsections (2), (3) and (4) shall be renumbered as subsections (3), (4) and (5) respectively.

Amendment of section 13 *of the principal Order*

9. In paragraph (i) of subsection (3) of section 13 of the principal Order, for the words " acting in his discretion " there shall be substituted the words " after consultation with the Prime Minister ".

Amendment of section 14 *of the principal Order*

10. Section 14 of the principal Order shall be amended as follows:—

(*a*) in paragraph (i) the word " when " shall be substituted for the word " When " ;

(*b*) paragraph (i) shall be renumbered paragraph (i*a*) ; and

(*c*) there shall be inserted immediately before such paragraph (*ia*) the following paragraph:—

"(i) When, under the provisions of subsection (2) of section 7A of this Order, the Assembly shall consider and resolve whether the appointment of a person to be Prime Minister shall be approved; or".

Revocation of section 15 *of the principal Order*

11. Section 15 of the principal Order shall be revoked.

Amendment of section 16 (1) *of the principal Order*

12. In subsection (1) of section 16 of the principal Order, for the words "Chief Secretary" there shall be substituted the words "Prime Minister", and for the words "Leader of Government Business" there shall be substituted the words "Member of the Executive Council styled Minister of Defence and External Affairs under subsection (4) of section 23 of this Order".

Amendment of section 17 *of the principal Order*

13. In section 17 of the principal Order, for the words "Chief Secretary" where they occur therein, there shall be substituted the words "Prime Minister", and the following words shall be added at the end of the section:—

"For the purposes of this section, the expression "the Governor" shall not include a Deputy for the Governor".

Amendment of section 19 (1) *of the principal Order*

14. In subsection (1) of section 19 of the principal Order, immediately after the word "request", there shall be inserted the words "of the Prime Minister or", and for the word "eight" there shall be substituted the word "six".

Revocation and re-enactment of section 22 *of the principal Order*

15. Section 22 of the principal Order shall be revoked, and the following new section shall be substituted therefor:—

"Assignment of Departments.

22.—(1) The Governor, acting in his discretion, may by directions in writing—

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

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

(2) Subject to any exercise of powers conferred by subsection (1) of this section, the Governor, after consultation with the Prime Minister, may by directions in writing—

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

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

Amendment of section 23 *of the principal Order*

16. In section 23 of the principal Order there shall be inserted the following new subsection:—

" (4) The *ex officio* Members of the Executive Council shall be styled the Minister of Defence and External Affairs, the Minister of Justice and the Minister of Finance ".

Amendment of section 24 *of the principal Order*

17. In section 24 of the principal Order, for the words " acting in his discretion ", wherever they occur therein, there shall be substituted the words " after consultation with the Prime Minister ", and for the word " Member ", where that word first occurs, there shall be substituted the words " Representative Member ".

Amendment of section 25 *of the principal Order*

18. In section 25 of the principal Order, immediately after the word " Governor ", there shall be inserted the words " after consultation with the Prime Minister ".

Amendment of section 26 *of the principal Order*

19. Section 26 of the principal Order shall be amended as follows:—

(i) in subsection (1), for the words " Every Ministerial Secretary shall hold office during the Governor's pleasure: Provided that ", there shall be substituted the words " The Governor, after consultation with the Prime Minister, may at any time revoke the appointment of a Ministerial Secretary: and ";

(ii) in subsection (3), immediately after the word " Governor " there shall be inserted the words " after consultation with the Prime Minister ".

Amendment of section 28 *of the principal Order*

20. In section 28 of the principal Order, the figure " (1) " shall be omitted and for the words " the Chief Secretary and the Leader of Government Business " in paragraph (*a*) there shall be substituted the words " the Prime Minister and the Minister of Defence and External Affairs ".

Amendment of section 30 *of the principal Order*

21. In section 30 of the principal Order for the words " Minister or Ministerial Secretary " there shall be substituted the words " any *ex officio* Member and, after consultation with the Prime Minister, to any Representative Member or Ministerial Secretary ".

Amendment of section 48 (1) *of the principal Order*

22. In subsection (1) of section 48 of the principal Order, the words and commas " , qualified as provided in subsection (1) of section 39 of this Order," shall be omitted.

Amendment of section 57 *of the principal Order*

23. Section 57 of the principal Order shall be amended as follows:—

(i) in paragraph (*c*) of subsection (3) for the words " by a Secretary of State " there shall be substituted the words " in the case of a public officer not in the local service, by a Secretary of State, and, in the case of a public officer in the local service, by the Governor, acting in his discretion ";

(ii) the following new subsection shall be inserted immediately after subsection (3):—

"(3A) For the purposes of this section, the local service shall consist of such persons as may be determined by or in pursuance of any order made by the Governor, acting in his discretion.

(3B) Any order made under subsection (3A) of this section may be varied or revoked by a subsequent order made in like manner".

Amendment of section 66 of the principal Order

24. In section 66 of the principal Order, the figure "(1)" shall be inserted immediately after the figure "66" and the following new subsections shall be inserted:—

"(2) The Governor, acting in his discretion, may, by order published in the Gazette, provide for the delegation to any public officer, subject to such conditions as may be prescribed in any such order, of any of the powers vested in the Governor by subsection (1) of this section.

(3) In exercise of his powers under subsection (2) of this section, the Governor shall not delegate to any public officer the power to appoint, promote or transfer to any public office which carries an initial salary exceeding £250 per annum or to dismiss from any public office which carries a salary exceeding £250 per annum.

(4) Any order made under subsection (2) of this section may be varied or revoked by a subsequent order made in like manner."

Vacation of seats of Representative Members

25. Upon the commencement of this Order the seats of all the Representative Members of the Executive Council shall become vacant, and shall be filled in accordance with the provisions of the principal Order as amended by this Order.

Power to revoke or amend this Order

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

F. J. Fernau.

EXPLANATORY NOTE.

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

This Order in Council, which amends the Gold Coast (Constitution) Order in Council, 1950, creates the office of Prime Minister, and makes certain alterations to the provisions dealing with the Executive Council, consequent upon the creation of that office.