

## PACIFIC ISLANDS

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1960 No. 1367

### The British Solomon Islands (Constitution) Order in Council, 1960

<i>Made - - - -</i>	<i>3rd August, 1960</i>
<i>Laid before Parliament</i>	<i>9th August, 1960</i>
<i>Coming into Operation</i>	<i>18th October, 1960</i>

At the Court at Buckingham Palace, the 3rd day of August, 1960

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Pacific Islanders Protection Acts, 1872 and 1875(a), and 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 :—

#### PART I

##### PRELIMINARY

##### *Citation and commencement*

1.—(1) This Order may be cited as the British Solomon Islands (Constitution) Order in Council, 1960.

(2) This Order shall be published in the Gazette and shall come into operation on a date to be appointed by the High Commissioner by proclamation in the Gazette, which date shall not be earlier than the day after the day on which this Order shall have been laid before both Houses of Parliament.

##### *Interpretation*

2.—(1) In this Order, unless the context otherwise requires

“Chief Secretary” means the Chief Secretary to the Western Pacific High Commission ;

“Executive Council” means the Executive Council of the Protectorate established by this Order ;

“Financial Secretary” means the Financial Secretary to the Western Pacific High Commission ;

“Legislative Council” means the Legislative Council of the Protectorate established by this Order ;

“Gazette” means the Western Pacific High Commission Gazette ;

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(a) 35 & 36 Vict. c. 19; 38 & 39 Vict. c. 51.

(b) 53 & 54 Vict. c. 37.

"High Commissioner" means Her Majesty's High Commissioner for the Western Pacific appointed under the Pacific Order in Council, 1893(a), and includes any officer for the time being exercising the powers of the High Commissioner and also to the extent to which an Assistant High Commissioner is authorised to act, that Assistant High Commissioner;

"meeting" means any sitting or sittings of the Legislative Council commencing when the Council first meets after being summoned at any time and terminating when the Council is adjourned *sine die* or at the conclusion of a session;

"Protectorate" means the British Solomon Islands Protectorate;

"public office" means any office of emolument in the public service.

"public officer" means the holder of any public office and includes any person appointed to act in such office;

"Public Seal" means the official seal of the High Commissioner;

"public service" means the service of the Crown in a civil capacity in respect of the Government of the Protectorate;

"session" means the meetings of the Legislative Council commencing when the Council first meets after being constituted under this Order or after its prorogation at any time and terminating when the Council is next thereafter prorogued;

"sitting" means a period during which the Legislative Council is sitting continuously without adjournment and includes any period during which the Council is in Committee.

(2) Where in this Order reference is made to any public officer by the term designating his office, such reference shall be construed as a reference to the officer for the time being lawfully discharging the functions of that office.

(3) References in this Order to Her Majesty's dominions shall be construed as if they included references to all territories under Her Majesty's protection or in which Her Majesty has for the time being jurisdiction.

(4) For the purposes of this Order a person shall not be deemed to hold an office of emolument under the Crown by reason only that he—

(a) is a Headman, an Assistant Headman, or a member of a Town Council or a local or native council appointed or established under any law in force in the Protectorate providing for the administration of towns or for local or native administration; or

(b) is in receipt of a pension or other like allowance in respect of service under the Crown; or

(c) is in receipt of a salary or other emoluments in respect of his tenure of office as a Member of Legislative Council or as a Member of Executive Council; or

(d) is on leave of absence pending relinquishment of an office of emolument under the Crown;

and if it shall be declared by any law for the time being in force in the Protectorate that an office shall be or shall not be an office of

emolument under the Crown for all or any of the purposes of this Order, this Order shall have effect accordingly as if such laws were enacted herein.

(5) This Order shall be construed—

- (a) as if subsection (1) of section 1 of the India (Consequential Provision) Act, 1949(a), applied to it in the same way as that subsection applies to laws in force on the date mentioned in that subsection ; and
- (b) as if subsection (2) of section 3 of the British Nationality Act, 1948(b), (as interpreted by subsection (1) of section 3 of the Ireland Act, 1949), and subsection (2) of section 3 of the Ireland Act, 1949(c), applied to it as those subsections apply to laws in force at the dates of the commencement of those Acts respectively ; and
- (c) as if subsection (1) of section 1 of the Pakistan (Consequential Provision) Act, 1956(d), applied to it in the same way as that subsection applies to laws in force on the date mentioned in that subsection ; and
- (d) as if subsection (1) of section 2 of the Federation of Malaya Independence Act, 1957(e), applied to it in the same way as that subsection applies to existing laws as defined by subsection (4) of that subsection.

