JAMAICA

1953 No. 747

The Jamaica (Constitution) Order in Council, 1953

Made - - - - 30*th April*, 1953
Coming into Operation *On a date to be proclaimed in the Jamaica Gazette in accordance with section* 12.*

At the Court at Windsor Castle, the 30th day of April, 1953

Present,

The Queen's Most Excellent Majesty in Council

Whereas by the Jamaica (Constitution) Order in Council, 1944(**a**), (hereinafter called "the principal Order") as amended by the Jamaica (Constitution) Order in Council, 1949(**b**), and the Jamaica (Constitution) (No. 2) Order in Council, 1949(**c**), (hereinafter together called "the amending Orders") provision is made for a Government and Legislature of the Island of Jamaica and the Dependencies thereof:

And Whereas it is expedient that the principal Order should be amended in the manner following:

Now, therefore, Her Majesty, by virtue and in exercise of the powers conferred by the Jamaica Act, 1866(**d**), and the enactments of the Legislature of the Island of Jamaica therein mentioned, or otherwise in Her Majesty vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Short titles and construction

1.—(1) This Order may be cited as the Jamaica (Constitution) Order in Council, 1953, and shall be construed as one with the principal Order.

(2) The principal Order, the amending Orders and this Order may be cited together as the Jamaica (Constitution) Orders in Council, 1944 to 1953.

Ministers to replace Elected Members in Executive Council

2.—(1) With effect from the commencement of this Order, the offices of the Elected Members of the Executive Council shall cease to exist, and the principal Order shall be construed as if—

(*a*) the words "and five persons who (save as aforesaid) are Members of the House of Representatives, who shall be styled Elected Members" were deleted from section 10;

(*b*) section 13 were deleted.

(a) S.R. & O. 1944/1215; Rev. XI, p. 112; 1944 I, p. 378.
(b) S.I. 1949/1436; 1949 I, p. 2372. (c) S.I. 1949/2201; 1949 I, p. 2373.
(d) 29 & 30 Vict. c. 12.

* Date proclaimed, 5.5.53.

(2) In place of the Elected Members of the Executive Council, there shall be eight Ministers, one of whom shall be the Chief Minister, who by virtue of their respective appointments shall be Members of the Executive Council.

(3) The Chief Minister shall be appointed in accordance with the provisions of subsection (1) of section 3 of this Order and the other Ministers shall be appointed in accordance with the provisions of subsection (2) of section 3 of this Order.

(4) Subject to the provisions of sections 4 and 5 of this Order, all references to Elected Members in Part III of the principal Order shall be construed as if they were references to the Ministers appointed in accordance with the provisions of subsection (1) or subsection (2) of section 3 of this Order and, subject as aforesaid, the provisions of the principal Order shall be construed and have effect accordingly.

Appointment of Ministers

3.—(1) Whenever there shall be occasion for the appointment of a Chief Minister—

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

(ii) the House shall, before the conclusion of the meeting in which the name of any person proposed for appointment as Chief 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 Broad Seal, appoint to be Chief Minister the person of whose appointment the House shall by resolution approve as provided in paragraph (ii) of this subsection.

(2) Whenever there shall be occasion for the appointment of a Minister other than the Chief Minister the Governor shall, on the recommendation of the Chief Minister, by Instrument under the Broad Seal, appoint to be such Minister a person from among the Members of the House of Representatives.

Construction of section 14 *of principal Order*

4. Section 14 of the principal Order shall be construed as if—

(*a*) subsection (2) thereof were deleted and there were substituted therefor the following subsection:—

"(2) (*a*) The House of Representatives may, by resolution in favour of which there are cast the votes of a majority of all Members of the House, recommend the revocation of the appointment of the Chief Minister, and, upon the passing of such resolution, the Governor shall, by Instrument under the Broad Seal, revoke the appointment of the Chief Minister with effect from the date of the first meeting of the House to be held thereafter; and the seats of all the Ministers in the Executive Council shall become vacant upon such date:

Provided that the Governor may, according to his discretion, dissolve the Chambers in accordance with sub-section (1) of section 57 of this Order instead of revoking the appointment of the Chief Minister;

(*b*) The Chief Minister may recommend the revocation of the appointment of any other Minister, and upon receipt of such recommendation, the Governor shall, by Instrument under the Broad Seal, revoke the appointment of the Minister to whom the recommendation relates, and the seat of such Minister in the Executive Council shall thereupon become vacant." ;

(*b*) the following sub-section were inserted after sub-section (3) thereof

" (3A) If the seat of the Chief Minister in the Executive Council becomes vacant for any cause other than the revocation of his appointment, then the seats in the Executive Council of the other Ministers shall become vacant at the first meeting of the House held thereafter."

Temporary appointments

5.—(1) Whenever there shall be a vacancy in the number of persons sitting in the Executive Council as Ministers by reason of the fact that a Minister—

(*a*) is declared by the Governor by an Instrument under the Broad Seal to be incapable of discharging his functions as a Member of the Executive Council ; or

(*b*) is absent from Jamaica,

the Governor shall on the recommendation of the Chief Minister, by Instrument under the Broad Seal, appoint a person from among the Members of the House of Representatives to be a Member of the Executive Council for the period of the vacancy.

