

## STATUTORY INSTRUMENTS

1963 No. 82

ADEN AND SOUTH ARABIAN  
PROTECTORATEThe Federation of South Arabia (Accession of Aden)  
Order 1963

<i>Made</i> - - - -	17th January 1963
<i>Laid before Parliament</i>	17th January 1963
<i>Coming into Operation</i>	18th January 1963

At the Court at Sandringham, the 17th day of January 1963

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers in that behalf by the British Settlements Acts 1887 and 1945(a) 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:—

1.—(1) This Order may be cited as the Federation of South Arabia (Accession of Aden) Order 1963. Citation and commencement.

(2) This Order shall come into operation on 18th January 1963.

2.—(1) In this Order—

“Aden” means Aden as defined for the purposes of the Constitution of Aden;

“the Constitution of Aden” means the Constitution set out in Schedule 2 to the Aden (Constitution) Order in Council 1962(b);

“the Constitution of the Federation” means the Constitution set out in the Schedule to this Order;

“the Federation” means the Federation of South Arabia;

“the High Commissioner” means the High Commissioner for Aden and the Protectorate of South Arabia.

(2) The powers of the High Commissioner under this Order shall be exercised by him in his discretion.

(3) In this Order, unless the context otherwise requires, a reference to the holder of an office by the term designating his office includes, to the extent of his authority, any person who is for the time being authorised to perform the functions of that office.

(4) The Interpretation Act 1889(c) shall apply, with the necessary adaptations, for the purpose of interpreting the provisions of 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.

Interpre-  
tation.

(a) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6, c. 7. (b) S.I. 1962/2177 (1962 III, p. 2904).  
(c) 52 & 53 Vict. c. 63.

(5) In this section references to this Order do not include references to the Schedule to this Order.

3. Subject to the provisions of this Order, the Constitution of the Federation shall have effect in Aden:

Provided that—

(a) the provisions of sections 62 to 69 (inclusive) of the Constitution of the Federation shall have effect in Aden as from 1st April 1963;

(b) the Federation may at any time before 1st April 1963 enact such laws and do such things as may appear to be necessary or expedient for the better carrying out of those provisions as if those provisions were in force in Aden but any such law or other thing done shall not have effect in Aden before 1st April 1963; and

(c) until 1st April 1963 all revenue accruing from and all expenditure incurred in respect of any service or function carried on or performed by or on behalf of the Government of the Federation in connection with any matter transferred to the Federation under the provisions of the Constitution of the Federation shall be paid into or out of, as the case may be, the general revenues of Aden.

Constitution of Federation of South Arabia applied to Aden.

4.—(1) The High Commissioner may by regulation make such laws for the peace, order and good government of Aden with respect to any matter as may appear to him to be necessary or expedient in the interests of public order and public safety in Aden or the interests of the responsibilities of Her Majesty's Government in the United Kingdom in respect of defence or external affairs.

(2) Any law made under this section shall prevail over any law made under the Constitution of the Federation or the Constitution of Aden and the provisions of section 61 of the Constitution of the Federation shall have effect subject to the provisions of any such law.

(3) Section 15 of the Constitution of Aden (which makes provision in relation to periods of public emergency) shall apply in relation to laws made under this section.

(4) For the purposes of section 16 (2) (b) of the Constitution of Aden "a period of public emergency" means, in relation to laws made under this section, any period in respect of which the High Commissioner has, by or in pursuance of any such law, declared that a state of public emergency exists in Aden or any part thereof.

(5) In this section—

(a) the reference to public order and public safety includes, without prejudice to its generality, the organization, discipline, control and use of the police; and

(b) the reference to defence includes, without prejudice to its generality, the organization, discipline, control and use of the armed forces of the Crown and the control and use of any land, establishments, installations and equipment appertaining thereto and the appropriation of land for the use and occupation of the armed forces.

5.—(1) An appeal shall lie from decisions of the Federal High Court established by the Constitution of the Federation to Her Majesty in Council as of right in the following cases—

Appeals from Federal High Court to Her Majesty in Council.

