

1977 No. 423

SOUTH ATLANTIC TERRITORIES

The Falkland Islands (Legislative Council)
(Amendment) Order 1977*Made* - - - - 9th March 1977*Laid before Parliament* 17th March 1977*Coming into Operation* In accordance with Article 1(3)

At the Court of Saint James, the 9th day of March 1977

Present,

The Counsellors of State in Council

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 3rd day of February 1977, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and Her Royal Highness The Princess Anne, being authorised thereto by the said Letters Patent, and in pursuance of the powers conferred by the British Settlements Acts 1887 and 1945(a) and all other powers enabling Her Majesty, and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:—

Citation, construction and commencement

1.—(1) This Order may be cited as the Falkland Islands (Legislative Council) (Amendment) Order 1977 and shall be construed as one with the Falkland Islands (Legislative Council) Orders 1948 to 1975(b), which Orders are hereinafter referred to as "the principal Order".

(2) This Order and the principal Order may be cited together as the Falkland Islands (Legislative Council) Orders 1948 to 1977.

(3) This Order shall come into operation on a date to be notified by the Governor by Proclamation in the Gazette, which shall be a date not earlier than the day after the date of dissolution of the existing Legislative Council.

(a) 1887 c. 54; 1945 c. 7 (9 & 10 Geo. 6).

(b) S.I. 1948/2573, 1950/1184, 1951/1946, 1955/1650, 1964/1397, 1972/668, 1973/598, 1975/1706 (Rev. VII, p. 591: 1948 I, p. 1018; 1950 I, p. 683; 1951 I, p. 682; 1955 I, p. 833; 1964 III, p. 3204; 1972 I, p. 2150; 1973 I, p. 1908; 1975 III, p. 5813).

Amendment of Part II of the principal Order

2. For Part II of the principal Order there is substituted the following Part:—

“ Part II*The Legislative Council*

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| Establishment of Legislative Council. | 3. There shall be a Legislative Council in and for the Colony constituted in accordance with the provisions of this Order. |
| Composition of Legislative Council. | 4. The Legislative Council shall consist of—
(a) the Governor, as President ;
(b) two Ex-officio Members ;
(c) six Elected Members. |
| Ex-officio Members. | 5. The Ex-officio Members of the Legislative Council shall be the Chief Secretary and the Financial Secretary. |
| Elected Members. | 6. The Elected Members shall be persons qualified in accordance with the provisions of this Order and elected in the manner provided by any law for the time being in force in the Colony. |
| Extra-ordinary Members. | 7. The Governor may summon any person to any meeting of the Council, notwithstanding that such person may not be a member of the Council when, in the opinion of the Governor, the business before the Council renders the presence of such a person desirable. Any person so summoned shall be entitled to take part in the proceedings of the Council relating to the business in respect of which he is summoned as if he were a Member of the Council, except that he shall not have the right to vote in the Council. |
| Cessation of Elected Membership. | 8. Every Elected Member shall cease to be a Member at the next dissolution of the Council after his election, or previously thereto if his seat shall become vacant under the provisions of this Order, but, if qualified, shall be eligible for re-election from time to time. |
| Qualifications for Elected Membership. | 9. Subject to the provisions of section 10 of this Order, any person who is a British subject of the age of twenty-one or upwards shall be qualified to be an Elected Member of the Council, and no other persons shall be qualified to be elected thereto or, having been so elected, shall sit or vote in the Council or in any Committee thereof. |
| Disqualifications for Elected Membership. | 10. No person shall be qualified to be elected as an Elected Member or, having been so elected, shall sit or vote in the Council, who at the time of election—
(a) is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to a foreign Power or State ; or
(b) is an undischarged bankrupt, having been declared a bankrupt under any law in force in any part of Her Majesty's dominions or in any territory under Her Majesty's protection or in any territory in which Her Majesty has from time to time jurisdiction ; or
(c) has, in any part of Her Majesty's dominions or in any territory under Her Majesty's protection or in any territory in which Her Majesty has from time to time jurisdiction, been sentenced to death or to imprisonment (by whatever name called) for a term exceeding six months, and has not either suffered the punishment |

- to which he was sentenced or such other punishment as may by competent authority have been substituted therefor or received a free pardon ; or
- (d) has been declared to be of unsound mind under any law in force in the Colony ; or
- (e) is a party to, or partner in a firm, or a director or manager of a company, which is a party to, any subsisting contract with the Government of the Colony for or on account of the public service and has not published within one month before the day of election in the Gazette and in a newspaper circulating in the electoral district for which he is a candidate a notice setting out the nature of such contract and of his interest, or of the interest of such firm or company, therein ; or
- (f) holds any office of emolument under the Crown in the Colony ; or
- (g) (i) is not qualified to be registered as an elector under the provisions of any law for the time being in force in the Colony or, being so qualified, is not so registered ; or
- (ii) is disqualified for election by any law for the time being in force in the Colony by reason of his holding, or acting in, any office the functions of which involve :
- (a) any responsibility for, or in connection with, the conduct of any election ; or
- (b) any responsibility for the compilation or revision of any electoral register ; or
- (iii) has not ordinarily resided in the Colony for a period of not less than three years ; or
- (h) is disqualified for membership of the Council by any law for the time being in force in the Colony relating to offences connected with the election of Elected Members.

