

West Indies Act, 1962

10 & 11 ELIZ. 2 CH. 19

ARRANGEMENT OF SECTIONS

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CHAPTER 19

An Act to enable provision to be made for the cesser of the inclusion of colonies in the federation established under the British Caribbean Federation Act, 1956, and for the dissolution of that federation and for matters consequential on the happening of either of those events; to enable provision to be made for the establishment of common courts and other authorities for, and fresh provision to be made for the government of, certain West Indian colonies; to enable provision to be made for the establishment of new forms of government for combinations of such colonies; and for purposes connected with the matters aforesaid.

[18th April, 1962]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1.—(1) Her Majesty may—

- (a) by Order in Council provide for a colony's ceasing to be included in the Federation established by virtue of section one of the British Caribbean Federation Act, 1956, by the name of the West Indies (in this Act referred to as "the Federation");
- (b) by Order in Council dissolve the Federation and, with it, the authorities established by virtue of sub-paragraph (i) of paragraph (a) of subsection (1) of that section (in this Act referred to as the "Federal authorities").

Power of Her Majesty to provide for secession of colonies from, and dissolution of, the West Indies.
4 & 5 Eliz. 2. c. 63.

(2) An Order in Council under paragraph (a) of the foregoing subsection may as respects the colony for the cesser of inclusion

of which in the Federation provision is made by the Order, and an Order in Council under paragraph (b) of that subsection may as respects each colony included in the Federation immediately before the dissolution thereof,—

- (a) determine, or provide for the determination of, the laws which, after the cesser or, as the case may be, the dissolution, are (subject to any amendment or repeal by the legislature of the colony or other competent authority) to remain valid as respects the colony notwithstanding the cesser or, as the case may be, the dissolution;
- (b) adapt or modify, or empower any such authority as may be specified in the Order to adapt or modify, to such extent as Her Majesty in Council or that authority, as the case may be, thinks necessary or expedient in view of the cesser or, as the case may be, the dissolution, any laws having effect in the colony and any other laws relating or referring to the colony or the Federation.

Power of Her Majesty to provide for interim performance of functions heretofore performed by Federal authorities for benefit of federated colonies.

2.—(1) With a view to securing that, notwithstanding the exclusion of colonies from, or the dissolution of, the Federation, the performance of functions performed by the Federal authorities for the benefit of the colonies which at the passing of this Act are included in the Federation is maintained pending the making, apart from this section, of arrangements in that behalf of a permanent nature, Her Majesty may by Order in Council provide for the establishment of an authority to be charged, or authorities to be severally charged, with the duty of performing for the benefit of those colonies, or of such of them as may be specified in the Order, any such functions (being functions which at the passing of this Act are, for the benefit of all or any of those colonies, performed by any of the Federal authorities) as may be specified in the Order, and such other (if any) functions as may be so specified.

(2) An Order in Council under this section may—

- (a) empower an authority established by the Order to make, for such purposes as may be specified in the Order, laws for the colonies for whose benefit it is to perform functions;
- (b) make provision, or enable provision to be made, for persons holding office in the public service of the Federation to become officers of such an authority;
- (c) vest in such an authority such of the assets and liabilities as may be specified in the Order of the government of the Federation or of any body which, for the purpose of performing functions on behalf of, or in accordance with directions given by, that government, is established by a law made by the legislature of the Federation;

- (d) provide for the making to such an authority by the governments of the colonies for whose benefit the authority is to perform any functions of contributions towards defraying expenses incurred by the authority in performing those functions.

3.—(1) Her Majesty may by Order in Council make such provision as appears to Her Majesty necessary or expedient—

Compensation scheme for officers of Federal public service.

- (a) for securing that the payment of a pension, gratuity, allowance or other like benefit to a person in respect of service of his, or that of another's, in the public service of the Federation is not prejudiced by reason of a colony's ceasing to be included in the Federation or of the dissolution of the Federation;
- (b) for securing the making of payments to or in respect of persons who, at the passing of this Act, are serving in that public service and, by reason of the happening of either of the events aforesaid, lose office or, by reason of being transferred to some other service, become in a worse position in respect of the conditions of their service as compared with the conditions of service formerly obtaining with respect to them;
- (c) for securing the payment to or in respect of such persons as are mentioned in the last foregoing paragraph who are transferred as therein mentioned (whether or not they become in a worse position as so mentioned) of sums in respect of disturbance suffered by them in consequence of being so transferred.