(6) Save as in this Order otherwise provided or required by the context, the Interpretation Act, 1889(f), shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

## PART II

### THE HIGH COMMISSIONER

#### *Powers and duties*

3. The High Commissioner 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 any such powers and duties are conferred, shall do and execute all things that belong to his office, according to such instructions, if any, as Her Majesty may from time to time see fit to give him :

Provided that the question whether the High Commissioner has in any matter complied with such instructions shall not be enquired into by any court.

#### *Powers of pardon, etc.*

4. The High Commissioner may, in Her Majesty's name and on Her Majesty's behalf—

- (a) grant to any person concerned in or convicted of any offence against any law for the time being in force in the Protectorate a pardon either free or subject to lawful conditions ; or
- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for such an offence ; or

(a) 12, 13 & 14 Geo. 6. c. 92.

(c) 12, 13 & 14 Geo. 6. c. 41.

(e) 5 & 6 Eliz. 2. c. 60.

(b) 11 & 12 Geo. 6. c. 56.

(d) 4 & 5 Eliz. 2. c. 31.

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

- (c) substitute a less severe form of punishment for the punishment imposed for such an offence ; or
- (d) remit the whole or any part of any punishment imposed for such an offence or of any penalty or forfeiture otherwise due to Her Majesty on account of such an offence.

#### *Public offices*

5.—(1) The High Commissioner, in Her Majesty's name and on Her Majesty's behalf, may constitute all such offices for the Protectorate as may be lawfully constituted by Her Majesty.

(2) The High Commissioner, acting in his discretion, may make appointments (including appointments on promotion or transfer) to public offices and may dismiss and exercise disciplinary control over persons appointed to such offices.

(3) The High Commissioner may delegate (in such manner and upon such conditions as he may deem fit) to any public officer any of the powers conferred on the High Commissioner by subsection (2) of this section.

(4) The exercise of the powers conferred by this section shall be subject to and in accordance with such instructions, if any, as Her Majesty may from time to time see fit to give the High Commissioner.

(5) Whenever the substantive holder of any public office 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 :

Provided that where two or more persons are holding the same office by reason of an appointment made under this subsection then, for the purpose of the exercise of any functions conferred upon the holder of that office, the person last appointed to the office shall be deemed to be the sole holder of the office.

### PART III

#### THE EXECUTIVE COUNCIL

##### *Establishment and constitution of Executive Council*

6.—(1) There shall be an Executive Council in and for the Protectorate constituted in accordance with the provisions of this Order.

(2) The Executive Council shall consist of—

- (a) three *ex officio* Members, that is to say, the Chief Secretary, the Attorney-General and the Financial Secretary ;
- (b) such Official Members, being persons who are qualified under the provisions of this Order to be Official Members of the Legislative Council, as the High Commissioner, acting in his discretion, shall from time to time appoint by Instrument under the Public Seal ;
- (c) such Unofficial Members, being persons who are qualified under the provisions of this Order to be Unofficial Members of the Legislative Council, as the High Commissioner, acting in his discretion, shall from time to time appoint by Instrument under the Public Seal.

(3) The High Commissioner shall, without delay, report to Her Majesty, through a Secretary of State, every appointment of any person as an Official or Unofficial Member of the Executive Council.

*Tenure of office of Official and Unofficial Members*

7.—(1) Every Official or Unofficial Member of the Executive Council shall hold his seat in the Council during her Majesty's pleasure.

(2) Every Unofficial Member shall vacate his seat in the Council at the end of two years from the date of the Instrument by which he is appointed, or at such earlier date as may be provided by that Instrument, or previously thereto if his seat shall become vacant under the provisions of this Order.

(3) The seat of an Official or Unofficial Member of the Executive Council shall become vacant—

(a) upon his death ; or

(b) if, by writing under his hand addressed to the High Commissioner, he shall resign his seat in the Executive Council and, in the case of an Official Member, if his resignation shall be accepted by the High Commissioner acting in his discretion ; or

(c) if, in the case of an Official Member, he shall cease to hold office of emolument under the Crown in the Protectorate ; or

(d) if, in the case of an Unofficial Member, he shall be appointed permanently to any office of emolument under the Crown ; or

(e) if he shall be absent from the Protectorate without the written permission of the High Commissioner ; or

(f) if he shall cease to be qualified under the provisions of this Order to be an Official Member or an Unofficial Member, as the case may be, of the Legislative Council.

