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STATUTORY INSTRUMENTS

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1985 No. 449

SOUTH ATLANTIC TERRITORIES

The South Georgia and South Sandwich Islands Order 1985

Made - - - - - 20th March 1985

Laid before Parliament 28th March 1985

Coming into Operation In accordance with section 1

At the Court at Buckingham Palace, the 20th day of March 1985

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers vested in Her by the British Settlements Acts 1887 and 1945(a), and of all other powers enabling Her in that behalf is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the South Georgia and South Sandwich Islands Order 1985 and shall come into operation on the day appointed for the coming into effect of the Constitution of the Falkland Islands contained in Schedule 1 to the Falkland Islands Constitution Order 1985(b).

Citation  
commence-  
ment, and  
revocation.

(2) As from the commencement of this Order the Letters Patent dated 21st July, 1908(c) and of 28th March 1917(d) concerning the government of certain islands and territories as Dependencies of the Falkland Islands shall be revoked.

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

Interpretation.

“the Territories” means the islands and territories referred to in section 3 of this Order;

“the Commissioner” means the Commissioner for the Territories.

(2) The Interpretation Act 1978(e) 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.

3. As from the date of commencement of this Order all islands and territories whatsoever between the 20th degree of west longitude and the 50th degree of west longitude which are situated between the 50th parallel of south latitude and the 60th parallel of south latitude shall cease to be

South  
Georgia and  
the South  
Sandwich  
Islands.

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(a) 1887 c. 54, 1945 c. 7 (9 & 10 Geo. 6).  
(d) Rev. VII, p. 585.

(b) S.I. 1985/444.

(c) Rev. VII, p. 583.  
(e) 1978 c. 30.

governed as Dependencies of the Falkland Islands and shall be known as South Georgia and the South Sandwich Islands.

Establishment  
of office of  
Commissioner.

4. There shall be a Commissioner for the Territories who shall be the officer for the time being administering the Government of the Falkland Islands.

Powers and  
duties of  
Commissioner.

5.—(1) The Commissioner shall have such powers and duties as are conferred or imposed 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 or duties are conferred or imposed, 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 through a Secretary of State.

(2) The Commissioner shall consult with the Officer for the time being commanding Her Majesty's Forces in the South Atlantic (hereinafter referred to as "the Forces Commander") before exercising any function which appears to the Commissioner to relate to defence or internal security (with the exception of the police) and shall act in accordance with the advice which the Forces Commander then tenders to him; and he shall likewise act in accordance with the advice of the Forces Commander on any matter on which the latter considers it necessary in the interests of defence or internal security (with the exception of the police) to give advice to the Commissioner:

Provided that the question whether the Commissioner has on any matter consulted with the Forces Commander or acted in accordance with his advice shall not be enquired into in any court of law.

(3) The Commissioner shall, whenever practicable, consult the Executive Council of the Falkland Islands before exercising any function which, in his opinion, might affect the Falkland Islands; and shall take due account of such views as the Executive Council may then express:

Provided that the question whether the Commissioner has on any matter consulted the Executive Council or taken due account of their views shall not be enquired into in any court of law.

(4) All references to the Governor or to the Civil Commissioner or to the officer administering the Government in any law in force immediately before the commencement of this Order shall, unless the context otherwise requires, be construed as references to the Commissioner.

Public seal.

6. The Commissioner shall cause to be kept and used a public seal for the Territories which shall be used for sealing all things that should pass the seal.

Constitution  
of offices.

7. The Commissioner, in the name and on behalf of Her Majesty, may constitute such offices for the Territories as may lawfully be constituted

by Her Majesty and, subject to the provisions of any law for the time being in force in the Territories and to such instructions as may from time to time be given to him by Her Majesty through a Secretary of State, the Commissioner may likewise—

- (a) make appointments, to be held during Her Majesty's pleasure, to any office so constituted; and
- (b) dismiss any person so appointed or take such other disciplinary action in relation to him as the Commissioner may think fit.

8. Whenever the substantive holder of any office constituted by or under this Order is on leave of absence pending relinquishment of his office—

Concurrent appointments.