- (a) final decisions in any civil or criminal proceedings on questions as to the interpretation of the Constitution of the Federation in its application to Aden or the interpretation of the Constitution of Aden;
- (b) final decisions on questions as to the interpretation of the Constitution of the Federation in its application to Aden that have been referred to the Federal High Court by the Supreme Council of the Federation for advice;
- (c) final decisions in proceedings with respect to any dispute between the Government of Aden and the Government of the Federation or the Government of any State of the Federation other than Aden;
- (d) final decisions in appeals from the Supreme Court of Aden where the matter in dispute on the appeal to Her Majesty in Council is of the value of £1,000 or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of £1,000 or upwards;
- (e) final decisions in appeals from the Supreme Court of Aden in proceedings for dissolution or nullity of marriage; and
- (f) such other cases as may be prescribed by any law in force in Aden.

(2) An appeal shall lie from decisions of the Federal High Court established by the Constitution of the Federation to Her Majesty in Council with the leave of the Federal High Court in the following cases—

- (a) where in the opinion of the Federal High Court the question involved in the appeal is one that by reason of its great general or public importance or otherwise ought to be submitted to Her Majesty in Council, decisions in appeals from the Supreme Court of Aden in any civil proceedings; or
- (b) such other cases as may be prescribed by any law in force in Aden.

(3) Nothing in this section shall affect any right of Her Majesty to grant special leave to appeal from decisions of the Federal High Court to Her Majesty in Council in any civil or criminal proceedings under any law in force in Aden.

6.—(1) In its application to Aden, the Constitution of the Federation shall have effect subject to the provisions of Part I of the Constitution of Aden (which provide for the protection of the fundamental rights and freedoms of the individual) and accordingly those provisions shall apply in relation to all laws made and all other things done under the Constitution of the Federation in so far as those laws and other things have effect in Aden.

(2) For the purposes of this section, the provisions of Part I of the Constitution of Aden shall have effect as if references therein to the Government of Aden included references to the Government of

Application  
of Part I of  
Constitution  
of Aden.

the Federation and references therein to public officers included references to persons holding or acting in offices of emolument in the public service of the Federation.

(3) Section 15 of the Constitution of Aden shall apply in relation to laws made under the Constitution of the Federation.

(4) For the purposes of section 16 (2) (b) of the Constitution of Aden "a period of public emergency" means, in relation to laws made under the Constitution of the Federation, any period in respect of which the Supreme Council of the Federation has, in pursuance of the Constitution of the Federation or of any such law, declared that a state of public emergency exists in the Federation as a whole or in Aden or any part thereof.

Modification of Part III of Constitution of Aden.

**7. Part III of the Constitution of Aden shall have effect as if—**

- (a) the reference in section 35 (1) (b) to a public office included a reference to an office of emolument in the public service of the Federation ;
- (b) the reference in section 41 (1) (b) (i) to a Minister or member of the Legislative Council included a reference to a member of the Supreme Council or the Federal Council of the Federation ;
- (c) the reference in section 41 (1) (b) (ii) to the Crown included a reference to the Government of the Federation ; and
- (d) in relation to offices of emolument in the public service of the Federation, the reference in section 41 (2) to a law was a reference to a law made under the Constitution of Aden.

Transfer of property and assets.

**8. The High Commissioner may by order make such provision for transferring any property or assets vested in the Government of Aden or in any officer or authority of that Government on behalf of that Government to the Government of the Federation or any officer or authority of that Government as may appear to him to be necessary or expedient having regard to the division of legislative and executive authority between the Federation and Aden under the Constitution of the Federation.**

Powers of authorities outside Aden.

**9. It is hereby declared, for the avoidance of doubts, that nothing in this Order affects the powers of any authority of the United Kingdom outside Aden to make laws or to do any other thing in relation to Aden or the continued operation in Aden after the commencement of this Order of any law made by any such authority before the commencement of this Order.**

Transitional provisions.

**10.—(1) For the purposes of section 8 of the Constitution of the Federation, the High Commissioner may, until such time as provision is made in that behalf by a law made under the Constitution of Aden, sign any such instrument in writing as is referred to in subsection (2) of that section.**

(2) For the purposes of section 19 of the Constitution of the Federation, the members of the Federal Council representing Aden shall, until such time as provision is made in that behalf by a law made under the Constitution of Aden, be selected and appointed by the High Commissioner, acting in accordance with the advice of the Chief Minister of the Government of Aden, and any such appointment shall be made by writing under the hand of the High Commissioner and shall be subject to such conditions as may be specified in the instrument of appointment.

*W. G. Agnew.*

## THE SCHEDULE

Section 2 (1).

