

1969 No. 857

SOUTH ATLANTIC TERRITORIES

The St. Helena Supreme Court Order 1969

Made - - - - 25th June 1969*Laid before Parliament* 1st July 1969*Coming into Operation* *On a day to be appointed under section 1(2)*

At the Court at Buckingham Palace, the 25th day of June 1969

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:—

PART I: PRELIMINARY

Citation and commencement.

1.—(1) This Order may be cited as the St. Helena Supreme Court Order 1969.

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

Interpretation.

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

“Chief Justice” means the Chief Justice of St. Helena and includes any person appointed to act as Chief Justice;

“existing Court” means the Court established by the existing Order;

“existing Order” means the Order in Council providing for the administration of justice in St. Helena made on the 13th February 1839(c);

“Supreme Court” means the Supreme Court of St. Helena established by this Order.

(2) Sections 47, 48 and 49(1) of the Constitution set out in Schedule 1 to the St. Helena (Constitution) Order 1966(d) and, subject thereto and to the necessary adaptations, the Interpretation Act 1889(e) shall apply for the purpose of interpreting this Order and otherwise in relation thereto, as they apply for the purpose of interpreting and in relation to the said Constitution; and for the purposes of the said sections 47 and 48 a person appointed under subsection (2) of section 7 of this Order to hold the Supreme Court shall be deemed to be appointed to an office.

(a) 1833 c. 85.

(b) 1887 c. 54; 9 & 10 Geo. 6 c. 7.

(c) Rev. XX, p. 559. (d) S.I. 1966/1458 (1966 III, p. 3937). (e) 1889 c. 63.

3.—(1) The Orders in Council specified in the Schedule to this Order are revoked with effect from the commencement of this Order.

Revocation of existing Order and certain other Orders, and transitional.

(2) The existing laws shall have effect in respect of any time, or any period commencing, after the commencement of this Order as if references to the existing Court or to any judge thereof were references to the Supreme Court or the Chief Justice as the case may be.

(3) Notwithstanding the provisions of subsection (1) of this section—

(a) any cause or matter pending before the existing Court immediately prior to the commencement of this Order may be continued thereafter before the Supreme Court as if such cause or matter had been instituted in the Supreme Court ;

(b) any decree or order of the existing Court given or made before the commencement of this Order may, in so far as it has not been fully executed or enforced, be executed or enforced as if it were a decree or order of the Supreme Court ; and

(c) any appeal from the existing Court pending immediately before the commencement of this Order may be continued and determined thereafter as if it were an appeal from the Supreme Court.

(4) Where any office has been established by or under the existing Order and any provision of this Order establishes a similar or an equivalent office, any person who immediately before the commencement of this Order held or was acting in the former office shall be deemed to have been appointed, as from the commencement of this Order, to hold or act in the latter office in accordance with the provisions of this Order and to have taken any necessary oath :

Provided that any person who under and by virtue of the provisions of the existing Order would have been required to vacate his office at the expiration of any period shall vacate his office at the end of that period.

(5) For the purposes of this section, the expression “ existing laws ” means all Orders in Council made by virtue and in exercise of the powers, or any of them, by virtue and in exercise of which this Order is made, all Ordinances, and all rules, regulations, orders and other instruments made under such Orders in Council or Ordinances, which have been made for, or have effect as part of the law of, St. Helena or its Dependencies immediately before the commencement of this Order.

PART II: THE COURT

4.—(1) There shall be a Supreme Court in and for St. Helena and its Dependencies which shall be styled the Supreme Court of St. Helena and shall be a superior court of record.

Establishment of Supreme Court.

(2) The Supreme Court shall have such jurisdiction in and in relation to St. Helena and its Dependencies as is conferred by this Order and as may be conferred by or under any law for the time being in force in St. Helena or any of its Dependencies.

(3) Subject to the provisions of this Order and to any law for the time being in force in St. Helena or any of its Dependencies, the Supreme Court shall possess and may exercise all the jurisdiction which is vested in, or is capable of being exercised by, Her Majesty's High Court of Justice in England.

Exercise of
jurisdiction
of High
Court.

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

- (a) the Chief Justice ;
- (b) a person empowered by, or appointed under, section 7 to hold the Court ; or
- (c) for the purposes mentioned in subsection (2) of this section, a person empowered by that subsection to continue to sit and hold the Court.

(2) Any person appointed to act as Chief Justice under subsection (3) of section 6 or empowered by or appointed under section 7 to hold the Court may, notwithstanding that his appointment has expired or been revoked or, as the case may be, that the circumstances in which he is empowered to hold the Court cease to obtain, continue to sit and hold the Court for the purposes of giving judgment or otherwise in relation to any proceeding commenced before him while his appointment was subsisting or, as the case may be, such circumstances obtained.