- (a) another person may be appointed substantively to that office; and
- (b) that person shall, for the purpose of any functions attaching to that office, be deemed to be the sole holder of that office.

9.—(1) The Commissioner may make laws for the peace, order and good government of the Territories.

Power to make laws.

(2) Subject to the provisions of any instructions from time to time given by Her Majesty through a Secretary of State, the Commissioner shall in the making of laws observe, so far as practicable, the rules set out in the Annex to this Order.

(3) All laws made by the Commissioner in exercise of the powers conferred by this Order shall be published in the Official Gazette for the Territories and in such manner and at such place or places in the Territories as the Commissioner may from time to time direct.

(4) Every such law shall come into operation on the date on which it is published in accordance with the provisions of subsection (3) of this section unless it is provided, either in such law or in some other enactment, that it shall come into operation on some other date, in which case it shall come into operation on that date.

10.—(1) Any law made by the Commissioner in exercise of the powers conferred by this Order may be disallowed by Her Majesty through a Secretary of State.

Disallowance of laws.

(2) Whenever any law has been disallowed by Her Majesty, the Commissioner shall cause notice of such disallowance to be published in the Official Gazette for the Territories and in such manner and at such place or places in the Territories as the Commissioner may from time to time direct.

(3) Every law so disallowed shall cease to have effect as soon as notice of disallowance has been published as aforesaid; and thereupon any enactment repealed or amended by, or in pursuance of, the law so disallowed shall have effect as if such law had not been made, and, subject thereto, the provisions of section 16(1) of the Interpretation Act 1978 shall apply to such disallowance as they apply to the repeal of an Act of Parliament.

Commissioner's  
powers of  
pardon, etc.

11. The 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 the laws of the Territories 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 sentence imposed on that person for any such offence; or
- (c) substitute a less severe form of punishment for any punishment imposed by any such sentence; or
- (d) remit the whole or any part of any such sentence or of any penalty or forfeiture otherwise due to Her Majesty on account of any offence.

Existing laws.

12. Subject to the provisions of this Order, and except to the extent that they may be repealed, amended or modified by laws made under section 9 of this Order or by other lawful authority, the laws in force in the Territories immediately before the commencement of this Order shall continue in force in the Territories but shall be applied with such adaptations, modifications and exceptions as are necessary to bring them into conformity with the provisions of this Order.

Establishment  
of courts.

13.—(1) The Commissioner may, by a law made under section 9 of this Order, establish a Supreme Court and such other courts of justice (including a Court of Appeal) for the Territories as he may think fit and may likewise make provision respecting the jurisdiction and powers of any such court, the proceedings in any such court, the enforcement and execution of the judgments, decrees, orders and sentences of any such court given or made in the exercise of such jurisdiction and powers, appeals therefrom, and the continuation of proceedings pending before, or decisions given by, any court referred to in subsection (5) of this section.

(2) The provisions of subsection (1) of this section shall apply to any court of justice established for another colony on which the Commissioner may, with the concurrence of the Governor of that colony, confer jurisdiction in respect of the Territories by a law made under section 9 of this Order.

(3) Any such court as is referred to in subsections (1) and (2) of this section may sit in the Territories or elsewhere for the purpose of exercising its jurisdiction in respect of the Territories.

(4) The Commissioner may constitute all such judgeships and other offices as he may consider necessary for the purposes of this section and may make appointments to any office so established, and any person so appointed, unless otherwise provided by law, shall hold his office during Her Majesty's pleasure.

(5) Pending the establishment of or the conferring of jurisdiction upon courts of justice for the Territories in accordance with the provisions of subsections (1) or (2) of this section, the courts exercising jurisdiction

in respect of the Territories immediately before the date of commencement of this Order shall continue to exercise such jurisdiction for the Territories as if jurisdiction had been conferred on them under subsection (2) of this section.

