

STATUTORY INSTRUMENTS

1962 No. 1550

CARIBBEAN AND NORTH ATLANTIC  
TERRITORIES

The Jamaica (Constitution) Order in Council 1962

*Made* ... .. 23rd July 1962

*Laid before Parliament* ... .. 24th July 1962

*Coming into Operation—*

Section 3(2) of the Order in Council,  
and sections 80, 81, 94(1) and (2), 103,  
104, 111, 124 and 125 (in part) of the

Constitution	...	...	...	25th July 1962
Remainder	...	...	...	Immediately before the 6th August 1962

ARRANGEMENT OF ORDER

*Section*

1. Citation, commencement and interpretation.
2. Revocation.
3. Establishment of the Constitution.
4. Existing laws.
5. Finance.
6. House of Representatives.
7. First Standing Orders of Senate.
8. Remuneration of Members of Parliament, etc.
9. Clerks to Houses of Parliament and their staffs.
10. First Cabinet.
11. Parliamentary Secretaries.
12. Secretary to the Cabinet.
13. Supreme Court and Judges.
14. Pending Appeals.
15. Appeals from Cayman Islands and Turks and Caicos Islands.
16. Remuneration of Auditor-General.
17. Existing officers.
18. Transitional provisions relating to Privy Council.
19. Transitional provisions relating to existing Commissions.
20. Transitional provisions for certain officers.
21. Alteration of this Order.
22. Interpretation.

FIRST SCHEDULE

ORDERS IN COUNCIL REVOKED BY THIS ORDER

SECOND SCHEDULE

THE CONSTITUTION OF JAMAICA.

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[The inclusion of this page is authorized by L.N. 50/1979]

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At the Court at Buckingham Palace, the 23rd day of July, 1962

Present,

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL  
Her Majesty, by virtue and in exercise of the powers in that behalf by subsection (1) of section 5 of the West Indies Act, 1962 or otherwise in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

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1.—(1) This Order may be cited as the Jamaica (Constitution) Order in Council 1962.

Citation,  
commence-  
ment and  
interpreta-  
tion.

(2) Subject to the provisions of subsection (2) of section 3 of this Order, this Order shall come into operation immediately before the appointed day (in this Order referred to as "the commencement of this Order"):

Provided that where by or under this Order the Governor-General has power to make any appointment or to make any Order or to do any other thing for the purposes of this Order that power may be exercised by the Governor of the Colony of Jamaica at any time after the twenty-fourth day of July, 1962 to such extent as may, in his opinion, be necessary or expedient to enable the Constitution established by this Order to function as from the commencement of this Order.

2.—(1) The Orders in Council specified in the First Schedule to this Order (hereinafter referred to as "the existing Orders") are hereby revoked.

Revoca-  
tion.

(2) Notwithstanding the revocation of the existing Orders the following Regulations—

- (a) the Public Service Regulations, 1961,
- (b) the Judicial Service Regulations, 1961,
- (c) the Police Service Regulations, 1961, and
- (d) the Jamaica (Constitution) (Retirement of Entitled Officers) Regulations, 1961,

made thereunder and all amendments thereto shall continue in force subject to such adaptations or modifications as may be made thereto by or under section 4 of this Order and subject to amendment or repeal by the authority having power to amend or revoke the same.

(3) With effect from the commencement of this Order paragraph (f) (which specifies Jamaica) of the definition of the "the Territories" in subsection (1) of section 2 of the British Caribbean Court of Appeal Order in Council 1962 is revoked.

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1962/1086  
(1962 II,  
p. 1247)

Establish-  
ment of the  
Constitu-  
tion.

3.—(1) Subject to the provisions of subsection (2) of this section and the other provisions of this Order, the Constitution of Jamaica set out in the Second Schedule to this Order (in this Order referred to as "the Constitution") shall come into force in Jamaica at the commencement of this Order.

(2) This subsection and the following provisions of the Constitution—

- (a) sections 80 and 81,
- (b) subsections (1) and (2) of section 94,
- (c) sections 103 and 104,
- (d) section 111,
- (e) section 124,
- (f) section 125 to the extent only as to enable a Director of Public Prosecutions to be appointed before the appointed day,

shall come into force in Jamaica on the twenty-fifth day of July 1962:

Provided that in relation to any period prior to the appointed day references in these provisions of the Constitution—

- (a) to the Governor-General and the Prime Minister shall be construed as references to the Governor and Premier respectively of the Colony of Jamaica;

- (b) to Parliament and to the House of Representatives shall be construed as references to the Legislature and the House of Representatives constituted under the existing Orders; and
- (c) to the Chief Justice or a Judge of the Supreme Court shall be construed as references to the Chief Justice or a Judge of the Supreme Court holding office under the existing Orders.