Vacation of Seats. 11.—(1) The seat of an Elected Member of the 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 Governor, before the termination of either of such meetings, permission to be or to remain absent therefrom ; or
- (c) if he 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, by writing under his hand directed to the Governor, resign his seat in the Council ; or
- (e) if he shall be appointed to any office of emolument under the Crown ; or
- (f) if he shall become disqualified from being registered as an elector under the provisions of any law of the Colony in that behalf, or, not being so disqualified, shall cease to be registered as such ; or
- (g) if he shall otherwise cease to be qualified for election under the provisions of this Order.

(2) Subject to the provisions of this Order, all questions which may arise as to the right of any person to be or remain an Elected Member shall be determined by the Supreme Court of the Colony in accordance with the provisions of any law for the time being in force in the Colony.

12.—(1) Whenever there shall be a vacancy in the number of persons sitting as Ex-officio Members of the Council by reason of the fact that—

Temporary
Members.

- (a) an Ex-officio Member is administering the Government of the Colony ; or
- (b) the person holding the substantive appointment of Financial Secretary is lawfully discharging the functions of Chief Secretary ; or
- (c) the person holding the substantive appointment of Chief Secretary or Financial Secretary is incapable by reason of illness of discharging the functions of his office ; or
- (d) no person is holding the substantive appointment of Chief Secretary or Financial Secretary ; or
- (e) an Ex-officio Member is absent from the Colony,

the Governor may by Instrument under the Public Seal appoint a person to be a temporary Ex-officio Member for the period of such vacancy.

(2) Any person appointed to be a temporary Ex-officio Member shall be a person holding office of emolument under the Crown in the Colony and, so long as his appointment shall subsist, the provisions of this Order shall, subject to the provisions of this section, apply to him as if he were an Ex-officio Member.

(3) The Governor shall forthwith report every temporary appointment made under this section to Her Majesty through a Secretary of State and such appointment may (without prejudice to anything done by virtue thereof) be revoked by the Governor by Instrument under the Public Seal.

(4) A temporary appointment made under this section shall cease to have effect on notification by the Governor, 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.

13. The Governor, if present, shall preside at meetings of the Council, and in his absence such Member as the Governor may from time to time appoint in writing, or in the absence of the Member so appointed or if no Member be so appointed, the Member present who stands first in order of precedence shall preside.

Presiding in
Legislative
Council.

14.—(1) After the Governor, the Members of the Council shall take precedence among themselves as Her Majesty may specially assign, and in default thereof as follows:—

Precedence
of
Members.

Firstly, the Ex-officio Members in the order in which their offices are referred to in section 5 of this Order ;

Secondly, the Elected Members, according to the length of time during which they have been continuously Members of the Council, Members elected at the same time taking precedence among themselves in such order as the Governor may direct.

(2) For the purposes of this section :

(a) Members elected to the Council as first constituted under this Order shall be deemed to have been elected on the date on which the report of the return of the first successful candidate for election in the applicable General Election is made to the Governor ; and

(b) in ascertaining the period during which a person has continuously been a Member of the Council :

(i) no account shall be taken of any interval between the vacation by that person of his seat in the Council in consequence of the expiration of his tenure of office or a dissolution of the Council and the date of his re-election to fill a vacancy in the Council caused by that expiration of tenure or that dissolution ; and

(ii) if any person having been, for any period immediately before the appointed day, a Member of the Legislative Council constituted by the Letters Patent of 1892, was elected as a Member by virtue of the first elections to the Council after the appointed day, he shall be deemed to have been a Member of the Council so constituted for that period ; and no account shall be taken of any interval between the day preceding the appointed day and the date upon which he was first elected to the Council, or of any interval in his membership of the Legislative Council constituted by the Letters Patent of 1892 between the expiration of his tenure of office and his election to fill the vacancy thereby caused.

15. Whenever the seat of an Elected Member becomes vacant, a fresh election shall be held to fill the vacancy in accordance with the provisions of this Order.”

Amendment of section 26 of the principal Order

3. Section 26 of the principal Order is amended by deleting the words “ and appointment ” in subsection (2).

Amendment of section 30 of the principal Order

4. Section 30 of the principal Order is amended by deleting the words “ or appointed ” and “ or appointment ” wherever they appear in subsection (1) (a), and by substituting the words “ Chief Secretary ” for the words “ Colonial Secretary ” in subsection (2).

5. In the case of the first general election to be held after the coming into force of this Order, section 26(2) of the principal Order (which requires an election to be held within three months of every dissolution) shall be read as if the words “ four months ” were substituted for the words “ three months ”.

N. E. Leigh,
Clerk of the Privy Council.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order provides for the abolition of the seats of the two Nominated Independent Members of the Legislative Council of the Falkland Islands and the increase from four to six in the numbers of seats of Elected Members.

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