STATUTORY INSTRUMENTS

1967 No. 230

CARIBBEAN AND NORTH ATLANTIC TERRITORIES

The Montserrat Order 1967

Made - - - - 22*nd February* 1967
Laid before Parliament 24*th February* 1967
Coming into Operation 27*th February* 1967

At the Court at Buckingham Palace, the 22nd day of February 1967

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of Her powers under sections 4, 5 and 7 of the West Indies Act 1962(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement.

1.—(1) This Order may be cited as the Montserrat Order 1967.

(2) This Order shall come into operation on 27th February 1967.

Interpretation.

2.—(1) In this Order—

"the Court of Appeal" means the Court of Appeal established by the Courts Order;

"the Courts Order" means the West Indies Associated States Supreme Court Order 1967(b);

"the High Court" means the High Court established by the Courts Order;

"the Order of 1959" means the Windward Islands and Leeward Islands (Courts) Order in Council 1959(c), as amended (d);

"the Order of 1962" means the British Caribbean Court of Appeal Order in Council 1962(e), as amended (f);

"the prescribed date" means the date prescribed under section 1(2) of the Courts Order.

(2) The Interpretation Act 1889(g) shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting, and in relation to, Acts of the Parliament of the United Kingdom.

Revocation of existing Orders.

3.—(1) The Windward Islands and Leeward Islands (Police Service Commission) Order in Council 1959(h) is revoked in so far as it has effect as part of the law of Montserrat.

(2) The Order of 1959 and the Order of 1962 are revoked, in so far as they have effect as part of the law of Montserrat, with effect from the prescribed date:

(a) 1962 c.19. (b) S.I.1967/223(1967 I, p. 364). (c) S.I. 1959/2197 (1959 I, p. 563).
(d) The relevant amending Orders are S.I. 1960/1658, 1962/1084 (1960 I, p. 473; 1962 II, p. 1220).
(e) S.I. 1962/1086 (1962 II, p. 1247).
(f) The relevant amending Orders are S.I. 1962/1245, 1962/1870, 1966/575, 1966/1455 (1962 II, pp. 1367, 2186; 1966 II, p. 1226, III, p. 3858).
(g) 1889 c. 63. (h) S.I. 1959/2198 (1959 I, p. 558).

Provided that the provisions of sections 21(2) and 22(5) of the Order of 1959 and article 9 of the Order of 1962 shall continue in force as part of the law of Montserrat as if those Orders had not been revoked.

Amendment of Letters Patent of 1959.

4.—(1) Article 2 of the Montserrat Letters Patent 1959(**a**) is amended by the deletion of the definition of the Judiciary and the substitution therefor of the following definition:—

"'the Judiciary' means any court having jurisdiction in Montserrat and includes any member or officer thereof".

(2) Article 8 of the Montserrat Letters Patent 1959 is amended by the addition of the following proviso:—

"Provided that power to make appointments to the office in the public service of any magistrate or any registrar or other officer of the High Court established by the West Indies Associated States Supreme Court Order 1967 who is required to possess legal qualifications and to exercise disciplinary control over or remove from office any person holding or acting in any such office shall vest in the Administrator, acting after consultation with the Chief Justice."

Pending proceedings.

5.—(1) Any proceedings originating in Montserrat and pending immediately before the prescribed date in the British Caribbean Court of Appeal or in the Supreme Court or the Court of Appeal of the Windward Islands and Leeward Islands may be continued and concluded on or after that date—

(*a*) in the case of proceedings pending in the British Caribbean Court of Appeal, in the Court of Appeal; and

(*b*) in the case of proceedings pending in the Supreme Court or the Court of Appeal of the Windward Islands and Leeward Islands, in the High Court.

(2) An appeal shall lie to the Court of Appeal on and after the prescribed date from any judgment of the Supreme Court of the Windward Islands and Leeward Islands given before the prescribed date in any proceedings originating in Montserrat as if it were a judgment of the High Court.

(3) Any judgment of the British Caribbean Court of Appeal that was given but not satisfied before the prescribed date in any proceedings originating in Montserrat may be enforced on or after the prescribed date as if it were a judgment of the Court of Appeal and any such judgment of the Court of Appeal or the High Court of the Windward Islands and Leeward Islands may be so enforced as if it were a judgment of the High Court.

(4) Until such time as other provision is made in that behalf by any law in force in Montserrat, an appeal shall lie to the High Court from the decision of a magistrate in Montserrat in any case in which an appeal would have lain to the Court of Appeal of the Windward Islands and Leeward Islands if the Order of 1959 had not been revoked.

(*a*) *S.I. 1959 II, p. 3386.*

Existing laws, etc.

6.—(1) Any rule of court made under or kept in force by the Order of 1959 or the Order of 1962 and having effect as part of the law of Montserrat immediately before the prescribed date shall continue in force on and after that date notwithstanding the revocation of those Orders.

(2) Any law (including any rule of court) other than the Montserrat Letters Patent 1959, the Order of 1959 and the Order of 1962 having effect as part of the law of Montserrat immediately before the prescribed date shall have effect on and after the prescribed date as if—

(*a*) references therein to the British Caribbean Court of Appeal were references to the Court of Appeal ; and

(*b*) references therein to the Supreme Court or the Court of Appeal of the Windward Islands and Leeward Islands were references to the High Court.

(3) The Chief Justice and any other two judges of the Supreme Court may by order provide that any rules of court made under section 17 of the Courts Order shall have effect as part of the law of Montserrat subject to such exceptions, adaptations or modifications as may be specified in the order and any such order may include provision for the amendment or revocation of any rule of court so having effect immediately before the prescribed date.

(4) The foregoing provisions of this section shall be without prejudice to any powers conferred by any law in force in Montserrat upon any person or authority to make provision for any matter, including the amendment or revocation of any law (including any rule of court) having effect as part of the law of Montserrat immediately before the prescribed date or the making on or after that date of rules of court so having effect.

W. G. Agnew.

EXPLANATORY NOTE

(*This Note is not part of the Order.*)

Provision has been made by the West Indies Associated States Supreme Court Order 1967 for a new Court of Appeal and High Court for Antigua, Dominica, Grenada, St. Christopher, Nevis and Anguilla, St. Lucia and St. Vincent and under section 10 of that Order the new courts may exercise in relation to Montserrat such jurisdiction and powers as may be conferred upon them by any law in force in Montserrat.

This Order revokes the Windward Islands and Leeward Islands (Courts) Order in Council 1959 and the British Caribbean Court of Appeal Order in Council 1962 as part of the law of Montserrat and contains transitional provisions under which the new courts may exercise the jurisdiction and powers hitherto exercised under the law of Montserrat by the courts established by those Orders.

It also makes consequential amendments to the Montserrat Letters Patent 1959 and revokes the Windward Islands and Leeward Islands (Police Service Commission) Order in Council 1959 as part of the law of Montserrat.