(4) If an Unofficial Member shall be appointed temporarily to, or to act in, any office of emolument under the Crown in the Protectorate, he shall not sit as a Member or take part in the proceedings of the Council by virtue of his appointment as an Unofficial Member so long as he continues to hold or act in that office.

(5) If any person is appointed to be a temporary Member of the Executive Council and his temporary appointment is immediately followed by his definitive appointment as an Unofficial Member, the period of two years mentioned in subsection (2) of this section shall be reckoned from the date of the Instrument by which he is appointed a temporary member.

(6) Any person vacating a seat as an Official or Unofficial Member may be again appointed from time to time.

*Suspension of Official or Unofficial Members*

8.—(1) The High Commissioner, acting in his discretion, may, by Instrument under the Public Seal, suspend any Official or Unofficial Member of the Executive Council from the exercise of his functions as such ; and while such suspension is in force the person suspended shall not sit in or take part in the proceedings of the Executive Council.

(2) Every such suspension shall forthwith be reported by the High Commissioner to Her Majesty through a Secretary of State, and shall remain in force unless and until it shall be removed by the High Commissioner, acting in his discretion, by Instrument under the Public Seal or by Her Majesty through a Secretary of State or the person suspended ceases to be a Member of the Executive Council.

(3) The High Commissioner, acting in his discretion, may, by Instrument under the Public Seal, declare any Official or Unofficial Member to be temporarily incapable of discharging his functions as a Member of the Executive Council, and thereupon such Member shall

not sit in or take part in the proceedings of the Council until he is declared, in manner aforesaid, again to be capable of discharging his said functions.

### *Temporary Members*

9.—(1) Whenever there shall be a vacancy in the number of persons sitting in the Executive Council by reason of the fact that—

- (a) one person is lawfully discharging the functions of more than one of the offices of Chief Secretary, Attorney-General and Financial Secretary ; or
- (b) no person is lawfully discharging the functions of one of those offices ; or
- (c) an Official Member is lawfully discharging the functions of one of those offices ; or
- (d) an Unofficial Member has been appointed temporarily to, or to act in, any office of emolument under the Crown ; or
- (e) an Official or Unofficial Member is, under section 8 of this Order, suspended from the exercise of his functions or declared to be temporarily incapable of discharging his functions ; or
- (f) a Member is absent from the Protectorate ; or
- (g) the seat of an Official or Unofficial Member is vacant from any cause,

the High Commissioner, acting in his discretion, may, by Instrument under the Public Seal, appoint a person to be a temporary Member of the Executive Council for the period of such vacancy.

(2) The said person—

- (a) in the case of a vacancy in the number of persons sitting in the Executive Council as *ex officio* Members, shall be a person who is a public officer ;
- (b) in the case of a vacancy in respect of the persons sitting in the Executive Council as Official Members, shall be a person who is qualified for appointment as an Official Member ; and
- (c) in the case of a vacancy in respect of the persons sitting in the Executive Council as Unofficial Members, shall be a person who is qualified for appointment as an Unofficial Member.

(3) (a) So long as their appointments shall subsist, persons appointed under paragraph (a) of subsection (2) of this section shall, for the purposes of this Order but subject to the provisions of this section, be deemed to be *ex officio* Members of the Executive Council.

(b) So long as their appointments shall subsist, persons appointed under paragraphs (b) or (c) of subsection (2) of this section shall, for the purposes of this Order but subject to the provisions of this section, be deemed to be Official or Unofficial Members, as the case may be, of the Executive Council ; and, subject as aforesaid, sections 7 and 8 of this Order shall apply accordingly.

(4) The High Commissioner shall forthwith report to Her Majesty through a Secretary of State every appointment made under this section, and any such appointment may (without prejudice to anything done by virtue thereof) be revoked by Her Majesty through a Secretary of State or by the High Commissioner, acting in his discretion, by Instrument under the Public Seal.

(5) A temporary appointment shall cease to have effect on notification by the High Commissioner to the person appointed of revocation by Her Majesty or by the High Commissioner, or on supersession of the appointment by the definitive appointment of a person to fill the vacancy, or when the circumstances giving rise to the vacancy otherwise cease to exist.

*Summoning of persons to Executive Council*

10. Whenever the High Commissioner desires to obtain the advice of any person in the Protectorate concerning the government thereof he may, acting in his discretion, summon such person, in writing, to the Executive Council.