(3) Subject, in the case of a person appointed under subsection (2) of section 7, to any restriction contained in the instrument of appointment, a person by and before whom the Supreme Court may be held shall, in the exercise of the jurisdiction of the Supreme Court, have all the powers and authority of the Court and, save as provided in subsection (5) of this section, the jurisdiction, powers, authority, privileges and immunities conferred on the Chief Justice.

(4) Where, at any time, there are two or more persons by and before whom the Supreme Court may be held, sittings of the Court may be held simultaneously by each person.

(5) A person appointed under subsection (2) of section 7 shall not exercise

- (a) any power to make rules of court ;
- (b) any other power which, by any other law in force in St. Helena or its Dependencies, he is specifically excluded from exercising.

Appoint-
ment of
Chief Justice
and acting
Chief Justice.

6.—(1) The Governor shall, on instructions given by Her Majesty through a Secretary of State, appoint a judge of the Supreme Court who shall be styled the Chief Justice of St. Helena.

(2) An appointment under subsection (1) of this section shall be made by letters patent under the public seal and a person so appointed shall hold office on such terms and conditions as the Governor shall, in accordance with such instructions aforesaid, prescribe.

(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 Chief Justice.

(4) An appointment under subsection (3) of this section—

(a) shall expire—

(i) on the assumption, or the resumption, of the functions of his office by the Chief Justice, or on the return of the Chief Justice to St. Helena and its Dependencies, as the case may be ;

(ii) at the end of the period, if any, for which it was made, whichever first occurs ; and

(b) if not made for any specific period, may be revoked by the Governor.

7.—(1) If—

(a) at a time when an appointment may be made under subsection (3) of section 6 of a person to act as Chief Justice, 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 Chief Justice, is absent from St. Helena, the Governor may himself hold the Supreme Court in St. Helena.

Persons
empowered
to hold
Supreme
Court.

(2) If, at any time, the Governor considers that the state or distribution of business of the Supreme Court makes it desirable that an additional person be appointed by and before whom the Supreme Court may be held, he may appoint a fit and proper person to hold the Court, either generally or for any special purpose.

(3) An appointment under subsection (2) of this section shall expire at the end of the period, if any, for which it was made and, if not made for any specific period, may be revoked by the Governor.

8. There shall be—

(a) a registry of the Supreme Court in St. Helena ; and

(b) such local registries, subordinate to such Registry, in such of the Dependencies as may be necessary for the administration of justice and as may be established by the Governor.

Registry and
local
registries.

9.—(1) There shall be—

(a) A Registrar and Clerk of the Peace (hereinafter referred to as “the Registrar”) ; and

(b) such deputy registrars and other officers of the Supreme Court as shall be necessary for the administration of justice and for the due execution of the powers and authorities granted or committed to the Supreme Court,

Officers of
the Court.

and the Registrar and such deputy registrars and other officers shall perform such functions and discharge such duties as may be prescribed by law or as may be directed by the Chief Justice or, subject to any directions of the Chief Justice, by any other person by and before whom the Court may be held.

(2) Subsections (2) and (3) of section 46 of the Constitution set out in Schedule 1 to the St. Helena (Constitution) Order 1966 shall apply to the offices to which and the officers to whom this section refers :

Provided that, at any time when there is a subsisting appointment under subsection (1) or (3) of section 6 of this Order, the Governor shall, before exercising any of his powers under subsection (2) of the said section 46, consult the Chief Justice.

Powers and
privileges of
Supreme
Court and
Officers.

10. The Supreme Court and a person by and before whom the Court is held shall have in all respects the same powers in respect of contempt of Court, and any such person aforesaid and all officers of the Supreme Court shall have and enjoy the same immunities from legal proceedings as, by the law of England, are for the time being had and enjoyed by the Supreme Court of Judicature in England or the Judges and corresponding officers thereof.

Seal of
Supreme
Court.

11. The Supreme Court shall have, and as occasion arises use, a seal bearing a device and impression of the Royal Arms within a border bearing the words "Seal of the Supreme Court of St. Helena" which seal shall be kept in the custody of the Registrar.

W. G. Agnew.

SCHEDULE

Section 3.

The Order in Council for establishing the due administration of justice in St. Helena made on the 13th day of February 1839.

The Order in Council empowering the Governor of St. Helena to act in certain cases in place of the Chief Justice made on the 5th day of April 1852(a).

The Order in Council relating to trials in St. Helena with the aid of assessors made on the 29th day of June 1878(b).

The Order in Council relating to trials in St. Helena with the aid of assessors made on the 10th day of January 1910(c).

The Order in Council making further provision for the administration of justice in St. Helena made on the 3rd day of October 1935(d).

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order reconstitutes the Supreme Court of St. Helena and its Dependencies.

(a) Rev. XX, p. 570.
(c) Rev. XX, p. 572.

(b) Rev. XX, p. 571.
(d) Rev. XX, p. 568.