(2) An Order in Council under this section may provide for the raising of the moneys necessary to make payments falling to be made under the Order by either or both of the following means, namely,—

- (a) the appropriation of assets of the government of the Federation;
- (b) the making of contributions by all or any of the governments of the colonies included in the Federation at the passing of this Act.

4.—(1) Her Majesty may by Order in Council provide—

Power of Her Majesty to establish common courts for West Indian colonies.

- (a) for the establishment, in place of the Federal Supreme Court of the Federation, of a court constituted in such manner as may be specified in the Order and having such jurisdiction to hear and determine appeals from, and to determine questions of law reserved by judges of, the courts of the relevant colonies as may be determined by or under the Order;
- (b) confer, or provide for conferring, on the court established by the Order, jurisdiction to hear and determine appeals

from, and to determine questions of law reserved by judges of, the courts of such other colonies as may be specified in the Order;

- (c) confer upon the legislature of a colony from whose courts criminal appeals lie to the court established by the Order power to make, with extra-territorial operation, laws providing for the conveyance of prisoners to and from the place where that court is sitting.

(2) Her Majesty may, by Order in Council, provide for the establishment for the relevant colonies or for any two or more of them of courts additional to that whose establishment is authorised by the foregoing subsection, being courts constituted in such manner and having such jurisdiction (whether civil or criminal, original or appellate) as may be determined by or under the Order.

(3) An Order in Council under this section may provide for the expenses of maintaining a court established by the Order to be defrayed by the governments of the colonies for which it is established.

(4) In this section—

- (a) “relevant colonies” means, for the purposes of subsection (1), the colonies from whose courts appeals lie at the passing of this Act to the Federal Supreme Court of the Federation and, for the purposes of subsection (2), the colonies aforesaid with the exception of British Guiana;

(b) “appeals” include appeals by way of cases stated.

(5) The Windward Islands and Leeward Islands (Courts) Order in Council, 1959, and the Windward Islands and Leeward Islands (Courts) (Amendment) Order in Council, 1960, shall have effect as if made under subsection (2) of this section.

(6) The Court of Appeal established by the West Indian Court of Appeal Act, 1919, is hereby dissolved.

5.—(1) Her Majesty may by Order in Council make such provision as appears to Her Majesty to be expedient for the government of any of the colonies to which this section applies, and for that purpose may provide for the establishment for the colony of such authorities as She thinks expedient and may empower such of them as may be specified in the Order to make laws either generally for the peace, order and good government of the colony or for such limited purposes as may be so specified subject, however, to the reservation to Herself of power to make laws for the colony for such (if any) purposes as may be so specified.

Power of Her Majesty to provide for government of certain West Indian colonies.

(2) The power conferred by the foregoing subsection shall include power to provide for the establishment of an authority to be charged, or authorities to be severally charged, with the duty of performing for the benefit of the said colonies, or for a combination of any two or more of them, such functions as may be specified in the Order, and for the expenses of an authority so charged to be defrayed by the governments of the colonies for whose benefit it is to perform functions.

In this subsection "authority" does not include a legislature or court.

(3) Subsection (1) of this section shall, as regards the Cayman Islands and the Turks and Caicos Islands, have effect—

(a) as if the reference to authorities specified in the Order included a reference to the legislature of Jamaica;

(b) as if there were included amongst the matters for which Her Majesty in Council is thereby authorised to make provision—

(i) the conferring, or the making of provision for conferring, on any court of Jamaica original or other jurisdiction over matters arising in any of the said Islands; and

(ii) the conferring of powers and the imposition of duties on other authorities of Jamaica.

(4) An Order in Council under this section with respect to a colony may vary or revoke any enactment or Letters Patent relating to the government of the colony and any Order in Council or other instrument so relating which has effect otherwise than by virtue of this section.

(5) Any Order in Council under the Jamaica Act, 1866, the Saint Vincent and Grenada Constitution Act, 1876, the Trinidad and Tobago Act, 1887, the Dominica Act, 1938, section three of the Leeward Islands Act, 1956, or section two of the Cayman Islands and Turks and Caicos Islands Act, 1958 (except the Orders in Council mentioned in subsection (5) of the last foregoing section, so far as subsisting by virtue of any of those enactments) shall, in so far as it is in force at the passing of this Act and could be made under this section, have effect as if so made, and so shall the Windward Islands and Leeward Islands (Police Service Commission) Order in Council, 1959.

(6) The colonies to which this section applies are those included at the passing of this Act in the Federation, and the Virgin Islands.

Power of Her Majesty to establish new forms of government in place of the West Indies.

