WEST AFRICA

ADMINISTRATION GENERALLY

GOLD COAST

1955 No. 1218

The Gold Coast (Constitution) (Amendment) Order in Council, 1955

Made - - - -	*29th July*, 1955
Laid before Parliament	*4th August*, 1955
Coming into Operation	*On a date to be appointed under Section* 1 (2)*

At the Court at Goodwood House, the 29th day of July, 1955

Present,

The Queen's Most Excellent Majesty in Council

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

Citation, construction and commencement

1.—(1) This Order may be cited as the Gold Coast (Constitution) (Amendment) Order in Council, 1955, and shall be construed as one with the Gold Coast (Constitution) Order in Council, 1954(c), hereinafter referred to as "the principal Order"; and the principal Order and this Order may be cited together as the Gold Coast (Constitution) Orders in Council, 1954 and 1955.

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

Amendment of section 1 *of the principal Order*

2. In section 1 of the principal Order the following amendments shall be made:—

(*a*) in subsection (2) there shall be inserted between the words "shall" and "be", the words "unless the context otherwise requires";

(*b*) in subsection (3) for the fullstop at the end thereof there shall be substituted a semi-colon and thereafter there shall be added the following new paragraph:—

"(*d*) in the case of a power to make an appointment to a public office, to direct that a person shall perform the functions of

(a) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7.
(b) 53 & 54 Vict. c. 37.
(c) S.I. 1954/551 (1954 II, p. 2788).
* Date appointed, 5.8.55.

that office when no person has been appointed thereto, either until a contrary direction shall be given by the person or authority having power to make the appointment or until a person shall have been appointed substantively thereto whichever shall be the earlier ." ;

(*c*) in paragraph (*c*) of subsection (5) for the words " and the expression ' public office ' and " there shall be substituted the comma and words :—

", the expression ' public office ' shall not include an office the remuneration of the holder of which is calculated on a daily rate and which in respect of normal hours of work does not amount annually to a sum exceeding £300 and the expression ".

Insertion of new section 36A in the principal Order

3. Immediately after section 36 of the principal Order there shall be inserted the following new section :—

"Compulsory acquisition of property.

36A.—(1) No property, movable or immovable, shall be taken possession of or acquired compulsorily except by or under the provisions of a law which, of itself or when read with any other law in force in the Gold Coast—

(*a*) requires the payment of adequate compensation therefor ;

(*b*) gives to any person claiming such compensation a right of access, for the determination of his rights (if any), including the amount of compensation, to the Supreme Court of the Gold Coast ;

(*c*) gives to any party to proceedings in the Supreme Court relating to such a claim the same rights of appeal as are accorded generally to parties to civil proceedings in that Court sitting as a court of original jurisdiction.

(2) (*a*) Nothing in this section shall affect the operation of any existing law.

(*b*) In this subsection the expression ' existing law ' means a law in force in the Gold Coast prior to the date of commencement of this section, and includes a law made after that date which amends or replaces any such law as aforesaid (or such a law as from time to time amended or replaced in the manner described in this paragraph) and which does not

(i) add to the kinds of property which may be taken possession of or acquired ; or

(ii) add to the purpose for which or circumstances in which such property may be taken possession of or acquired ; or

(iii) make the conditions governing entitlement to any compensation or the amount thereof less favourable to any person owning or interested in the property ; or

(iv) deprive any person of any right such as is mentioned in paragraph (*b*) or paragraph (*c*) of subsection (1) of this section.

(3) It is hereby declared that nothing in this section shall be construed as affecting any law—

(*a*) for the imposition or enforcement of any tax, rate or due; or

(*b*) for the imposition of penalties or forfeitures for breach of the law whether under civil process or after conviction of an offence; or

(*c*) relating to leases, tenancies, mortgages, charges, bills of sale or any other rights or obligations arising out of contracts; or

(*d*) relating to the vesting and administration of the property of persons adjudged bankrupt or otherwise declared insolvent, of persons of unsound mind, of deceased persons, and of companies, other corporate bodies and unincorporated societies in the course of being wound up; or

(*e*) relating to execution of judgment or orders of Courts; or

(*f*) providing for the taking of possession of property which is in a dangerous state or is injurious to the health of human beings, plants or animals; or

(*g*) relating to enemy property; or

(*h*) relating to trusts and trustees; or

(*i*) relating to the limitation of actions; or

(*j*) relating to property vested in statutory corporations; or

(*k*) relating to the temporary taking of possession of property for the purposes of any examination, investigation or inquiry; or

(*l*) providing for the carrying out of work on land for the purpose of soil conservation.