*Decision of questions as to Membership*

11. Any question whether a person is a Member of the Executive Council shall be determined by the High Commissioner acting in his discretion.

*Summoning of Executive Council and quorum*

12.—(1) The Executive Council shall not be summoned except by the authority of the High Commissioner, acting in his discretion.

(2) No business except that of adjournment shall be transacted in the Executive Council if objection is taken by any Member present that there are less than three Members present besides the High Commissioner or Member presiding.

*Executive Council may transact business notwithstanding vacancies*

13. The Executive Council shall not be disqualified for the transaction of business by reason of any vacancy in the Membership thereof (including any vacancy not filled when the Council is first constituted or is reconstituted at any time) and any proceedings therein shall be valid notwithstanding that some person, who was not entitled to do so, sat or voted in the Council or otherwise took part in the proceedings.

*Presiding in Executive Council*

14.—(1) The High Commissioner shall, so far as is practicable, attend and preside at all meetings of the Executive Council, and in his absence such Member as the High Commissioner, acting in his discretion, may appoint or, in the absence of such Member or if no Member be so appointed, the senior *ex-officio* Member of the Council present shall preside.

(2) For the purposes of this section the *ex-officio* Members shall have seniority in the order in which they are mentioned in paragraph (a) of subsection (2) of section 6 of this Order.

*High Commissioner to consult Executive Council*

15.—(1) The High Commissioner shall, subject to the provisions of subsection (2) of this section, consult with the Executive Council in the exercise of all powers conferred upon him by this Order or by any other law for the time being in force in the Protectorate, except—

(a) any power conferred upon the High Commissioner which is expressed to be exercisable by the High Commissioner acting in his discretion ;

(b) any other power conferred upon the High Commissioner in respect of which it is provided, either expressly or by implication, that he shall not be obliged to consult with the Executive Council in the exercise thereof.

(2) The High Commissioner shall not be obliged to consult with the Executive Council in the exercise of any power conferred upon him in any case—

- (a) which is of such a nature that, in his judgment, the service of Her Majesty would sustain material prejudice by consulting the Executive Council thereon; or
- (b) in which the matters to be decided are, in his judgment, too unimportant to require the advice of the Executive Council thereon; or
- (c) in which the matters to be decided are, in his judgment, too urgent to admit of the advice of the Executive Council being given by the time within which it may be necessary for him to act

In every case falling within sub-paragraph (c) of this subsection the High Commissioner shall as soon as practicable communicate to the Executive Council the measures which he shall have adopted, with the reasons therefor.

*High Commissioner may act in opposition to Council*

16.—(1) The High Commissioner may act in opposition to the advice given to him by Members of the Executive Council, if he shall in any case consider it right so to do; but in any such case he shall report the matter to a Secretary of State at the first convenient opportunity, with the reasons for his action.

(2) Whenever the High Commissioner shall so act against the advice of the Executive Council any Member may require that there be recorded upon the minutes of the Executive Council any advice or opinion which he may give upon the question at issue and the reasons therefor.

*High Commissioner to propose questions*

17. The High Commissioner shall alone be entitled to submit questions to the Executive Council; but if the High Commissioner shall decline to submit any question to the Council when requested in writing by any Member so to do, such Member may require that there be recorded upon the minutes of the Executive Council his written application, together with the answer returned by the High Commissioner thereto.

## PART IV

### THE LEGISLATIVE COUNCIL

*Establishment and constitution of Legislative Council*

18.—(1) There shall be a Legislative Council in and for the Protectorate constituted in accordance with the provisions of this Order.

(2) The Legislative Council shall consist of the High Commissioner as President, three *ex officio* Members, not more than eight Official Members and not more than ten Unofficial Members.

*Ex officio Members*

19. The *ex officio* Members of the Legislative Council shall be the Chief Secretary, the Attorney-General and the Financial Secretary.

*Official and Unofficial Members*

20.—(1) The Official Members of the Legislative Council shall be persons holding office of emolument under the Crown in the Protectorate and the Unofficial Members of the Council shall be persons



not holding office of emolument under the Crown, and they shall be appointed by the High Commissioner, acting in his discretion, by Instrument under the Public Seal.

(2) The High Commissioner shall, without delay, report to Her Majesty, through a Secretary of State, every appointment of any person as an Official or Unofficial Member of the Council.