4.—(1) All laws which are in force in Jamaica immediately before the appointed day shall (subject to amendment or repeal by the authority having power to amend or repeal any such law) continue in force on and after that day, and all laws which have been made before that day but have not previously been brought into operation may (subject as aforesaid) be brought into force, in accordance with any provision in that behalf, on or after that day, but all such laws shall, subject to the provisions of this section, be construed, in relation to any period beginning on or after the appointed day, with such adaptations and modifications as may be necessary to bring them into conformity with the provisions of this Order. Existing laws.

(2) Without prejudice to the generality of the preceding subsection, in any law which continues in force on and after the appointed day or which, having been made before that day, is brought into force on or after that day, unless the context otherwise requires—

- (a) references to the Governor shall, in relation to any period beginning on or after the appointed day, be construed as references to the Governor-General;
- (b) references to the Legislature or to either chamber thereof shall, in relation to any period as aforesaid, be construed as references to the Parliament, or to the corresponding House thereof, established by the Constitution;

- (c) references to any office (or to the person holding or acting in it) connected with either chamber of the Legislature shall, in relation to any such period as aforesaid be construed as references to the corresponding office (or the person holding or acting in it) constituted by or under the Constitution;
- (d) references to the Cabinet, to the premier or to any other Minister shall, in relation to any such period as aforesaid, be construed as references respectively to the Cabinet established by the Constitution to the Prime Minister appointed for the time being under the Constitution and to the corresponding Minister so appointed;
- (e) references to the Secretary to the Cabinet shall, in relation to any such period as aforesaid, be construed as references to the Secretary to the Cabinet established by the Constitution;
- (f) references to the Privy Council shall, in relation to any such period as aforesaid, be construed as references to the Privy Council established by the Constitution;
- (g) references to the Judicial Service Commission, the Public Service Commission or the Police Service Commission shall, in relation to any such period as aforesaid, be construed as references respectively to the Judicial Service Commission, the Public Service Commission or the Police Service Commission established by the Constitution;
- (h) references to any other office (or to the person holding or acting in it) constituted by or under the existing Orders or to any other authority or body so constituted shall, in relation to any such period

as aforesaid, be construed as references respectively to the corresponding office (or to the person holding or acting in it) or the corresponding authority or body constituted by or under the Constitution.

(3) For the purposes of this Order the Senate is the corresponding House to the Legislative Council constituted under the existing Orders.

(4) The Governor-General may, by Order published in the *Gazette*, declare—

(a) for the purposes of paragraphs (c) and (h) of subsection (2) of this section, what is the corresponding office, authority or body referred to in either of those paragraphs; and

(b) for the purposes of paragraph (d) of that subsection, who is the corresponding Minister referred to in that paragraph.

(5) (a) The Governor-General may, by Order made at any time within a period of two years commencing with the appointed day and published in the *Gazette*, make such adaptations and modifications in any law which continues in force in Jamaica on and after the appointed day, or which having been made before that day, is brought into force on or after that day, as appear to him to be necessary or expedient by reason of anything contained in this Order.

(b) Without prejudice to the generality of paragraph (a) of this subsection any Order made thereunder may transfer to the Director of Public Prosecutions any function by any such law vested in the Attorney-General.

(c) An Order made by the Governor-General under this subsection shall have effect from such date, not earlier than the appointed day, as may be specified therein.

5. Without prejudice to the provisions of the preceding section and for the avoidance of doubt, it is hereby declared **Finance.**

that any resolution of the House of Representatives passed before the appointed day and any law enacted by the Legislature before that day (whether such resolution was passed or such law enacted before or after the making of this Order) may have effect for the purposes of section 117 of the Constitution as if they were respectively a resolution of the House of Representatives established by the Constitution or a law enacted by the Parliament so established.

House of  
Representatives.

6.—(1) Notwithstanding any other provisions of this Order, the House of Representatives constituted under the existing Orders (in this section referred to as “the existing House of Representatives”) shall be the House of Representatives of Jamaica during the period beginning with the commencement of this Order and ending with the first dissolution of Parliament thereafter.

(2) The persons who immediately before the commencement of this Order are members of the existing House of Representatives shall be members of the House of Representatives established by this Order and as from that time shall be deemed to have been elected as such in pursuance of section 36 of the Constitution and shall hold their seats in that House in accordance with the provisions of the Constitution.

(3) The persons who immediately before the commencement of this Order are Speaker and Deputy Speaker of the existing House of Representatives shall be Speaker and Deputy Speaker respectively of the House of Representatives established by this Order and as from that time shall be deemed to have been elected as such in pursuance of section 43 of the Constitution and shall hold office in accordance with the provisions of the Constitution.

