ST. HELENA

1956 No. 414

The St. Helena Order in Council, 1956

Made - - - -	*22nd March*, 1956
Laid before Parliament	*27th March*, 1956
Coming into Operation	*1st June*, 1956

At the Court at Buckingham Palace, the 22nd day of March, 1956

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by section 112 of the Government of India Act, 1833(**a**), section 3 of the British Settlements Act, 1887(**b**), as amended by the British Settlements Act, 1945(**c**), 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:—

Citation, commencement and revocation

1.—(1) This Order may be cited as the St. Helena Order in Council, 1956.

(2) This Order shall come into operation on the first day of June, 1956.

(3) The St. Helena Order in Council, 1939(**d**), and the Letters Patent specified in the First Schedule to this Order shall be revoked, without prejudice to anything lawfully done thereunder.

Interpretation

2.—(1) In this Order, unless it is otherwise expressly provided or required by the context—

"the Gazette" means the St. Helena Government Gazette;

"the Governor" means the person for the time being holding the office of Governor, and includes any person for the time being administering the government of St. Helena and its Dependencies, and, to the extent to which a Deputy is authorized to discharge the functions of the office of Governor, that Deputy;

"the office of Governor" means the office of Governor and Commander-in-Chief of St. Helena and its Dependencies.

(2) (*a*) Where, by or under this Order, a power is conferred upon Her Majesty or any other person to make any appointment to any office, a person may be appointed to that office notwithstanding that some other person is holding that office when that other person is on leave of absence pending relinquishment of that office.

(*b*) When two or more persons are holding an office by reason of any appointment made pursuant to paragraph (*a*) of this subsection, then for

(**a**) 3 & 4 Will. 4. c. 85. (**b**) 50 & 51 Vict. c. 54. (**c**) 9 & 10 Geo. 6. c. 7.
(**d**) S.R. & O. 1939/1925 (Rev. XX, p. 556: 1939 II, p. 3038).

the purpose of any function conferred upon the holder of the office, the person last appointed shall be deemed to be the sole holder of the office.

(3) Save as in this Order otherwise provided, or required by the context, the Interpretation Act, 1889(a), shall apply for the purpose of interpreting this Order as it applies for the purpose of interpreting an Act of Parliament.

Dependencies of St. Helena

3. The Islands of Ascension, Tristan da Cunha, Gough, Nightingale and Inaccessible shall, as hitherto, be Dependencies of St. Helena.

Office of Governor and Commander-in-Chief

4.—(1) There shall, as hitherto, be a Governor and Commander-in-Chief of St. Helena and its Dependencies.

(2) Appointments to the office of Governor shall be made by Commission under Her Majesty's Sign Manual and Signet and a person appointed to the office shall hold the office during Her Majesty's pleasure.

(3) A person appointed to the office of Governor shall, before entering upon the duties of that office, make oaths or affirmations of allegiance and for the due execution of the office of Governor in the form set out in the Second Schedule to this Order.

(4) The Governor shall have such powers and duties as are conferred upon him by or under this Order or any other law and such other powers and duties as Her Majesty may from time to time be pleased to assign to him and, subject to the provisions of this Order and of any other law by which such powers and duties are conferred, shall do or execute all things that belong to the office of Governor according to such instructions as Her Majesty may from time to time see fit to give him :

Provided that whether or not the Governor has in any matter complied with such instructions shall not be enquired into in any Court.

Succession to Government

5.—(1) Whenever the office of Governor is vacant or the person holding the office of Governor is absent from St. Helena or is from any other cause prevented from or incapable of discharging the functions of the office such person as Her Majesty may designate by Instructions given under Her Sign Manual and Signet or through a Secretary of State shall, during Her Majesty's pleasure, discharge the functions of the office and administer the Government of St. Helena and its Dependencies accordingly.

(2) Before assuming the administration of the government any such person as aforesaid shall make the oaths or affirmations directed by subsection (3) of section 4 of this Order to be made by a person appointed to the office of Governor.

(3) Any such person as aforesaid shall not continue to administer the government of St. Helena and its Dependencies after the person holding the office of Governor or some other person having a prior right to administer the government has notified him that he is about to assume, or resume, the administration.

(a) 52 & 53 Vict. c. 63.

(4) For the purposes of this section a person holding the office of Governor shall not be regarded as absent from St. Helena, or as prevented from or incapable of discharging the functions of the office of Governor, at any time when there is a subsisting appointment of a Deputy under section 6 of this Order.

Appointment of Deputy

6.—(1) Whenever the Governor—

(*a*) has occasion to be absent from the seat of government for a period that he has reason to believe will be of short duration;

(*b*) has occasion to visit any Dependency of St. Helena; or

(*c*) by reason of illness that he has reason to believe will be of short duration considers it desirable to do so

he may, by Instrument under the Public Seal of St. Helena, appoint any person in St. Helena to be his Deputy during such absence or illness and in that capacity to discharge on his behalf during such absence or illness such of the functions of the office of Governor as may be specified in that Instrument.

(2) The power and authority of the Governor shall not be abridged, altered or in any way affected by the appointment of a Deputy under this section otherwise than as Her Majesty may at any time think proper to direct by instructions to the Governor through a Secretary of State and every such Deputy shall conform to and observe all instructions that the Governor may from time to time address to him for his guidance.

(3) A person appointed as Deputy under this section shall hold that appointment for such period as may be specified in the Instrument by which he is appointed and his appointment may be revoked at any time by Her Majesty by instructions given to the Governor through a Secretary of State or by the Governor.