*Qualifications for Official or Unofficial Membership*

21. Subject to the provisions of section 22 of this Order, any person who—

- (a) is a British subject or a British protected person ; and
- (b) is of the age of twenty-one years or upwards ; and
- (c) in the case of an appointment to be an Unofficial Member, has resided in the Protectorate during the three years immediately preceding the date of his appointment for periods amounting in the aggregate to not less than two years or is domiciled in the Protectorate and is resident there at the date aforesaid ; and
- (d) has sufficient knowledge and command of the English language to be able to understand and take part in the proceedings,

shall be qualified to be appointed an Official or Unofficial Member, as the case may be, of the Legislative Council, and no other person shall be qualified to be so appointed.

*Disqualifications for Official or Unofficial Membership*

22. No person shall be qualified for appointment as an Official or Unofficial Member of the Legislative Council who—

- (a) is by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign Power or State ; or
- (b) is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of Her Majesty's dominions ; or
- (c) is a party to, or a partner in a firm or a director or manager of a company which is a party to, any contract with the Government of the Protectorate for or on account of the public service and has not disclosed to the High Commissioner the nature of such contract and his interest, or the interest of such firm or company, therein ;

Provided that, if in the circumstances it shall appear to him just so to do, the High Commissioner may except any Member from disqualification under the provision of this paragraph ; or

- (d) has been sentenced by a Court in any part of Her Majesty's dominions to death or to imprisonment (by whatever name called) other than imprisonment as an alternative to, or in default of, the payment of a fine, for a term exceeding twelve months, and has not either suffered the punishment to which he was sentenced or such other punishment as may have been substituted therefor by competent authority, or received a free pardon ; or
- (e) is adjudged to be of unsound mind or detained as a criminal lunatic under any law in force in the Protectorate.

*Tenure of office of Official and Unofficial Members*

23.—(1) Every Official or Unofficial Member of the Legislative Council shall hold his seat in the Council during Her Majesty's pleasure.

(2) Every Unofficial Member shall vacate his seat in the Council at the end of two years from the date of the Instrument by which he is appointed, or at such earlier date as may be provided by that Instrument, or previously thereto if his seat shall become vacant under the provisions of this Order.

(3) The seat of an Official or Unofficial Member of the Legislative Council shall become vacant—

- (a) upon his death ; or
- (b) if he shall be absent from two consecutive meetings of the Council, without having obtained from the High Commissioner, before the termination of either of such meetings, permission to be or to remain absent therefrom ; or
- (c) if he ceases to be a British subject or ceases to be a British protected person without becoming a British subject, or if he shall take any oath or make any declaration or acknowledgement of allegiance, obedience or adherence to any foreign Power or State ; or shall do, concur in or adopt any act done with the intention that he shall become a subject or citizen of any foreign Power or State ; or
- (d) if he shall become a party to any contract with the Government of the Protectorate for or on account of the public service, or if any firm in which he is a partner or any company of which he is a director or manager shall become a party to any such contract, or if he shall become a partner in a firm or a director or manager of a company which is a party to any such contract :

Provided that, if in the circumstances it shall appear to him just so to do, the High Commissioner may except any Member from vacating his seat under the provisions of this paragraph ; or

- (e) if, in the case of an Official Member, he shall cease to hold office of emolument under the Crown in the Protectorate ; or
- (f) if, in the case of an Unofficial Member, he shall be appointed permanently to any office of emolument under the Crown ; or
- (g) subject to the provisions of any rules that may be made under subsection (4) of this section, if any circumstances arise that if he were not a Member of the Legislative Council, would cause him to be disqualified for appointment as such by virtue of paragraphs (b), (d) or (e) of section 22 of this Order ; or
- (h) if he shall, by writing under his hand addressed to the High Commissioner, resign his seat in the Legislative Council and, in the case of an Official Member, if his resignation shall be accepted by the High Commissioner acting in his discretion.

(4) The High Commissioner may, in order to permit an appeal to be lodged or other remedy pursued in respect of any Member of the Legislative Council who has been adjudged to be of unsound mind, ordered to be detained as a criminal lunatic, sentenced to death or imprisonment or adjudged or declared bankrupt, make rules providing that, subject to such conditions as may be prescribed by such rules, the decision shall not have effect for the purposes of this section until such time as may be prescribed by such rules.

(5) If an Unofficial Member of the Legislative Council shall be appointed temporarily to any office of emolument under the Crown in the Protectorate or shall be appointed to act in any such office, he

shall not sit or vote in the Legislative Council so long as he continues to hold or act in that office.