## THE CONSTITUTION OF THE FEDERATION OF SOUTH ARABIA

IN THE NAME OF GOD, THE COMPASSIONATE AND  
MERCIFUL.

### PREAMBLE

Whereas the Rulers and Peoples of the States of The Amirate of Baihan, The 'Audhali Sultanate, The Fadhli Sultanate, The Amirate of Dhala', The Upper 'Aulaqi Shaikhdom and The Lower Yafa' Sultanate are desirous of improving and strengthening their economies in peace and security and are convinced that this can only be done by their mutual co-operation both in matters appertaining to their collective internal development and in measures for ensuring and guaranteeing their collective independence and freedom from strife and aggression;

And Whereas the said Rulers and Peoples are determined to achieve these ends through an Arab Islamic Federation of their States and of other States in Southern Arabia sharing their objectives;

Now this solemn and irrevocable covenant is entered into by or for and on behalf of the said Rulers their heirs and successors their States and Peoples to establish the aforesaid Federation and to define and regulate its functions and government.

### CHAPTER 1

#### ESTABLISHMENT OF THE FEDERATION

1. There shall be a Federation of the States of The Amirate of Baihan; The 'Audhali Sultanate, The Fadhli Sultanate, The Amirate of Dhala', The Upper 'Aulaqi Shaikhdom and The Lower Yafa' Sultanate (hereinafter called "the Federating States") which shall be called "The Federation of South Arabia" (hereinafter called "The Federation") and which shall come into being in the manner provided by this Chapter of this Constitution.

Federation established.

Method of  
bringing the  
Federation  
into force.

2.—(1) Each Federating State shall by whatever constitutional means are appropriate :—

(a) appoint and authorise the Ruler of such State or some other person to ratify this Constitution by signing the same on behalf of the State ;

(b) provide that this Constitution shall have the force of law throughout such State upon its signature on behalf of all of the Federating States ; and

(c) provide that any amendments which are from time to time duly made to this Constitution shall have the force of law throughout such State.

(2) This Constitution shall come into force when the requirements of subsection (1) of this section have been complied with by each Federating State and when the Ruler or person appointed by each Federating State under the provisions of subsection (1) of this section has signed this Constitution.

## CHAPTER 2

### ACCESSION OF OTHER STATES TO THE FEDERATION

Other States  
may accede  
to the  
Federation.

Method of  
accession  
of other  
States.

3. After the coming into force of this Constitution States other than the Federating States may become members of the Federation in the manner provided by section 4 of this Constitution.

4.—(1) Any State mentioned in section 3 of this Constitution which wishes to accede to the Federation and whose accession is acceptable to the Supreme Council provided for in this Constitution shall, by whatever constitutional means are appropriate :—

(a) appoint and authorise the Ruler of such State or some other person to sign on behalf of the State a copy of this Constitution embracing all amendments hereto which shall have then been made and which copy shall be maintained by the said Supreme Council ;

(b) provide that this Constitution and all amendments hereto which shall have then been made shall have the force of law throughout such State upon the accession of such State to the Federation ; and

(c) provide that any amendments which are from time to time duly made to this Constitution shall have the force of law throughout such State.

(2) The Ruler or person appointed under paragraph (a) of sub-section (1) of this section shall not sign the Constitution as hereinafter provided unless a Federal law has been enacted accepting the accession to the Federation of the State wishing to accede.

(3) The day upon which a State shall be deemed to have acceded to the Federation shall be the day upon which the provisions of sub-sections (1) and (2) of this section having previously been complied with the Ruler or such other person as may be appointed or authorised as aforesaid to sign this Constitution signs the same in the form mentioned in paragraph (a) of subsection (1) of this section.

5. Aden shall (notwithstanding that the procedure laid down in section 4 of this Constitution has not been followed) be a State of the Federation and, subject to the provisions of any law of the United Kingdom giving effect to the arrangements agreed upon between the Government of the United Kingdom and the Government of the Federation relating to the accession of Aden to the Federation, the provisions of this Constitution shall apply in relation to Aden as they apply in relation to the other States of the Federation.

Aden to be a State of the Federation.

6. Upon the accession of any State to the Federation all laws in force throughout the Federation immediately before the accession shall, save as may otherwise be provided in any Federal law, extend to the acceding State.

Application of laws.

## CHAPTER 3

### THE SUPREME COUNCIL OF THE FEDERATION

7.—(1) There shall be a Supreme Council which shall have vested in it the general executive authority of the Federation and in particular such powers as by this Constitution or any other law are conferred upon it.