(4) The provisions of this section shall apply to the compulsory taking of possession or acquisition of property, movable or immovable, by or on behalf of the Crown."

Amendment of section 56 of the principal Order

4. Section 56 of the principal Order shall be renumbered as section 56 (1), and the following subsection shall be added thereto :—

" (2) Subject to the provisions of section 58 of this Order, all public officers appointed before the date upon which this section comes into operation, and in office on that date, to whom the provisions of Part I of the Third Schedule to this Order apply shall continue in their offices as if they had been appointed under those provisions."

Amendment of section 63 of the principal Order

5. Section 63 of the principal Order shall be renumbered as section 63 (1) and the following two subsections shall be added thereto :—

" (2) Subject to the provisions of section 58 of this Order, all Judges of the Supreme Court and all judicial officers appointed before the date on which this section comes into operation, and in office on that

date, shall continue in their offices as if they had been appointed under the provisions of this Part of this Order amended in accordance with the provisions of Part II of the Third Schedule to this Order.

(3) The provisions of subsection (2) of this section shall be without prejudice to the provisions of subsection (5) of section 60 of this Order."

Amendment of Second Schedule to the principal Order

6. There shall be inserted at the end of sub-paragraph (*c*) (i) of paragraph 1 of the Second Schedule to the principal Order the following words :—

" including, notwithstanding the provisions of section 53 contained in Part I of the Third Schedule to this Order, the appointment promotion, transfer, termination of appointment, dismissal and disciplinary control of a police officer where a recommendation of the Public Service Commission in relation thereto would, if implemented, in the opinion of the Governor, acting in his discretion, be prejudicial to the organisation or discipline of the Gold Coast Police ".

Amendment of Third Schedule to the principal Order

7. In the Third Schedule to the principal Order the following amendments shall be made:—

(*a*) in Part I in subsection (7) of section 52 there shall be inserted, immediately after the word " Coast ", the words " and shall not be diminished during his term of office " ;

(*b*) in Part I for section 53 there shall be substituted the following new section:—

"Public Officers.

53.—(1) Subject to the provisions of section 17 of this Order and of sub-paragraph (*c*) (i) of paragraph 1 of the Second Schedule to this Order the appointment, promotion, transfer, termination of appointment, dismissal and disciplinary control of public officers (other than the Deputy Governor, Judges of the Supreme Court, judicial officers and the Auditor-General) is hereby vested in the Governor acting on the recommendation of the Public Service Commission except in the case of appointments, promotions and transfers to the office of Attorney-General or the office of Secretary to the Judicial Service Commission or to any special post or special oversea post.

(2) Appointments, promotions and transfers to the office of Attorney-General shall be made by the Governor after consultation with the Prime Minister.

(3) Appointments, promotions and transfers to a special post, not being a special oversea post, shall be made by the Governor after consultation with the Prime Minister and the Public Service Commission.

(4) Appointments, promotions and transfers to a special oversea post, and dismissals from such a post, shall be made or ordered by the Governor acting on the advice of the Prime Minister.

(5) (*a*) For the purposes of this section the expression 'special post' means the post of Permanent Secretary and posts of a corresponding or higher grade (other than the post of Attorney-General) in the public service and the expression 'special oversea post' means a non-pensionable post the occupant of which is normally required to reside outside the Gold Coast when on duty and for which the salary is not less than one thousand and eight hundred pounds *per annum*.

(*b*) In this section the expression 'transfer' means the conferment, whether permanently or otherwise, of some public office other than that to which the officer was last substantively appointed, not being a promotion; but the posting of a public officer to occupy a like office in a different location shall not be regarded for this purpose as the conferment of a different public office.

(6) The Public Service Commission shall not make any recommendation to the Governor under subsection (1) of this section to terminate the appointment of, or dismiss, or inflict any other punishment on a public officer on the grounds of any act done or omitted to be done by that officer in the exercise of a judicial function conferred upon him unless the Judicial Service Commission concurs in the making of the recommendation.