(6) If any person is appointed to be a temporary Member of the Legislative Council and his temporary appointment is immediately followed by his definitive appointment as an Unofficial Member, the period of two years mentioned in subsection (2) of this section shall be reckoned from the date of the Instrument by which he is appointed a temporary Member.

(7) Any person vacating a seat as an Official or Unofficial Member may, if qualified, be again appointed from time to time.

#### *Suspension of Official or Unofficial Members*

24.—(1) The High Commissioner, acting in his discretion, may, by Instrument under the Public Seal, suspend any Official or Unofficial Member of the Legislative Council from the exercise of his functions as such; and while such suspension is in force the person suspended shall not sit in or take part in the proceedings of the Legislative Council.

(2) Every such suspension shall forthwith be reported by the High Commissioner to Her Majesty through a Secretary of State, and shall remain in force unless and until it shall be removed by the High Commissioner, acting in his discretion, by Instrument under the Public Seal or by Her Majesty through a Secretary of State or the person suspended ceases to be a Member of the Legislative Council.

(3) The High Commissioner, acting in his discretion, may, by Instrument under the Public Seal, declare any Official or Unofficial Member to be temporarily incapable of discharging his functions as a Member of the Legislative Council, and thereupon such Member shall not sit in or take part in the proceedings of the Council until he is declared, in manner aforesaid, again to be capable of discharging his said functions.

#### *Temporary appointments*

25.—(1) Whenever there shall be a vacancy in the number of persons sitting in the Legislative Council by reason of the fact that—

- (a) an *ex officio* Member is administering the Government of the Protectorate; or
- (b) one person is lawfully discharging the functions of more than one of the offices of Chief Secretary, Attorney-General, and Financial Secretary; or
- (c) no person is lawfully discharging the functions of one of those offices; or
- (d) an Official Member is lawfully discharging the functions of one of those offices; or
- (e) an Unofficial Member has been appointed temporarily to, or to act in, an office of emolument under the Crown; or
- (f) an Official or Unofficial Member is, under section 24 of this Order, suspended from the exercise of his functions or declared to be temporarily incapable of discharging his functions; or
- (g) a Member is absent from the Protectorate; or
- (h) the seat of an Official Member or an Unofficial Member is vacant for any cause;

the High Commissioner, acting in his discretion, may, by Instrument under the Public Seal, appoint a person to be a temporary Member for the period of such vacancy.

(2) The said person—

- (a) in the case of a vacancy in the number of persons sitting in the Legislative Council as *ex officio* Members, shall be a person who is a public officer ;
- (b) in the case of a vacancy in respect of the persons sitting in the Legislative Council as Official Members, shall be a person who is qualified for appointment as an Official Member ; and
- (c) in the case of a vacancy in respect of the persons sitting in the Legislative Council as Unofficial Members, shall be a person who is qualified for appointment as an Unofficial Member.

(3) (a) So long as their appointments shall subsist, persons appointed under paragraph (a) of subsection (2) of this section shall, for the purposes of this Order but subject to the provisions of this section, be deemed to be *ex officio* Members of the Legislative Council.

(b) So long as their appointments shall subsist, persons appointed under paragraphs (b) or (c) of subsection (2) of this section shall, for the purposes of this Order but subject to the provisions of this section, be deemed to be Official or Unofficial Members, as the case may be, of the Legislative Council ; and subject as aforesaid, sections 23 and 24 of this Order shall apply accordingly.

(4) The High Commissioner shall forthwith report to Her Majesty, through a Secretary of State, every appointment made under this section and any such appointment may (without prejudice to anything done by virtue thereof) be revoked by the High Commissioner, acting in his discretion, by Instrument under the Public Seal.

(5) A temporary appointment made under this section shall cease to have effect on notification by the High Commissioner to the person appointed of revocation by the High Commissioner, or on supersession of the appointment by the definitive appointment of a person to fill the vacancy, or when the vacancy shall otherwise cease to exist.

#### *Decision of questions as to membership*

26. Any question whether any person has become a Member of the Legislative Council or whether the seat in the Council of any Member has become vacant shall be referred to and decided by the High Commissioner acting in his discretion.

#### *Presiding in Legislative Council*

27.—(1) The High Commissioner shall, so far as is practicable, attend and preside at all meetings of the Legislative Council, and in his absence such Member as the High Commissioner, acting in his discretion, may appoint or, in the absence of such Member or if no Member be so appointed, the senior *ex officio* Member of the Council present shall preside.