The Supreme Council.

(2) Any executive authority vested in the Supreme Council may be exercised by the Council either directly or through Ministers, or other officers or authorities of the Federation.

8.—(1) Subject to the provisions of this section the Supreme Council shall consist of :

Constitution of Supreme Council.

(a) such number of members, who are hereinafter referred to and shall be known as "Ministers" and who shall be elected or appointed in accordance with the provisions of section 9 of this Constitution, as may from time to time be prescribed by Federal law :

Provided that the number of Ministers shall not be less than the number required to ensure compliance with the provisions of subsection (2) of this section ; and

(b) such number of members not exceeding three as may be appointed by the Ministers in accordance with the provisions of section 10 of this Constitution.

(2) If any State, being a State that is entitled to be represented by six or more members in the Federal Council under subsection (2) of section 19 of this Constitution so requires by writing delivered to the Chairman of the Supreme Council and signed by the Ruler of such State or some other person authorised in that behalf by a law of that State, then for every six members that represent that State in the Federal Council there shall be at least one Minister who is one of the members so representing that State.

9.—(1) The Ministers shall be elected, subject to the provisions of subsection (2) of section 8 of this Constitution, by the Federal Council from among its members.

Election, etc. of Ministers and appointment, etc. of temporary Ministers.

(2) Subject to the provisions of subsection (3) of this section, a Minister shall hold office for such period not exceeding five years as may be prescribed in a Federal law.

(3) If any Minister dies, resigns, ceases to be a member of the Federal Council or is by a majority of two thirds of the members of the Federal Council declared to have become incapable of performing his duties or have been guilty of misconduct prejudicial to the interests of the Federation, his office shall become vacant and another member of the Federal Council shall be elected, in accordance with the provisions of this section, to be a Minister:

Provided that if at any time when the Federal Council is not in session the office of any Minister is vacant, and it appears to the Ministers that it is desirable in the interests of the Federation that a person should be appointed temporarily to be a Minister, the Ministers may, subject to the provisions of subsection (2) of section 8 of this Constitution, by a majority of the Ministers present and voting appoint by instrument signed by the Chairman of the Supreme Council a member of the Federal Council to be temporarily a Minister, and any such temporary Minister shall hold office as, and have and perform the functions and duties of, a Minister until the conclusion of the next meeting of the Federal Council or the expiration of the period of six months next following the date of his appointment as a temporary Minister, or the expiration of the period set out in his instrument of appointment, whichever shall be the earlier.

**Members of the Supreme Council.**

10.—(1) The Ministers may by a majority of the Ministers present and voting appoint any member of the Federal Council to be a member of the Supreme Council for such period not exceeding five years and subject to such conditions, as may be prescribed by a Federal law or as may be determined by the Ministers and specified in the instrument of appointment of such member which shall be signed by the Chairman of the Supreme Council.

(2) At the meeting of the Federal Council next following any appointment made under the provisions of subsection (1) of this section, a copy of the instrument of appointment shall be laid before the Federal Council and the Federal Council may confirm or refuse to confirm such appointment or may confirm it subject to variation of any conditions specified in the instrument of appointment referred to in subsection (1) of this section, and any appointment which the Federal Council refuses to confirm shall be of no effect from the date of such refusal and any appointment the conditions attaching to which are varied by the Federal Council shall have effect subject to such variation from the date of such variation.

(3) If any member of the Supreme Council appointed under the provisions of this section ceases to be a member of the Federal Council or is by a majority of two-thirds of the members of the Federal Council declared to be incapable of performing his duties or to have been guilty of misconduct prejudicial to the interests of the Federation, he shall cease to be a member of the Supreme Council.

**Chairman of Supreme Council.**

11.—(1) There shall be a Chairman of the Supreme Council.

(2) Each Minister shall in turn be Chairman of the Supreme Council for a period of one month and the order of rotation of the Ministers as Chairman shall be determined from time to time by a resolution passed by a majority of all the Ministers.

(3) The Chairman of the Supreme Council acting in accordance with the instructions of the Supreme Council may be authorised to enter into such undertakings as the Supreme Council may desire for and on behalf of the Federation.

12.—(1) The members of the Supreme Council shall be jointly and severally responsible for the due exercise of the authority of the Supreme Council.

