STATUTORY INSTRUMENTS

1965 No. 1306

PACIFIC ISLANDS

The Tonga (Amendment) Order in Council 1965

Made - - - -	*24th June* 1965
Laid before Parliament	*24th June* 1965
Coming into Operation	*24th June* 1965

At the Court at Buckingham Palace, the 24th day of June 1965

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act 1890(a) 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, construction and commencement.

1.—(1) This Order may be cited as the Tonga (Amendment) Order in Council 1965, and shall be construed as one with the Tonga Order in Council 1952(b) (hereinafter referred to as "the principal Order") and the Tonga (Amendment) Order in Council 1961(c) (hereinafter referred to as "the 1961 Order"); and the principal Order, the 1961 Order and this Order may be cited together as the Tonga Orders in Council 1952 to 1965.

(2) This Order shall come into operation on 24th June 1965.

Replacement of s. 2 of principal Order.

2. The following section is substituted for section 2 of the principal Order (as set out in section 2 of the 1961 Order):—

"Interpretation.

2.—(1) In this Order—

"the Commissioner" means the British Commissioner and Consul in Tonga or other person for the time being performing the functions of his office;

"Supreme Court" means the Supreme Court of Fiji.

(2) The Interpretation Act 1889(d) 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 Parliament of the United Kingdom.".

Revocation of s. 3 of principal Order.

3. Section 3 of the principal Order is revoked.

(a) 53 & 54 Vict. c. 37.
(b) S.I. 1952/458 (1952 II, p. 2311).
(c) S.I. 1961/1505 (1961 II, p. 3061).
(d) 52 & 53 Vict. c. 63.

Replacement of s. 4 of principal Order.

4. The following section is substituted for section 4 of the principal Order (as set out in section 3 of the 1961 Order):—

"British Commissioner and Consul in Tonga.

4.—(1) There shall be a British Commissioner and Consul in Tonga, who shall be appointed by Her Majesty by Commission under Her Sign Manual and Signet, and shall hold office during Her Majesty's pleasure.

(2) The Commissioner may exercise on Her Majesty's behalf all such powers and jurisdiction as Her Majesty now has, or may from time to time have, in relation to Tonga, and to that end may take or cause to be taken all such measures and do or cause to be done all such things as he may think expedient.

(3) During any period when the office of Commissioner is vacant or the Commissioner is absent from Tonga or is for any other reason unable to perform the functions of his office, those functions shall, during Her Majesty's pleasure, be assumed and performed by such person as Her Majesty may designate in that behalf by instructions given through a Secretary of State.

(4) The Commissioner shall not, in performing the functions of his office, act otherwise than in accordance with this Order, such Instructions as may from time to time be given to him under Her Majesty's Sign Manual and Signet or through a Secretary of State, and such Orders in Council, Regulations and other laws as may for the time being be in force in Tonga.".

"Commissioner" substituted for "Chief Commissioner".

5. Sections 5, 6, 7, 9, 12 and 13 of the principal Order (as amended by section 4 of the 1961 Order) and sections 14, 15 and 16 of the principal Order (as set out in section 6 of the 1961 Order) are amended by substituting for the words "Chief Commissioner" wherever they appear the word "Commissioner".

Amendment of s. 5 of principal Order.

6. Section 5 of the principal Order is amended by substituting for the words "Fiji Royal Gazette" in subsection (4) the words "Tonga Government Gazette".

Replacement of s. 10 and s. 11 of principal Order.

7. The following sections are substituted for sections 10 and 11 of the principal Order (as amended by section 4 of the 1961 Order):—

"Commissioner's powers to constitute and appoint to offices, etc.

10. Subject to the provisions of this Order and of any other law for the time being in force in Tonga, the Commissioner shall have power, for the purposes of this Order, in the name and on behalf of Her Majesty,—

(*a*) to constitute such offices as may lawfully be constituted by Her Majesty and to abolish any such office, however constituted;

(*b*) to make appointments (including appointments on promotion and transfer) to any such office, however constituted; and

(*c*) to terminate the appointment of or dismiss any person appointed to any such office, however constituted, or to suspend him from performing the functions of his office, or to take such other disciplinary action with respect to him as may be necessary.

Appointments to be during pleasure.

11. A person appointed to any office to which section 10 of this Order applies shall, unless it is otherwise provided by law, hold office during Her Majesty's pleasure.".

Amendment of s. 16 of principal Order.

8. Section 16 of the principal Order (as set out in section 6 of the 1961 Order) is amended by deleting the words " in the Fiji Royal Gazette and " in subsections (6) and (10).

Existing laws.

9. For the avoidance of doubt it is hereby declared that nothing in this Order shall affect the continued operation of the laws in force in Tonga immediately before 24th June 1965, being laws exercising, or providing for the exercise of, such powers and jurisdiction as Her Majesty now has, or may from time to time have, in relation to Tonga, but those laws—

(*a*) shall have effect on and after that day only to such extent as they are consistent with the provisions of the principal Order as amended by the 1961 Order and this Order; and

(*b*) shall be read and construed with such adaptations and modifications as may be necessary to bring them into conformity with those provisions.

W. G. Agnew.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order amends the Tonga Orders in Council 1952 and 1961 by abolishing the office of United Kingdom Chief Commissioner for Tonga (held by the Governor of Fiji ex officio), and transferring the functions of the office to the British Commissioner and Consul in Tonga. It also makes consequential and minor amendments.