(2) For the purposes of this section the *ex officio* Members shall have seniority in the order in which they are mentioned in section 19 of this Order.

## PART V

## LEGISLATION AND PROCEDURE OF LEGISLATURE

*Power of High Commissioner to make laws*

28. Subject to the provisions of this Order, the High Commissioner may make laws for the peace, order and good government of the Protectorate.

*Power of High Commissioner and Legislative Council to make laws*

29. Subject to the provisions of this Order, the High Commissioner, with the advice and consent of the Legislative Council, may make laws for the peace, order and good government of the Protectorate.

*Royal Instructions*

30. Subject to the provisions of this Order, the High Commissioner and the Legislative Council shall, in the transaction of business and the making of laws under section 28 or 29 of this Order, conform as nearly as may be to the directions contained in any Instructions under Her Majesty's Sign Manual and Signet which may from time to time be addressed to the High Commissioner in that behalf.

*Standing Orders*

31.—(1) Subject to the provisions of this Order and of any Instructions under Her Majesty's Sign Manual and Signet, the Legislative Council may from time to time make, amend and revoke Standing Orders for the regulation and orderly conduct of its own proceedings and the dispatch of business, and for the passing, intituling and numbering of Bills, and for the presentation thereof to the High Commissioner for assent; but no such Orders shall have effect until they shall have been approved by the High Commissioner.

(2) Notwithstanding the provisions of subsection (1) of this section the first Standing Orders of the Council shall be made by the High Commissioner and may be amended or revoked by the Council under the provisions of subsection (1) of this section.

*Introduction of Bills, etc., in Legislative Council*

32.—(1) Subject to the provisions of subsection (2) of this section and to the Standing Orders of the Council, any Member may introduce any Bill or propose any motion for debate in, or may present any petition to, the Legislative Council, and the case shall be debated and disposed of according to the Standing Orders of the Council.

(2) The Council shall not proceed upon any Bill, amendment, motion or petition without the recommendation or consent of the High Commissioner signified thereto.

*Legislative Council may transact business notwithstanding vacancies*

33. The Legislative Council shall not be disqualified for the transaction of business by reason of any vacancy among the Members thereof (including any vacancy not filled when the Council is first constituted or is reconstituted at any time), and any proceedings therein shall be valid notwithstanding that some person who was not entitled to do so, sat or voted in the Council or otherwise took part in the proceedings.

*Quorum*

34. No business except that of adjournment shall be transacted in the Legislative Council if objection is taken by any Member present

that there are less than nine Members present besides the High Commissioner or other Member presiding.

### *Voting*

35.—(1) All questions proposed for decision in the Council shall be determined by a majority of the votes of the Members present and voting:

Provided that the High Commissioner or other Member presiding shall, if the votes be equally divided, have a casting vote in addition to his original vote.

(2) The High Commissioner shall exercise the power to vote according to his discretion.

### *Assent to Bills and coming into operation of laws*

36.—(1) No Bill passed by the Legislative Council shall become a law until either the High Commissioner shall have assented thereto in Her Majesty's name and on Her Majesty's behalf, and shall have signed the same in token of such assent, or Her Majesty shall have given Her assent thereto through a Secretary of State.

(2) When such a Bill is presented to the High Commissioner for his assent, he shall, acting in his discretion, but subject to the provisions of this Order and of any Instructions addressed to him under Her Majesty's Sign Manual and Signet or through a Secretary of State, declare that he assents, or refuses to assent, thereto, or that he reserves the Bill for the signification of Her Majesty's pleasure:

Provided that the High Commissioner shall reserve for signification of Her Majesty's pleasure any Bill which determines or regulates the privileges, immunities, or powers of the Legislative Council or the Members thereof.

(3) A law enacted by or assented to by the High Commissioner shall be published by exhibition at the Public Office of the High Commissioner and shall come into operation on the date of such publication, or if it shall be enacted either in such law or in some other law (including any law in force in the Protectorate when this Order comes into operation) that it shall come into operation on some other date, on that date, and any such law shall be printed in the Gazette as soon as may be after the date of such publication.

(4) A Bill reserved for the signification of Her Majesty's pleasure shall become law so soon as Her Majesty shall have given Her assent thereto through a Secretary of State and the High Commissioner shall have signified such assent by Proclamation published together with such law by exhibition at the Public Office of the High Commissioner. Every such law shall come into operation on the date of such Proclamation or, if it shall be enacted either in such law or in some other law (including any law in force when this Order comes into operation) that it shall come into operation on some other date, on that date, and any such law shall be printed in the Gazette as soon as may be after the date of such publication.