14. Subject to any law for the time being in force in the Territories and to any instructions from time to time given to the Commissioner by Her Majesty through a Secretary of State, the Commissioner, in Her Majesty's name and on Her Majesty's behalf, may make and execute grants and dispositions of any lands or other immovable property within the Territories that may be lawfully granted or disposed of by Her Majesty.

Disposal of  
land.

15. There is reserved to Her Majesty full power to make laws from time to time for the peace, order and good government of the Territories including, without prejudice to the generality of the foregoing, laws amending or revoking this Order.

Power reserved  
to Her Majesty.

*G. I. de Deney,*  
Clerk of the Privy Council.

Section 9(2)

## ANNEX TO THE ORDER

### RULES FOR THE ENACTMENT OF LAWS

1. All laws shall be styled Ordinances and the words of enactment shall be "Enacted by the Commissioner for South Georgia and the South Sandwich Islands".

2. Matters having no proper relation to each other shall not be provided for by the same Ordinance; no Ordinance shall contain anything foreign to what the title of the Ordinance imparts; and no provision having indefinite duration shall be included in any Ordinance expressed to have limited duration.

3. All Ordinances shall be distinguished by titles, and shall be divided into successive sections consecutively numbered, and to every section there shall be annexed in the margin a short indication of its contents.

4. All Ordinances shall be numbered consecutively in a separate series for each year commencing in each year with the number one, and the position of each Ordinance in the series shall be determined with reference to the day on which the Commissioner enacted it.

5. Copies of all Ordinances shall be printed and each Ordinance shall bear the following:—

- (a) particulars of the day on which the Commissioner enacted it;
- (b) particulars of the day on which the Ordinance was published in the Official Gazette for the Territories; and
- (c) particulars of the day on which the Ordinance came into operation or, if that day shall not have been determined, a reference to the provision in the Ordinance or otherwise whereby it may be determined.

6. The Commissioner shall not, without having previously obtained instructions through a Secretary of State, enact any Ordinance within any of the following classes, unless such Ordinance contains a clause suspending the operation thereof until the signification of Her Majesty's pleasure thereon, that is to say—

- (a) any Ordinance for the divorce of married persons;
- (b) any Ordinance whereby any grant of land or money, or other donation or gratuity may be made to himself;
- (c) any Ordinance affecting the currency of the Territories or relating to the issue of bank notes;
- (d) any Ordinance establishing any banking association or altering the constitution, rights or duties of any such association;
- (e) any Ordinance imposing differential duties;
- (f) any Ordinance the provisions of which shall appear to him to be inconsistent with obligations imposed upon the United Kingdom by treaty;
- (g) any Ordinance affecting the discipline or control of Her Majesty's Forces by land, sea or air;
- (h) any Ordinance of an extraordinary nature and importance whereby Her Majesty's prerogative, or the rights or property of Her subjects not residing in the Territories, or the trade, transport or communications of any other territory under Her Majesty's sovereignty may be prejudiced;
- (i) any Ordinance whereby persons of any community or religion may be subjected or made liable to disabilities or restrictions to which persons of other communities or religions are not also made liable, or become entitled to any privilege or advantage which is not conferred on persons of other communities or religions; and
- (j) any Ordinance containing provisions which have been disallowed:

Provided that the Commissioner may, without such instructions as aforesaid and although the Ordinance contains no such clause as aforesaid, enact any such Ordinance (except an Ordinance the provisions of which appear to him to be inconsistent with obligations imposed upon the United Kingdom by treaty) if he shall have satisfied himself that an urgent necessity exists requiring that the Ordinance be brought into immediate operation; but in any such case he shall forthwith transmit a copy of the Ordinance to a Secretary of State together with his reasons for so enacting the same.

7. When any Ordinance has been enacted, the Commissioner shall at the earliest convenient opportunity transmit through a Secretary of State, for the signification of Her Majesty's pleasure, a transcript in duplicate of the Ordinance duly authenticated under the public seal of the Territories and by his own signature, together with an explanation of the reasons and occasion for the enactment of the Ordinance.

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#### EXPLANATORY NOTE

*(This Note is not part of the Order.)*

This Order makes provision for the future administration of South Georgia and the South Sandwich Islands.

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