(4) For the purposes of this section "the Governor" means the person for the time being holding the office of Governor and includes any person for the time being administering the government of St. Helena and its Dependencies.

Executive Council

7. There shall be an Executive Council for St. Helena and its Dependencies constituted in such manner as Her Majesty may direct by Instructions given to the Governor under Her Sign Manual and Signet.

Advisory Council

8. There shall be an Advisory Council for St. Helena constituted in such manner as Her Majesty may direct by Instructions given to the Governor under Her Sign Manual and Signet.

Governor's power to make laws

9.—(1) The Governor may make laws for the peace, order and good government of St. Helena and its Dependencies or any part thereof.

(2) (*a*) Any law made by the Governor may be disallowed by Her Majesty through a Secretary of State.

(*b*) Whenever any law has been disallowed by Her Majesty, the Governor shall cause notice of such disallowance to be published in the Gazette.

(*c*) (i) Every law disallowed shall cease to have effect as soon as notice of its disallowance is published in the Gazette and thereupon any enactment repealed or amended by, or in pursuance of, the law disallowed shall have effect as if that law had not been made.

(ii) Subject as aforesaid, the provisions of subsection (2) of section 38 of the Interpretation Act, 1889, shall apply to such disallowance as they apply to the repeal of an Act of Parliament.

Grants of lands

10. Subject to any law for the time being in force and to any Instructions given to him by Her Majesty under Her Sign Manual and Signet or through a Secretary of State, the Governor may, in Her Majesty's name and on Her Majesty's behalf, make and execute, under the Public Seal of St. Helena, grants and dispositions of any lands or other immovable property within St. Helena or its Dependencies that may be lawfully granted or disposed of by Her Majesty.

Governor's powers of pardon

11. The Governor may, in Her Majesty's name and on Her Majesty's behalf—

(*a*) grant to any person concerned in any offence for which the offender may be tried in St. Helena or its Dependencies, or to any person convicted within St. Helena or its Dependencies of any offence, a pardon, either free or subject to lawful conditions; or

(*b*) grant to any person so convicted a respite, either indefinite or for a specified period, of the execution of any sentence passed on him in respect of the conviction; or

(*c*) substitute a less severe form of punishment for that imposed on any such person by any such sentence; or

(*d*) remit the whole or any part of any such sentence or of any penalty or forfeiture otherwise due to Her Majesty by reason of the conviction.

Governor's power to constitute offices

12. The Governor, in Her Majesty's name and on Her Majesty's behalf, may constitute all such offices for St. Helena and its Dependencies as may lawfully be constituted by Her Majesty.

Governor's power to make appointments

13.—(1) The Governor may make appointments (including appointments on promotion and transfer) to any office under the Crown in respect of the government of St. Helena or its Dependencies.

(2) Any person appointed to any such office shall, unless it is otherwise provided by law, hold that office during Her Majesty's pleasure.

(3) The provisions of this section shall not apply to any office constituted by any Instructions under Her Majesty's Sign Manual and Signet except so far those Instructions may expressly provide.

Discipline

14. Subject to the provisions of any law for the time being in force and to such instructions as may from time to time be given to him by Her Majesty through a Secretary of State, the Governor may, for cause shown to his satisfaction, dismiss or suspend from the exercise of his office any person holding any office under the Crown in respect

of the government of St. Helena or its Dependencies or take such other disciplinary action as may seem to him to be desirable.

Public Seal

15. The Governor shall keep and use the Public Seal of St. Helena for sealing all things whatsoever that shall pass the said Seal.

Obedience to the Governor

16. All officers, civil and military, and all other inhabitants of St. Helena and its Dependencies shall be obedient to the Governor and shall render him such aid and assistance as he may require.

Powers reserved to Her Majesty

17.—(1) Nothing in this Order shall affect the power of Her Majesty to make laws for the peace, order or good government of St. Helena and its Dependencies.

(2) Her Majesty reserves to Herself power to amend or revoke this Order.

W. G. Agnew.

FIRST SCHEDULE

Letters Patent under the Great Seal bearing date the eleventh day of June One thousand Eight hundred and Ninety constituting the office of Governor and Commander-in-Chief of the Island of Saint Helena(a).

Letters Patent under the Great Seal bearing date the twelfth day of September One thousand Nine hundred and Twenty-two appointing the Governor of the Island of Saint Helena to be Governor of the Island of Ascension, and providing for the Government thereof as a Dependency of Saint Helena(b).

Letters Patent under the Great Seal bearing date the twelfth day of January One thousand Nine hundred and Thirty-eight appointing the Governor of the Island of Saint Helena to be Governor of the Islands of Tristan da Cunha, Gough, Nightingale and Inaccessible, and providing for the said Islands becoming Dependencies of Saint Helena(c).

SECOND SCHEDULE

Oath or Affirmation of Allegiance

I, do swear (*or* solemnly affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Her Heirs and Successors according to law. (So help me God.)

Oath or Affirmation for the Due Execution of the Office of Governor

I, do swear (*or* solemnly affirm) that I will well and truly serve Her Majesty Queen Elizabeth II, Her Heirs and Successors in the office of Governor and Commander-in-Chief of St. Helena and its Dependencies according to law and will do right to all manner of people without fear or favour, affection or goodwill. (So help me God.)

EXPLANATORY NOTE

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

This Order makes provision for the government of St. Helena and its Dependencies.

(a) Rev. XX, p. 549. (b) Rev. XX, p. 552: 1922, p. 1144.
(c) Rev. XX, p. 554: 1938 II, p. 3453.