4. KAMARAN

The Kamaran Order in Council, 1949

1949 No. 137

Made - - - -	*28th January*, 1949
Laid before Parliament	*31st January*, 1949
Coming into Operation	*1st February*, 1949

At the Court at Sandringham, the 28th day of January, 1949

Present,

The King's Most Excellent Majesty in Council

Whereas by treaty grant, usage, sufferance or other lawful means His Majesty has power and jurisdiction within the Island of Kamaran:

And Whereas it is expedient to make provision for the exercise of such jurisdiction:

Now, therefore, His Majesty, by virtue and in exercise of the power in this behalf by the Foreign Jurisdiction Act, 1890(a), or otherwise in His Majesty vested, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

Short title and commencement.

1. This Order may be cited as the Kamaran Order in Council, 1949, and shall come into operation on the First day of February, 1949.

Interpretation.

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

" Governor " means the Governor and Commander in Chief for the time being of the Colony of Aden and includes every person for the time being administering the Government of the Colony and, to the extent to which a Deputy for the Governor is authorised to act, that Deputy;

" Commissioner " means the Commissioner of Kamaran, and includes every person for the time being acting as Commissioner thereof;

" Civil Administrator " means the officer appointed under that title by the Government of India to administer Kamaran before the commencement of this Order;

" The Colony " means the Colony of Aden;

" Kamaran " means the Island of Kamaran and those islands adjacent thereto which are specified in the Schedule to this Order;

" The Gazette " means the Gazette of the Colony.

(a) 53 & 54 Vict. c. 37.

(2) The Interpretation Act, 1889(a), shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

Governor.

3.—(1) The Governor shall be the Governor of Kamaran, and he is hereby empowered and commanded to exercise on His Majesty's behalf all such powers and jurisdiction as His Majesty now has, or may from time to time have, therein, and to that end to take or cause to be taken all such measures and to do or cause to be done all such things therein as in the interest of His Majesty's service he may think expedient.

(2) The power of the Governor under section 9 of the Aden Colony Order, 1936(b), to appoint a Deputy shall apply in relation to the powers and authorities vested in him in respect of Kamaran as it applies to the powers and authorities vested in him in respect of the Colony.

Governor to observe instructions.

4. The Governor is hereby empowered and commanded to do all things that belong to his said Office in accordance with such Commission as may be issued to him under His Majesty's Sign Manual and Signet, such Instructions as may from time to time be addressed to him under His Majesty's Sign Manual and Signet or through a Secretary of State, and such Orders in Council and other laws as may from time to time be in force in Kamaran.

Official stamp.

5. There shall be an Official Stamp for Kamaran. The Governor shall keep and use the Official Stamp for stamping all such documents as may be by law required to be stamped therewith.

Power to make laws.

6.—(1) The Governor may make laws for the peace, order and good government of Kamaran.

(2) All laws shall be published by being posted at the office of the Commissioner at Kamaran and at such other places in Kamaran as the Governor may from time to time direct.

(3) Any such law may be disallowed by His Majesty through a Secretary of State.

(4) Whenever any such law has been disallowed by His Majesty, the Governor shall cause notice of such disallowance to be published in the manner prescribed in subsection (2) of this section for the publication of laws.

(5) Every law so disallowed shall cease to have effect as soon as notice of such disallowance shall be published as aforesaid; and thereupon any enactment repealed or amended by or in pursuance of the law disallowed shall have effect as if such law had not been made. Subject as aforesaid, the provisions of subsection (2) of Section 38 of the Interpretation Act, 1889(a), shall apply to such disallowance as they apply to the repeal of an Act of Parliament.

Powers of legislation reserved to Crown.

7. His Majesty hereby reserves to Himself, His Heirs and Successors power, with the advice of His or their Privy Council, from time to time, to make laws for the peace, order and good government of Kamaran.

Appointment of officers.

8. The Governor may constitute and appoint all such judges and officers as may be lawfully constituted or appointed by His Majesty, all of whom unless otherwise provided by law, shall hold their offices during His Majesty's pleasure.

(a) 52 & 53 Vict. c. 63. (b) S.R. & O. 1936 (No. 1031) I, p. 1.

Commissioner.

9.—(1) There shall be a Commissioner for Kamaran.

(2) The Commissioner shall be appointed by the Governor. The Governor may, as occasion may require, appoint a person to act in the office of Commissioner, and may revoke any such appointment. The Commissioner shall hold office during His Majesty's pleasure.

(3) The Governor may by Order under his hand delegate to the Commissioner, subject to such conditions, if any, as may be specified in the Order, all or any of the powers of the Governor under this Order except the power to make appointments to the office of Commissioner and the power to pardon a person sentenced to death.

(4) Any Order made under the foregoing subsection may be revoked or amended by Order made in like manner.

Disciplinary powers of governor.

10. The Governor may, subject to the provisions of any law for the time being in force in Kamaran and to such instructions as may from time to time be given to him by His Majesty through a Secretary of State, for cause shown to his satisfaction, dismiss or suspend from the exercise of his office any person holding any public office under the Crown in Kamaran, or, subject as aforesaid, may take such other disciplinary action as may seem to him desirable.

Courts.

11.—(1) There shall be, in and for Kamaran, a Court of unlimited civil and criminal jurisdiction, to be called the Court of Kamaran

(2) The constitution and powers of the Court may, subject to the provisions of this Order, be prescribed by law made under this Order, and unless such law otherwise provides, the Commissioner shall be a judge of the Court.

(3) The Court of Kamaran shall have a stamp bearing the style of the Court and a device approved by the Governor.

(4) An appeal shall lie from the Court of Kamaran to the Supreme Court of the Colony in such cases (if any), in such manner and upon such conditions as may be provided by laws made under this Order.