(4) The Standing Orders of the existing House of Representatives as in force immediately before the commencement of this Order shall, with such adaptations and

modifications as may be necessary to bring them into conformity with this Order, be the first Standing Orders of the House of Representatives established by the Constitution as if they had been made in pursuance of section 51 of the Constitution.

(5) Notwithstanding anything contained in subsection (2) of section 64 of the Constitution (but subject to the provisions of subsections (3) and (4) of that section) Parliament shall, unless sooner dissolved, stand dissolved on the tenth day of April 1967.

7. The Standing Orders of the Legislative Council constituted under the existing Orders as in force immediately before the commencement of this Order shall, with such adaptations and modifications as may be necessary to bring them into conformity with this Order, be the first Standing Orders of the Senate established by the Constitution as if they had been made in pursuance of section 51 of the Constitution.

First Standing Orders of Senate.

8. Until other provision is made in that behalf, the salary and allowances payable to members of either House, the President and Deputy President of the Senate, the Speaker and Deputy Speaker of the House of Representatives, Ministers and Parliamentary Secretaries shall be those payable to the persons last holding the corresponding offices immediately before the commencement of this Order.

Remuneration of members of Parliament, etc.

9.—(1) Any person who, immediately before the commencement of this Order holds office as Clerk or Deputy Clerk of the Legislative Council or of the House of Representatives shall, as from that time, hold the like office of Clerk or Deputy Clerk of the Senate or of the House of Representatives as if he had been appointed thereto under section 47 of the Constitution, and shall, until other pro-

Clerks to Houses of Parliament and their staffs.

vision is made in accordance with the provisions of that section, hold office on the same terms of service as applied to him immediately before the commencement of this Order.

(2) Any other person who, immediately before the commencement of this Order holds an office on the staff of the Clerk of the Legislative Council or on the staff of the Clerk of the House of Representatives shall hold the like office on the staff of the Clerk of the Senate or on the staff of the Clerk of the House of Representatives as from that time as if he had been appointed thereto under section 47 of the Constitution.

First  
Cabinet.

10.—(1) The person who, immediately before the commencement of this Order, holds the office of Premier shall, as from that time hold office as Prime Minister as if he had been appointed thereto under section 70 of the Constitution; the persons who, immediately before the commencement of this Order, are members of the House of Representatives and hold office as other Ministers shall, as from that time, similarly hold the like offices under the Constitution; and references in the Constitution to the Cabinet shall be construed accordingly.

(2) Where any Minister who holds office as from the commencement of this Order under the provisions of the preceding subsection is, by virtue of a direction given under the existing Orders, charged immediately before the commencement of this Order with responsibility for any subject or department, he shall be deemed as from the commencement of this Order to have been charged with the responsibility for the corresponding subject or department of government under subsection (1) of section 77 of the Constitution.

Parliamentary  
Secretaries.

11. Any person who, immediately before the commencement of this Order, is a member of the House of Representa-

tives and holds office as a Parliamentary Secretary shall, as from that time hold office as Parliamentary Secretary as if he had been appointed thereto under the provisions of section 78 of the Constitution.

12. The person who, immediately before the commencement of this Order holds office as Secretary of the Cabinet shall, as from that time, hold office as Secretary to the Cabinet as if he had been appointed thereto under the provisions of section 92 of the Constitution.

Secretary  
to Cabinet.

13.—(1) The Supreme Court in existence immediately before the commencement of this Order shall be the Supreme Court for the purposes of the Constitution, and the Chief Justice and other Judges of the Supreme Court holding office immediately before the commencement of this Order shall, as from that time, continue to hold the like offices as if they had been appointed thereto under the provisions of Chapter VII of the Constitution.

Supreme  
Court and  
Judges.

(2) Until other provision is made under and in accordance with the provisions of section 101 of the Constitution, the salaries and allowances of the Judges of the Supreme Court shall be the salaries and allowances to which the holders of those offices were entitled immediately before the commencement of this Order.

14.—(1) Any proceedings pending immediately before the commencement of this Order on appeal from the Supreme Court to the British Caribbean Court of Appeal may be continued after the commencement of this Order before the Court of Appeal established by the Constitution.

Pending  
Appeals.

(2) Any judgment of the Supreme Court of the Federation of The West Indies or of the British Caribbean Court of Appeal in an appeal from a court of Jamaica given, but not satisfied, before the commencement of this

Order, may be enforced after the commencement of this Order as if it were a judgment of the Court of Appeal established by the Constitution.

Appeals  
from  
Cayman  
Islands and  
Turks and  
Caicos  
Islands.