### *Disallowance*

37.—(1) Any law which the High Commissioner shall have enacted or to which he shall have given his assent may be disallowed by Her Majesty through a Secretary of State.

(2) Whenever any law has been disallowed by Her Majesty the High Commissioner shall cause notice of such disallowance to be published by exhibition at the Public Office of the High Commissioner and to be printed in the Gazette as soon as may be after the date of such publication.

(3) Every law so disallowed shall cease to have effect as soon as notice of such disallowance shall be published as aforesaid; and thereupon any enactment repealed or amended by, or in pursuance of, the law disallowed shall have effect as if such law had not been made, and, subject thereto 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.

#### *Privileges of Legislative Council*

38. It shall be lawful, by laws enacted under the provisions of section 29 of this Order, to determine and regulate the privileges, immunities and powers of the Legislative Council and of the Members thereof, but no such privileges, immunities or powers shall exceed those of the Commons House of Parliament of the United Kingdom of Great Britain and Northern Ireland or of the Members thereof.

#### *Sessions of the Legislative Council*

39.—(1) Subject to the provisions of subsections (2) and (3) of this section, the sessions of the Legislative Council shall be held at such times and places as the High Commissioner shall appoint from time to time by Proclamation published by exhibition at the Public Office of the High Commissioner, and such Proclamation shall be printed in the Gazette as soon as may be after such publication.

(2) There shall be a session of the Legislative Council once at least in every year, so that a period of twelve months shall not intervene between the last sitting in one session and the first sitting in the next session.

(3) The first session of the Legislative Council shall commence within six months after this Order comes into operation.

#### *Prorogation of the Legislative Council*

40. The High Commissioner may at any time prorogue the Legislative Council by Proclamation published by exhibition at the Public Office of the High Commissioner, and such Proclamation shall be printed in the Gazette as soon as may be after such publication.

#### *Oath of Allegiance*

41. No Member shall sit or vote in the Legislative Council or in any Committee thereof until he shall have taken and subscribed before the High Commissioner, or some person authorised by the High Commissioner in that behalf, the Oath of Allegiance in the form set out in the Schedule to this Order:

Provided that every person authorised by any law in force in the Protectorate to make an affirmation instead of taking an oath in legal proceedings may make an affirmation in like terms instead of taking the said oath.

**PART VI**  
**MISCELLANEOUS**

*Restriction on application of Pacific Order in Council, 1893*

42.—(1) So much of Article 80 of the Pacific Order in Council, 1893(a), as amended by the Pacific (Amendment) Order in Council, 1953(b), and the Pacific (Amendment) Order in Council, 1958(c), as relates to the remission, commutation, suspension or confirmation of sentences of the Court and Article 108 of the said Order shall cease to apply to the Protectorate.

(2) Nothing in this section shall affect the continued validity of any law, in force in the Protectorate at the date of commencement of this Order, made under the provisions of Article 108 of the Pacific Order in Council, 1893, as amended by the Pacific (Amendment) Order in Council, 1958, but any such law may be amended or repealed by the provisions of any law made under the provisions of this Order.

*Queen's Regulations*

43. Laws made under the provisions of Article 108 of the Pacific Order in Council, 1893, and under the provisions of that Article as amended by the Pacific (Amendment) Order in Council, 1958, relating to the Protectorate and called "Queen's Regulations" or "King's Regulations", as the case may be, shall be styled in accordance with the directions contained in any Instructions under Her Majesty's Sign Manual and Signet which may from time to time be addressed to the High Commissioner relating to the enactment of laws under this Order, and references in any law, instrument or other document to "Queen's Regulations" or "King's Regulations" or to "Regulations" meaning thereby Queen's Regulations or King's Regulations shall be read and construed accordingly.

*W. G. Agnew.*

**THE SCHEDULE**

I, \_\_\_\_\_, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law. So help me God!

**EXPLANATORY NOTE**

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

This Order establishes an Executive Council for the British Solomon Islands Protectorate and provides for consultation by the High Commissioner of the Western Pacific with the Executive Council. The Order also establishes a Legislative Council for the Protectorate and provides for the enactment of laws for the Protectorate.

(a) Rev. VIII, p. 597.

(b) S.I. 1953/1909 (1953 II, p. 1520).

(c) S.I. 1958/1519 (1958 II, p. 1711).