(2) The Chief Minister may recommend the revocation of the appointment of a Member of the Council appointed under this section, and upon receipt of such recommendation, the Governor shall, by Instrument under the Broad Seal, revoke the appointment of the Member to whom the recommendation relates.

(3) An appointment under this section shall cease to have effect on notification by the Governor of revocation under subsection (2) of this section, or when the vacancy shall cease to exist.

For the purposes of this subsection an Instrument made under paragraph (*a*) of subsection (1) of this section shall have effect until it is revoked by an Instrument made in like manner.

(4) The provisions of section 16 of the principal Order shall not apply to Ministers.

Assignment of Departments

6.—(1) The Governor, according to his discretion, may by directions in writing—

(*a*) charge any Official 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 the exercise of any powers conferred by subsection (1) of this section, the Governor, on the recommendation of the Chief Minister, shall by directions in writing—

(*a*) charge any Minister with the responsibility for any Department or subject ; and

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

Temporary assignment of Departments

7. If it shall be decided by the Governor, according to his discretion, that a Member of the Executive Council is for any cause temporarily unable to administer any Department or subject with the responsibility for which he is charged, then the Governor, according to his discretion, may, by directions in writing, charge any other Member of the Executive Council, not being a Nominated Member, with the responsibility for that Department or subject until such time as the said Member is declared by the Governor, according to his discretion, again to be able to administer the same. The Governor, according to his discretion, may, by directions in writing, revoke or vary any directions given under this section.

Construction of sections 27 (2), 28 (2) (*e*), 37 (4) *and* 39 (1) (*e*) *of principal Order*

8. The principal Order shall be construed as if for the words " imprisonment for a term exceeding twelve months " in paragraph (2) of section 27, paragraph (*e*) of subsection (2) of section 28, paragraph (4) of section 37 and paragraph (*e*) of subsection (1) of section 39 there were substituted the words " imprisonment for a term of or exceeding six months ".

Construction of section 47 *of principal Order*

9. Section 47 of the principal Order shall be construed as if subsections (2) and (3) thereof were deleted and the following three subsections were substituted therefor :—

" (2) The Governor shall not make any declaration under this section except in accordance with the following conditions, that is to say :—

(*a*) the question whether the declaration should be made shall first be submitted in writing by the Governor to the Executive Council and if, upon the question being so submitted to it, the Executive Council shall resolve that the declaration be made, the Governor may make the declaration ;

(*b*) if, when the question whether the declaration should be made is submitted to it as aforesaid, the Executive Council shall not within such time as the Governor may think reasonable and expedient resolve that the declaration be made, then—

(i) the Governor may submit the said question to a Secretary of State and may make the declaration if, upon the question being so submitted to him, a Secretary of State authorises the Governor to make the declaration ; or

(ii) the Governor may make the declaration without submitting the said question to a Secretary of State, if in the Governor's opinion urgent necessity requires that the declaration be made without obtaining the authority of a Secretary of State ; in which case the Governor shall, at the time of making the declaration, certify in writing that urgent necessity requires that the declaration be made without obtaining such authority.

(3) Whenever the Governor, in accordance with the provisions of paragraph (*b*) of subsection (2) of this section, shall submit to a Secretary of State the question whether a declaration should be made, or shall make a declaration without submitting the said question to a Secretary of State, he shall inform the Executive Council in writing of his reasons for so doing.

(3*a*) Whenever the Governor shall make a declaration under this section, other than a declaration made with the authority of a Secretary of State, he shall forthwith report to a Secretary of State the making of, and the reasons for, the declaration and, in the case of a declaration made in accordance with the provisions of subparagraph (ii) of paragraph (*b*) of subsection (2) of this section, the grounds of urgency."

Construction of section 49 of principal Order

10. Section 49 of the principal Order shall be construed as if the words " with the approval of the Executive Council " were deleted.

Construction of section 55 of principal Order

11. Section 55 of the principal Order shall be construed as if the words " If the Executive Council so resolve " in subsection (2) thereof were deleted.

Commencement

12. This Order shall come into operation on a date to be fixed by the Governor by Proclamation in the Gazette, and shall be published in the Gazette.*

W. G. Agnew.

EXPLANATORY NOTE

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

The Order in Council provides for a change in the membership of the Executive Council. In place of the present five Elected Members, who are elected by the members of the House of Representatives from among their own number, there are to be eight Ministers who will be selected from amongst the Members of the House of Representatives. Of these, one will be the Chief Minister, who will be appointed by the Governor after approval by the House of Representatives. The remaining seven Ministers will be appointed by the Governor on the recommendation of the Chief Minister.

The Order also makes provision for charging Members of the Executive Council with responsibility for departments or subjects.

Provision is also made enabling the Governor to exercise his reserved legislative power without the consent of the Executive Council.

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* Date fixed, 5.5.53