15. The Court of Appeal established by the Constitution may have and exercise such jurisdiction and powers in respect of the Cayman Islands and the Turks and Caicos Islands as may be conferred upon it by any law for the time being in force in the Cayman Islands or the Turks and Caicos Islands, as the case may be, and may for the purpose of exercising that jurisdiction sit either in Jamaica or in the Cayman Islands or in the Turks and Caicos Islands, as the case may be.

Remunera-  
tion of  
Auditor-  
General.

16. Until provision is made under and in accordance with subsection (4) of section 120 of the Constitution, the salary and allowances of the Auditor-General shall be the salary and allowances to which the holder of that office was entitled immediately before the commencement of this Order.

Existing  
Officers.

17.—(1) Where any office has been established for the former Colony of Jamaica by or under the existing Orders or any existing law, and the Constitution establishes the same or an equivalent office for Jamaica, not being the office of Prime Minister, Minister, or Parliamentary Secretary, any person who, immediately before the commencement of this Order, is holding or acting in the former office shall, so far as is consistent with the provisions of this Order, be deemed as from the commencement of this Order to have been appointed to or to act in the latter office in accordance with the provisions of this Order and to have taken any necessary oath under this Order.

(2) Subject to the provisions of this Order, every person who, immediately before the commencement of this Order, holds or is acting in a public office shall, as from that

time, continue to hold or act in the like office as if he had been appointed thereto or to act therein in accordance with the provisions of this Order.

(3) The provisions of this section shall be without prejudice to—

- (a) the provisions of section 6 of this Order; and
- (b) any powers conferred by or under this Order upon any person or authority to make provision for the abolition of offices and the removal of persons holding or acting in any office.

(4) In this section “existing law” means such a law as is referred to in subsection (1) of section 4 of this Order.

18. Any matter which, immediately before the commencement of this Order, is pending before the Privy Council established under the existing Orders shall as from the commencement of this Order, be continued before the Privy Council established by the Constitution.

Transitional provisions relating to Privy Council.

19.—(1) Any power of the Governor of the Colony of Jamaica acting on the recommendation of a Commission established by the existing Orders (in this section referred to as “an existing Commission”) which has been validly delegated to any person or authority under those Orders shall, as from the commencement of this Order, be deemed to have been delegated to that person or authority in accordance with the provisions of the Constitution.

Transitional provisions relating to existing Commissions.

(2) Any matter which, immediately before the commencement of this Order, is pending before an existing Commission or, as the case may be, before any person or authority to whom the power to deal with such matter has been validly delegated under the existing Orders shall as from the commencement of this Order be continued before

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[The inclusion of this page is authorized by L.N. 50/1979]

the Judicial Service Commission established by the Constitution or the Public Service Commission or the Police Service Commission so established or, as the case may be, the said person or authority :

Provided that where an existing Commission or, as the case may be, any person or authority as aforesaid has, immediately before the commencement of this Order, partly completed the hearing of a disciplinary proceeding (in this section referred to as "the original hearing"), no person shall take part in the continued hearing unless he has also taken part in the original hearing; and where by virtue of this subsection the original hearing cannot be so continued the hearing of the disciplinary proceedings shall be recommenced.

Transitional provisions relating to certain officers.

20.—(1) Any person who, immediately before the commencement of this Order, holds any office established by or under the existing Orders and who does not, as from the date of such commencement, hold any public office shall be entitled to the leave, beginning with the commencement of this Order, for which under the terms of service applicable to him immediately before the commencement of this Order he was then eligible :

Provided that if any such person holds, or is acting in, as from the commencement of this Order, any office established by or under the Constitution, the leave to which he is entitled under this section shall begin when he relinquishes that office.

(2) When any person is on leave under the provisions of subsection (1) of this section, he shall be regarded as still in the office which he held immediately before the commencement of this Order.

Alteration of this Order.

21.—(1) Parliament may alter any of the provisions of sections 1 to 22 (inclusive), other than section 15, of this

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Order including this section in the same manner as it may alter the provisions of the Jamaica Independence Act, 1962.

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(2) Parliament may amend from time to time or repeal, in so far as it forms part of the law of Jamaica, section 15 of this Order by an Act passed in accordance with the provisions of paragraph (b) of subsection (4) of section 49 of the Constitution.

22.—(1) In this Order references to any body or to any office shall be construed, in relation to any period before the commencement of this Order, as references to such body or such office as constituted by or under the existing Orders, and references to the holder of any office shall be similarly construed.

Interpreta-  
tion.

(2) The provisions of section 1 of the Constitution shall apply for the purposes of interpreting this Order as they apply for interpreting the Constitution.

[W. G. Agnew.]

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