COURTS

1955 No. 1821

The West African Court of Appeal (Amendment) Order in Council, 1955

Made - - - - 1*st December,* 1955
Laid before Parliament 6*th December,* 1955
Coming into Operation On a day to be determined under section 1 *of the Order**

At the Court at Buckingham Palace, the 1st day of December, 1955.

Present,

The Queen's Most Excellent Majesty in Council.

Her Majesty, by virtue and in exercise of the powers in that behalf by the British Settlements Acts, 1887 and 1945(**a**), the Foreign Jurisdiction Act, 1890(**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:—

Citation, construction and commencement

1.—(1) This Order may be cited as the West African Court of Appeal (Amendment) Order in Council, 1955, and shall be read as one with the West African Court of Appeal Order in Council, 1948(**c**) (hereinafter called the principal Order).

(2) The principal Order and this Order may be cited together as the West African Court of Appeal Orders in Council, 1948 and 1955.

(3) This Order shall, save as otherwise expressly provided, come into operation on the day on which the Federal Supreme Court of Nigeria is deemed to assume its functions for the purpose of section 219 of the Nigeria (Constitution) Order in Council, 1954(**d**).

Amendment of section 2 *of the principal Order*

2.—(1) Subsection (1) of section 2 of the principal Order shall be amended by the deletion therefrom of the definition of "Nigeria".

(2) The following subsection shall be added to section 2 of the principal Order as subsection (4) thereof—

"(4) (*a*) Where any holder of any office constituted by or under this Order is on leave of absence pending relinquishment of his office, it shall be lawful for another person to be appointed substantively to the same office.

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* 1.1.56.
(**a**) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7. (**b**) 53 & 54 Vict. c. 37.
(**c**) S.I. 1948/1330 (Rev. VIII, p. 390: 1948 I, p. 1361).
(**d**) S.I. 1954/1146 (1954 II, p. 2829).

(*b*) Where two or more persons are holding the same office by reason of an appointment made in pursuance of paragraph (*a*) of this subsection, then for the purpose of any functions conferred on the holder of that office, the person last appointed to the office shall be deemed to be the holder of the office."

Amendment of section 3 *of principal Order*

3. Section 3 of the principal Order shall be amended by the deletion therefrom of the word "Nigeria,".

Amendment of section 7 *of principal Order*

4.—(1) Subsection (2) of section 7 of the principal Order shall be amended by the deletion of the words "person qualified for appointment as a" and by the insertion immediately after the words "Justice of Appeal" of the words "or any Justice of Appeal to act as President."

(2) Subsection (4) of section 7 of the principal Order shall be amended by the substitution for the word "The" of the words "Save as provided in section 9 of this Order, the".

Amendment of section 9 *of principal Order*

5. Section 9 of the principal Order shall be amended by the substitution for the word "allowances" of the word "benefits" and by the insertion immediately after the words "conditions of service" of the words "(including allowances which are not taken into account in computing pensions)."

Amendment of section 17 *of principal Order*

6.—(1) Section 17 of the principal Order shall be amended by the substitution in subsection (1) thereof for the words ", the Chief Justice of Nigeria and the Chief Justice of the Gold Coast, or such other Judges of the Court as the Secretary of State may from time to time by Order direct," of the words "and two other Judges of the Court selected by the President each of whom shall be either a Chief Justice or a Justice of Appeal".

(2) Notwithstanding the provisions of subsection (1) of this section all Rules of Court made or deemed to be made under the principal Order and in force at the commencement of this Order shall continue in force except in so far as they shall be amended, added to or revoked by Rules of Court made under the principal Order.

Amendment of section 18 *of principal Order*

7.—(1) Section 18 of the principal Order shall be amended in the manner following:—

(*a*) The following subsection shall be substituted for subsection (2) thereof—

"(2) Subject to the provisions of subsection (6) of this section there shall be paid into the Fund such contributions from the Territories respectively as may from time to time be fixed by the

Governments of the Territories with the approval of the Secretary of State, any other revenues of the Court and any other sums due to the Fund."

(*b*) The following subsection shall be substituted for subsection (3) thereof—

"(3) There shall be paid out of the Fund all expenses of the Court including the emoluments, allowances and expenses of the President and Justices of Appeal, any allowances and expenses paid to or on behalf of Judges of the Supreme Court of the Territories by reason solely of their membership of the Court, and the emoluments, allowances and expenses (if any) paid to officers of the Court attributable solely to their employment as such and any remuneration, allowances and expenses paid to Assessors but not including any sums payable out of the funds of the Gold Coast by reason of section 9 of this Order."

(*c*) In subsection (4) thereof the word "benefit" shall be substituted for the word "allowance".

(*d*) The following subsection shall be added as subsection (6) immediately after subsection (5) thereof—

"(6) All fees payable by virtue of Rules of Court made under this Order shall be paid into the revenue of the Territory wherein the proceedings in respect of which the same are payable were commenced."

(2) The amendments contained in paragraphs (*a*) and (*d*) of the foregoing subsection of this section, shall be deemed to have come into operation on the first day of April, 1951.

W. G. Agnew.

EXPLANATORY NOTE

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

The purpose of this Order is to amend the West African Court of Appeal Order in Council, 1948, so as to permit concurrent appointments to offices constituted by or under that Order in certain circumstances, to provide for that Order's ceasing to apply to Nigeria, and to make certain minor amendments concerning the constitution of the Court, the remuneration and conditions of service of the members thereof, the making of Rules of Court and the financial provisions of that Order. Certain of these amendments are given retrospective effect.