

1975 No. 1514

PACIFIC ISLANDS

The New Hebrides Order 1975

Made 17th September 1975
Laid before Parliament 24th September 1975
Coming into Operation In accordance with
the provisions of
section 1(3).

At the Court at Balmoral, the 17th day of
September 1975

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act 1890, sections 17 and 20 of the Fugitive Offenders Act 1967, section 56 of the Administration of Justice Act 1956, section 12 of the Colonial Courts of Admiralty Act 1890, 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:-

Citation
and
commencement

1. (1) This Order may be cited as the New Hebrides Order 1975.

(2) This Order shall be construed as one with the New Hebrides Orders 1922 to 1973, and those Orders and this Order may be cited together as the New Hebrides Orders 1922 to 1975.

(3) This Order shall be published in the New Hebrides in the British Service Gazette and shall come into operation on the date of such publication or on the 16th October 1975, whichever is the later.

Interpretation

2. In this Order -

"the amended Order" means the provisions contained in Schedule 1 to the New Hebrides Order 1973 as amended by this Order;

"the appointed day" means the day this Order comes into operation in accordance with section 1(3);

"the Court of Appeal" means such court in any part of Her Majesty's dominions as may be prescribed by the High Commissioner, by notice published in the British Service Gazette, in pursuance of instructions given to him by Her Majesty through a Secretary of State:

Provided that, until any other such court is so prescribed by the High Commissioner, it means the Court of Appeal established for Fiji by the Constitution of Fiji set out in the Schedule to the Fiji Independence Order 1970 or by any law modifying or replacing that Constitution;

"the former High Court" means the High Court of the Western Pacific as reconstituted by the Western Pacific (Courts) Order in Council 1961;

"the High Court" means the High Court of the New Hebrides established by the amended Order.

"the Order of 1893" means the Pacific Order in Council 1893 as from time to time amended;

"the Order of 1961" means the Western Pacific (Courts) Order in Council 1961 as from time to time amended.

Amendment of Schedule 1 to New Hebrides Order 1973

3. Schedule 1 to the New Hebrides Order 1973 is amended by inserting therein immediately after section 12 the following new sections -
(see consolidated Orders)

Amendment of s.2 of New Hebrides Order 1973

4. Section 2(1) of the New Hebrides Order 1973 is amended, in the definition of "public office", by substituting for the words "Judge of the High Court of the Western Pacific" the words "judge of the High Court".

Amendment of s.6 of Schedule 1 to the same Order

5. Section 6 of Schedule 1 to the New Hebrides Order 1973 is amended in subsections (2) (b) and (4) thereof by substituting for the words "Assistant Resident Commissioner" the words "Chief Secretary".

Deletion of s.13(2) of same Schedule

6. Section 13 of Schedule 1 to the New Hebrides Order 1973 is amended by deleting subsection (2) thereof.

Adaptation of existing laws

7. (1) Any existing law (including any rule of court) shall have effect on and after the appointed day as if references to the former High Court or to a judge or officer thereof were references to the High Court or to a judge or officer of the High Court, as the case may require, and as if references to the Assistant Resident Commissioner were references to the Chief Secretary.

(2) For the purposes of the preceding subsection, "existing law" means any law in force in the New Hebrides immediately before the appointed day and not revoked by this Order, but does not include any Act of the Parliament of the United Kingdom.

Rules of court

8. Until such time as it is otherwise provided under section 12I of the amended Order, the rules of court of the former High Court in force in the New Hebrides immediately before the appointed day shall continue in force on and after that day as the rules of court of the High Court but shall be construed subject to such modifications, adaptations, qualifications and exceptions as may be necessary to bring those rules into conformity with the amended Order.

Pending
judicial
proceedings

9. (1) Any proceedings originating in the New Hebrides and pending immediately before the appointed day in the former High Court may be continued and concluded on or after that day in the High Court.

(2) An appeal shall lie to the Court of Appeal on and after the appointed day from any judgment of the former High Court given before the appointed day in any proceedings originating in the New Hebrides as if it were a judgment of the High Court.

(3) Any judgment of the former High Court that was given but not satisfied before the appointed day in any proceedings originating in the New Hebrides may be enforced on or after that day as if it were a judgment of the High Court.

Stamp of
High Court

10. Until such time as a seal for the High Court is provided and approved in accordance with section 12G of the amended Order, a stamp bearing the words "The High Court of the New Hebrides" and countersigned by a judge or registrar of the High Court may be used instead of such seal.

Jurisdiction
etc. of
High Court
and judges

11. (1) Until such time as other provision is made under the amended Order or otherwise -

(a) the High Court and all judges thereof shall have the like jurisdiction as the former High Court and the judges thereof would have had in and in relation to the New Hebrides as if this Order had not been made, and shall exercise that jurisdiction as if subsections (1) and (3) of section 15 of the Order of 1961 were still in force and as if references in those subsections to the Order of 1961, to the former High Court and to a territory were references to this Order, to the High Court and to the New Hebrides respectively;

(b) the judges and all officers of the High Court shall have and enjoy the same immunities from legal proceedings as the judges and corresponding officers of the former High Court would have had if this Order had not been made.

(2) In this section, "jurisdiction" includes powers, authorities and other functions.

Admiralty
jurisdiction

12. (1) The Colonial Courts of Admiralty Act 1890 shall apply to the High Court for the exercise of jurisdiction and within the New Hebrides the High Court shall be a Court of Admiralty and may exercise Admiralty jurisdiction in all matters arising upon the high seas or elsewhere or otherwise relating to ships and shipping.

(2) The following enactments of the Colonial Courts of Admiralty Act 1890, that is to say, subsections 2 to 4 of section 2, sections 5 and 6 and subsection 3 of section 16 shall, in relation to the New Hebrides, apply to the High Court as if in the said sections the High Court were mentioned in lieu of a Colonial Court of Admiralty and the New Hebrides were referred to in lieu of a British possession.

(3) As from the appointed day the Admiralty Jurisdiction (New Hebrides) Order 1965 shall have effect as if the references therein to the former High Court were references to the High Court.

Application
of Colonial
Prisoners
Removal
Act 1884

13. The Colonial Prisoners Removal Act 1884 shall apply to the New Hebrides to the extent of Her Majesty's jurisdiction as if it were a British possession and part of Her Majesty's dominions, and references to the Governor of a British possession shall be construed as references to the Resident Commissioner.

Application
of certain
other
enactments

14. For the avoidance of doubt it is hereby declared that the following enactments, that is to say -

The Admiralty Offences (Colonial) Act 1849,
The Admiralty Offences (Colonial) Act 1860,
The Evidence Act 1851 (sections 7 and 11),
The Foreign Tribunals Evidence Act 1856,
The Evidence by Commission Act 1859,
The British Law Ascertainment Act 1859,
The Foreign Law Ascertainment Act 1861,
The Evidence by Commission Act 1885,
The Merchant Shipping Act 1894 (section 686),

shall extend and apply to the High Court and to the New Hebrides to the extent of Her Majesty's jurisdiction, and references to the Governor of a Colony, to a Supreme Court or a judge of a Court of a Colony or to a Superior Court in a Colony shall be construed as references to the Resident Commissioner, the High Court or a judge, as the case may be.

Revocations

15. (1) With effect from the appointed day, the Order of 1893 and the Order of 1961 are revoked in so far as they have effect as part of the law of the New Hebrides.

(2) Nothing in this section shall, as respects the New Hebrides, affect the continued application on and after the appointed day of so much of section 25 of the Fugitive Offenders Act 1881 as immediately before that day applied thereto.