(7) Any petition addressed to the Governor relating to the exercise by the Governor of his functions under the provisions of this section shall be determined in like manner by the Governor as provided for the exercise of the function in relation to which the petition is made.";

(*c*) in Part I for the word and figure "subsection (1)" in paragraph (*g*) of section 55 there shall be substituted the words and figures "subsections (1) and (7)";

(*d*) for Part II there shall be substituted the following new Part:—

"PART II

1. For the words "after consultation with the Judicial Service Commission" in subsection (1) of section 60 and subsection (1) of section 62 of this Order there shall be substituted the words "on the recommendation of the Judicial Service Commission".

2. In section 61 of this Order for subsection (3) there shall be substituted the following new subsection:—

'(3) The Governor, acting on the recommendation of the Judicial Service Commission, may make regulations for all or any of the following matters:—

(*a*) the exercise by such Commission of any of its functions;

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

(*c*) the appointment, tenure of office and terms of service of staff other than the secretary to assist such Commission in the performance of its functions;

(*d*) the delegation to any member of such Commission of all or any of the powers or duties of the Commission other than the powers conferred and the duties imposed by subsection (1) of section 60 and subsections (1) and (1A) of section 62 of this Order;

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

Provided that no such penalty shall exceed a fine of one hundred pounds and imprisonment for a term of one year;

(*f*) the protection and privileges of members of the Commission in respect of the performance of their duties and the privilege of communications to and from the Commission and its members in case of legal proceedings.'

3. In section 62 of this Order, immediately after subsection (1), there shall be inserted the following new subsection:—

'(1A) Any petition addressed to the Governor relating to the exercise by the Governor of his functions under the provisions of this section shall be determined by the Governor acting on the recommendation of the Judicial Service Commission.'

and for subsection (4) of section 62 of this Order there shall be substituted the following new subsection:—

'(4) In subsection (1) of this section the expression 'transfer' means the conferment, whether permanently or otherwise, of some judicial office other than that to which the officer was last substantively appointed, not being a promotion; but the posting of a judicial officer to occupy a like office in a different location shall not be regarded for this purpose as the conferment of a different judicial office.'"

Amendment of Table in Fourth Schedule to the principal Order

8. In the Table to the Fourth Schedule to the principal Order for the line commencing with the figures "25" and the six subsequent lines there shall be substituted the following new lines:—

"25	...	·26	·31	·37	·44	·52			
26	...	·29	·34	·43	·53	·63	·72		
27	...	·33	·41	·52	·64	·73	·83	·94	
28	...	·38	·48	·60	·74	·85	·97	1·09	1·24
29	...	·43	·56	·70	·84	·99	1·14	1·28	1·42
30	...	·49	·65	·81	·97	1·13	1·30	1·46	1·62
31	...	·56	·76	·94	1·12	1·31	1·50	1·68	1·87"

Power to revoke or amend this Order

9. 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.

W. G. Agnew.

EXPLANATORY NOTE

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

This Order in Council amends the Gold Coast (Constitution) Order in Council, 1954, by the insertion of a section designed to secure that, in the event of property being compulsorily acquired, adequate compensation will be paid.

It also makes a number of amendments to Parts VI and VII of the Order of 1954, which relate respectively to the Public Service and the Judicature.

1955 No. 1219

The Gold Coast (Constitution) (Amendment No. 2) Order in Council, 1955

Made - - - -	*29th July*, 1955
Laid before Parliament	*4th August*, 1955
Coming into Operation	*On a date to be appointed under Section* 1 (3)*

At the Court at Goodwood House, the 29th day of July, 1955

Present,

The Queen's Most Excellent Majesty in Council

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

Citation, construction and commencement

1.—(1) This Order may be cited as the Gold Coast (Constitution) (Amendment No. 2) Order in Council, 1955.

(2) This Order shall be construed as one with the Gold Coast (Constitution) Order in Council, 1954(**c**) (hereinafter referred to as "the principal Order"), and the principal Order, the Gold Coast (Constitution) (Amendment) Order in Council, 1955(**d**), and this Order may be cited together as the Gold Coast (Constitution) Orders in Council, 1954 and 1955.

(3) This Order shall come into operation upon the date of publication 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.

Application of section 60 (5) *of principal Order*

2. The provisions of subsection (5) of section 60 of the principal Order shall apply to any person holding office as a Judge of the Supreme

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(**a**) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7. (**b**) 53 & 54 Vict. c. 37.
(**c**) S.I. 1954/551 (1954 II, p. 2788). (**d**) S.I. 1955/1218 (p. 3150 above).
* Date appointed, 5.8.55.