(2) The Supreme Council may delegate any of its powers to any member of the Council and any such delegation may be made for such period or subject to such conditions as may be specified and may be terminated at any time.

(3) Any decision taken by the Ministers under the provisions of section 9, 10 or 11 of this Constitution shall be taken at a meeting of the Supreme Council and deemed to be a decision of the Supreme Council.

13. Any member of the Supreme Council may submit to the Council for its consideration any matter relating to the interests of the Federation.

14.—(1) Every decision of the Supreme Council shall be taken, in the event of a vote being necessary, according to the majority of the votes of those members present and voting.

(2) (a) At every meeting of the Supreme Council the Chairman if present shall preside and in his absence such Minister as is next among those present in the order of rotation for the Chairmanship shall preside.

(b) If it is necessary for anything to be done by the Chairman otherwise than at a meeting of the Supreme Council and by reason of absence or disability the Chairman is unable to do that thing, it may be done by the Minister who is next among those available in the order of rotation for the Chairmanship.

(3) The person presiding at any meeting of the Supreme Council may, if he considers it desirable to do so, exercise a casting vote in addition to his original vote.

(4) At any meeting of the Supreme Council there may be present such officials of the Federation and other persons as the Supreme Council may from time to time determine.

(5) No business shall be transacted in the Supreme Council unless there are present not less than one half of all the Ministers belonging to the Council at the time.

(6) There shall be a meeting of the Supreme Council at least once in each month on the first day of each month or on such other day as the Supreme Council may from time to time direct and if at any time any two members of the Supreme Council request the Chairman to summon a meeting the Chairman shall do so as soon as possible.

Collective responsibility; delegation of powers; procedure.

Submission of matters to Supreme Council.

Procedure of Supreme Council.

(7) The Supreme Council shall not be disqualified for the transaction of business by reason only of a vacancy in its membership or the participation in its proceedings of a person who is not entitled to take part.

Remuneration of Ministers.

15. The remuneration to be paid to Ministers shall be prescribed by a Federal law and shall be charged upon and payable out of the revenues of the Federation.

Place of meeting of Supreme Council and recordings of proceedings.

16.—(1) The meetings of the Supreme Council shall unless the Council otherwise decides be held at the Seat of Government of the Federation.

(2) The Chairman of the Supreme Council shall cause an accurate record of the proceedings of the Council to be maintained and no decision of the Council shall be of any validity unless it is recorded in such record.

## CHAPTER 4

### THE FEDERAL COUNCIL

Establishment of Federal Council.

17. There is hereby established a Federal Council for the Federation which shall be composed as hereinafter provided.

Legislative authority conferred.

18. The Supreme Council acting with the advice and consent of the Federal Council shall have legislative authority in and over the Federation in accordance with the provisions of this Constitution.

Composition of the Federal Council.

19.—(1) The Federal Council shall consist of persons representing the States of the Federation each of whom shall be selected and appointed to represent a State in accordance with the provisions of this section.

(2) Each of the States in the Federation mentioned in the First Schedule to this Constitution shall be entitled to be represented in the Federal Council by such number of members as may be specified in relation to that State in that Schedule and any other State which accedes to the Federation under the provisions of this Constitution shall be entitled to be represented in the Council by such number of members as may be specified in the Federal law enacted in respect of the accession of such State in accordance with the provisions of subsection (2) of section 4 of this Constitution, and any such Federal law shall, to the extent that it makes provision for the number of members to represent such a State in the Federal Council, be deemed to form part of the First Schedule to this Constitution.

(3) Whenever there is occasion to appoint any person to be a member of the Federal Council to represent any State, a person shall, subject to the provisions of any law of that State making provision in that behalf, be selected for appointment by whatever means are appropriate in, or under the Constitution of, that State.

(4) Whenever any member of the Federal Council representing a State is temporarily unable by reason of illness, absence or for any other cause to perform the functions of a member, a person may, subject to the provisions of any law of that State making provision in that behalf, be selected for appointment as a temporary member of the Council to represent that State during the period when the said member is unable to perform his functions as such.

(5) Whenever any person is selected for appointment as a member of the Federal Council to represent any State he shall be appointed as such by instrument in writing under the hand of whatever authority is appropriate in, or under the Constitution of, that State and the instrument of appointment shall forthwith be delivered to the Supreme Council and the appointment shall take effect from the date of such delivery.