(5) Laws made under this Order may constitute Courts subordinate to the Court of Kamaran, and may make provision for appeals from such Courts.

(6) Subject to the provisions of any law for the time being in force, the Commissioner may make rules for regulating the practice and procedure of the said Court and of all other Courts which may be established in Kamaran.

Application of laws.

12. Subject to the provisions of any law made under this Order, the law applicable to Kamaran shall be the Indian Penal Code, subject to the amendments made therein up to the first day of April, 1937, and such other laws as were applied to Kamaran before the commencement of this Order.

Application of certain enactments.

13.—(1) The enactments described in the First Schedule to the Foreign Jurisdiction Act, 1890(a), shall apply to Kamaran as if it were a British Colony or possession, but subject to the provisions of this

(a) 53 & 54 Vict. c. 37.

Order and to the exceptions, adaptations and modifications following, that is to say—

(i) The Governor is hereby substituted for the Governor of a Colony or British possession, and the Court of Kamaran is hereby substituted for a Superior Court or Supreme Court and for a Magistrate or Justice of the Peace of a Colony or British possession.

(ii) For the portions of the Merchant Shipping Acts, 1854(a) and 1867(b), referred to in the said Schedule, shall be substituted Part XIII of "The Merchant Shipping Act, 1894(c)".

(iii) In section fifty-one of "The Conveyancing (Scotland) Act, 1874(d)" and any enactment for the time being in force amending the same, the Court of Kamaran is substituted for a Court of Probate in a Colony.

(iv) With respect to "The Fugitive Offenders Act, 1881(e)":—

(*a*) So much of sections 4 and 5 of the said Act as relates to sending a report of the issue of a warrant, together with the information, or a copy thereof, or to the sending of a certificate of committal and report of a case, or to the information to be given by a Magistrate to a fugitive, shall be excepted, and in lieu of such information the person acting as the Magistrate shall inform the fugitive that in the territory to which he may be conveyed he has the right to apply for a writ of habeas corpus or other like process.

(*b*) So much of section 6 of the said Act as requires the expiration of fifteen days before issue of warrant shall be excepted.

(*c*) The Governor shall not be bound to return a fugitive offender to a British possession unless satisfied that the proceedings to obtain his return are taken with the consent of the Governor of that possession.

(*d*) For the purposes of Part II of the said Act, Kamaran, the Colony and Protectorate of Aden, the Somaliland Protectorate, Zanzibar, the Colony and Protectorate of Kenya and the Uganda Protectorate shall be deemed to be one group of British possessions.

(2) When under the Merchant Shipping Act, 1894(c), or any Act amending that Act, anything is authorised to be done by, to or before a British Consular Officer, such thing may be done in Kamaran by, to or before the Commissioner, or by, to or before such other officer as the Governor may appoint.

Sentences of imprisonment.

14.—(1) The Governor may, if he thinks fit, by general order prescribe the manner in which, and the places in Kamaran at which, sentences of imprisonment imposed by Courts in Kamaran (whether before or after the commencement of this Order) are to be carried into effect.

(2) In pursuance of Section 7 of the Foreign Jurisdiction Act, 1890(f), the Governor is hereby authorised and directed, if he shall consider it expedient to do so, by general or special order, to direct that such sentences shall be carried into effect in the Colony.

(a) 17 & 18 Vict. c. 120. (b) 30 & 31 Vict. c. 124.
(c) 57 & 58 Vict. c. 60. (d) 37 & 38 Vict. c. 94.
(e) 44 & 45 Vict. c. 69. (f) 53 & 54 Vict. c. 37.

(3) Where, in pursuance of the preceding sub-section, any person is to be removed to the Colony, the warrant of the Commissioner therefor shall be issued in duplicate, and the person executing it shall as soon as practicable after his arrival in the Colony, deliver such person according to the warrant, with one of the copies of the warrant, to a constable, or proper officer of police or keeper of a prison, or other proper authority or person there, to be dealt with according to law.

Grant of Pardon.

15. When any offence has been committed for which the offender may be tried in Kamaran, the Governor may, as he shall see occasion, in His Majesty's name and on His Majesty's behalf, grant a pardon to any accomplice in such offence who shall give such information as shall lead to the conviction of the principal offender, or of any one of such offenders if more than one; and further may grant to any offender convicted of any such offence in any Court within Kamaran, a pardon, either free or subject to lawful conditions, or any respite, either indefinite or for such period as the Governor may think fit, of the execution of any sentence passed on such offender, and may remit the whole or any part of such sentence or of any penalties or forfeitures otherwise due to His Majesty.

Savings.

16. All authority and jurisdiction exercised before the commencement of this Order by the Civil Administrator shall be as valid and effectual for all purposes as it would have been if it had been exercised by him as Governor, or as Commissioner, as the case may be, under the provision of this Order; and all proceedings pending at the commencement of this Order in the Court hitherto held by the Civil Administrator shall be continued in the Court of Kamaran as nearly as may be as if this Order had not been made, and any such proceedings may be amended in such manner as may appear necessary and proper in order to bring it into conformity with the provisions of this Order.

Edward Ford.

THE SCHEDULE

ISLANDS ADJACENT TO THE ISLAND OF KAMARAN

Kadaman Saghir.	Okban Saghir.
Kadaman Kabir.	Jureb.
Shab Bodinjan.	Risha.
Okban.	Arab Shoal.
El Bodhi.	

EXPLANATORY NOTE

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

This Order in Council provides that the Governor of Aden shall be Governor of the Island of Kamaran, with full power to legislate and to appoint public officers. It also establishes the office of Commissioner of Kamaran, and makes provision for a court with civil and criminal jurisdiction and for the law applicable to Kamaran.