6.—(1) Her Majesty may by Order in Council make provision for the federation of, or the establishment of any other new form of government for, all or any of the colonies to which the last foregoing section applies.

(2) An Order in Council under this section making provision for the federation of colonies may include provision for any purpose for which, by virtue of the provisions of subsections (1) and (2) of section one of the British Caribbean Federation Act, 1956 (except paragraphs (d) and (e) of subsection (2)) provision might have been included in an Order in Council under that section had those provisions referred to the colonies which are federated by the first-mentioned Order instead of those specified in the Schedule to that Act.

(3) An Order in Council under this section, other than one falling within the last foregoing subsection, may include provision for any purpose for which, by virtue of sub-paragraphs (i) and (ii) of paragraph (a) of subsection (1) of the said section one and paragraphs (b) and (c) of that subsection, provision might have been included in an Order in Council under that section had those provisions referred—

(a) to the colonies to which the first-mentioned Order in Council relates instead of those specified in the Schedule to that Act; and

(b) to the form of government established by that Order instead of to the federation,

and had the qualification “Federal” been omitted.

Supplementary provisions as to Orders in Council.

7.—(1) An Order in Council under any provision of this Act may make or provide for the making of such incidental, consequential or transitional provisions as may appear to Her Majesty in Council to be necessary or expedient.

(2) Any power conferred by this Act to make an Order in Council shall be construed as including power to vary or revoke the Order in Council by a subsequent Order in Council.

(3) Subject to the following subsection, a statutory instrument containing an Order in Council under this Act which adapts or modifies any Act shall be subject to annulment in pursuance of a resolution of either House of Parliament, and a statutory instrument containing an Order in Council under this Act which does not adapt or modify any Act shall be laid before Parliament after being made.

(4) The last foregoing subsection shall not apply to an instrument containing an Order in Council under section six of this Act making provision for the federation of, or the establishment of any other new form of government for, any colonies, but

no recommendation shall be made to Her Majesty in Council to make an Order under the said section six making such provision unless a draft of the Order has been laid before Parliament and approved by resolution of each House of Parliament.

8. The Secretary of State may—

Grants for benefit of certain West Indian colonies.

- (a) from time to time make, to the government of any colony to which section five of this Act applies, being a government whose resources are, in his opinion, insufficient to enable it to defray its administrative expenses, grants of such amounts as he may, with the approval of the Treasury, determine;
- (b) from time to time make, to any federal government established by virtue of section six of this Act for any colonies, grants of such amounts as he may, with the like approval, determine, for the purpose of enabling that government to make grants to the governments of any of the colonies for which it is established whose resources are, in its opinion, insufficient to enable them to defray their administrative expenses;
- (c) from time to time make, to a government of any other form established as aforesaid for any colonies, being one whose resources are, in his opinion, insufficient to enable it to defray its administrative expenses, grants of such amounts as he may, with the like approval, determine.

9. The expenses incurred under the last foregoing section by the Secretary of State shall be defrayed out of moneys provided by Parliament, and any increase attributable to an Order in Council under this Act in sums payable under any other enactment out of moneys so provided or out of the Consolidated Fund of the United Kingdom shall be paid out of moneys so provided or out of that Fund, as the case may be. Expenses.

10.—(1) This Act may be cited as the West Indies Act, 1962.

Short title, interpretation and repeals.

(2) Any reference in this Act to a colony shall be construed as including a reference to the dependencies (if any) thereof.

(3) The enactments mentioned in the first and second columns of the Schedule to this Act are hereby repealed to the extent respectively specified in relation thereto in the third column of that Schedule, but this repeal shall not be taken to dissolve the union of Tobago with Trinidad or to affect the status, as a separate colony, of any other colony.

Section 10.

SCHEDULE

ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
29 & 30 Vict. c. 12.	The Jamaica Act, 1866 ...	The whole Act.
39 & 40 Vict. c. 47.	The Saint Vincent and Grenada Constitution Act, 1876.	The whole Act.
50 & 51 Vict. c. 44.	The Trinidad and Tobago Act, 1887.	The whole Act.
9 & 10 Geo. 5. c. 47.	The West Indian Court of Appeal Act, 1919.	The whole Act.
1 & 2 Geo. 6. c. 10.	The Dominica Act, 1938	The whole Act.
4 & 5 Eliz. 2. c. 23.	The Leeward Islands Act, 1956.	Sections one, three, four and five and the Schedule.
6 & 7 Eliz. 2. c. 13.	The Cayman Islands and Turks and Caicos Islands Act, 1958.	The whole Act.

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