STATUTORY INSTRUMENTS

1975 No. 1211

SOUTH ATLANTIC TERRITORIES

The St. Helena Supreme Court (Amendment) Order 1975

Made - - - -	23*rd July* 1975
Laid before Parliament	30*th July* 1975
Coming into Operation	*On a day to be appointed under section* 1(3)

At the Court at Buckingham Palace, the 23rd day of July 1975

Present,

The Queen's Most Excellent Majesty in Council

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

1.—(1) This Order may be cited as the St. Helena Supreme Court (Amendment) Order 1975 and shall be construed as one with the St. Helena Supreme Court Order 1969(**c**) (hereinafter called " the principal Order ").

(2) The principal Order and this Order may be cited together as the St. Helena Supreme Court Orders 1969 and 1975.

(3) This Order shall come into operation on such day as the Governor may by proclamation published in the St. Helena Government Gazette appoint.

2. The principal Order is amended by the insertion of three new subsections (4), (5) and (6) in section 4 as follows:—

" (4) The Court may, in accordance with any directions issued from time to time by the Chief Justice, sit in St. Helena, or in its Dependencies or in the United Kingdom:

Provided that the Court shall sit in the United Kingdom for the purpose only of hearing an appeal and then only if the parties to the appeal have agreed to its being heard in the United Kingdom.

(5) The Chief Justice may make rules of Court for the purpose of regulating the practice and procedure of the Court with respect to appeals heard in the United Kingdom.

(6) The Chief Justice when absent from St. Helena may exercise the powers conferred upon him by any Ordinance of St. Helena of revision, variation, confirmation or setting aside of any sentence or order made by a Court in St. Helena.".

(**a**) 1833 c. 85. (**b**) 1887 c. 54 and 1945 c. 7. (**c**) S.I. 1969/857 (1969 II, p. 2394).

3. Section 5 of the principal Order is amended:—

(*a*) by substituting the following subsection for subsection (1):—

"(1) It shall be lawful for the Supreme Court to be held by and before—

(*a*) the Chief Justice;

(*b*) a person appointed under subsection (3) of section 6 to act as Judge of the Supreme Court;

(*c*) a person empowered by, or appointed under, section 7 to hold the Court; or

(*d*) for the purposes mentioned in subsection (2) of this section, a person empowered by that subsection to continue to sit and hold the Court.";

(*b*) by substituting the words "Judge of the Supreme Court" for the words "Chief Justice" in subsection (2).

4. Section 6 of the principal Order is amended by substituting the following subsection for subsection (3)—

"(3) If—

(*a*) there is no subsisting appointment under subsection (1) of this section; or

(*b*) the Chief Justice has not assumed, or is, for any reason, unable to perform the functions of, his office; or

(*c*) the Chief Justice is absent from St. Helena and its Dependencies (and is not in passage between one part and another),

the Governor may appoint a fit and proper person to act as Judge of the Supreme Court.".

5. Section 7 of the principal Order is amended by substituting the following subsection for subsection (1)—

"(1) If—

(*a*) at a time when an appointment may be made under subsection (3) of section 6 of a person to act as Judge of the Supreme Court, there is no subsisting appointment under that subsection, the Governor may himself hold the Supreme Court;

(*b*) the Chief Justice or, if there is a subsisting appointment under subsection (3) of section 6, the person appointed to act as Judge of the Supreme Court, is absent from St. Helena, the Governor may himself hold the Supreme Court in St. Helena.".

6. Section 9 of the principal Order is amended by deleting the words "or (3)" in the proviso to subsection (2).

N. E. Leigh.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order amends the St. Helena Supreme Court Order 1969 by permitting the Court with the consent of the parties to hear appeals in the United Kingdom; by enabling the Chief Justice to exercise his revisional jurisdiction when absent from St. Helena; and by making provision for the appointment of an acting Judge of the Supreme Court in the circumstances in which at present an acting Chief Justice may be appointed.

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