(6) Every appointment shall be made on such conditions including conditions relating to the duration thereof and the termination thereof (whether by reason of the person appointed being incapable of performing his duties or otherwise) as may be prescribed in any law from time to time in force in the State which the person represents, or subject to the provisions of any such law, as may be specified in the instrument of appointment.

20.—(1) There shall be a Chairman of the Federal Council who shall be appointed from among the members of the Federal Council by the Supreme Council acting with the approval of the Federal Council signified by resolution.

Chairman of the Federal Council.

(2) The office of the Chairman of the Federal Council shall become vacant—

- (a) if he ceases to be a member of the Federal Council;
- (b) if he is removed from office by the Supreme Council acting with the approval of the Federal Council signified by resolution; or
- (c) at the expiration of five years (or such other period as may be fixed by a Federal law) from the date of his appointment.

(3) If the office of Chairman is vacant or if the Chairman is for any reason unable to perform the functions of his office such member of the Supreme Council as the Supreme Council may determine shall temporarily discharge the functions of the office until an appointment is made under subsection (1) of this section or during the period when the Chairman is unable to perform those functions.

21. Any member of the Federal Council may submit for discussion by the Council any matter relating to the legislative or executive authority of the Federation or in any way relating to the interests of the Federation and the Federal Council may refer any such matter to the Supreme Council for its consideration and for any action thereon which the Supreme Council may consider appropriate.

Members of the Federal Council to be able to raise matters.

22.—(1) The Chairman of the Federal Council shall preside at meetings of the Council and shall have no original vote, but shall have and may exercise a casting vote.

Procedure of the Federal Council.

(2) Subject to the provisions of this Constitution, any decision of the Federal Council shall, in the event of a vote being necessary, be taken in accordance with the majority of the votes of the members present and voting.

(3) (a) The Federal Council, subject to the provisions of this Constitution, may adopt and from time to time amend standing orders for the regular and orderly conduct of its proceedings and the despatch of its business but all such standing orders shall require the consent of the Supreme Council.

(b) On all procedural matters in relation to which no provision is made in the standing orders hereinbefore referred to the ruling of the

Chairman of the Federal Council shall prevail until the Federal Council has made a decision on the matter.

(4) (a) The Federal Council shall not be disqualified for the transaction of business by reason only of any vacancy in its membership or the participation in its proceedings of a person who is not entitled to take part but no business except that of adjournment shall be transacted if after objection is taken by any member present it appears that a quorum of members is not present.

(b) For the purposes of this subsection a quorum shall consist of not less than one half of the total number of the members of the Federal Council from time to time.

Summoning  
of meetings  
of Federal  
Council.

23.—(1) Each meeting of the Federal Council shall begin on such date as the Supreme Council shall appoint.

(2) The Supreme Council may summon a meeting of the Federal Council whenever it considers it necessary or expedient and shall summon a meeting at least once in each year in order to receive and consider the estimates of expenditure and the draft law authorising expenditure referred to in section 41 of this Constitution.

(3) The date appointed for the commencement of a meeting of the Federal Council shall be notified to each State by the Supreme Council not less than fifteen days before such date.

24. The Federal Council shall hold its meetings at the Seat of Government of the Federation unless for some special reason the Supreme Council summons it to meet elsewhere.

25. The Federal Council and the members thereof shall be entitled to enjoy such immunities and privileges as may be prescribed by a Federal law.

Place of  
meeting of  
Federal  
Council.

Privileges  
and  
immunities  
of members  
of Federal  
Council.

Enactment  
of laws.

Introduction  
of draft  
laws.

## CHAPTER 5

### THE PROCEDURE FOR MAKING FEDERAL LAWS

#### Part 1—*The Ordinary Method of Legislation*

26. Subject to the provisions of this Constitution, Federal laws shall be enacted in the manner provided in this Part of this Chapter.

27.—(1) Subject to the provisions of this section any member of the Federal Council may introduce into the Federal Council a draft of any law which he considers should be enacted and if the Federal Council passes the draft, either with or without amendment, the draft law shall be submitted to the Supreme Council for its assent.

(2) No draft law shall be introduced into the Federal Council or submitted to the Supreme Council for its assent and no amendment to any draft law shall be moved in the Federal Council if the draft law or the amendment, as the case may be—

(a) relates to a matter which is not within the Federation's legislative authority in accordance with the provisions of this Constitution ; or

(b) is inconsistent with any obligation of the Federation under any treaty, agreement or other engagement with any State or authority outside the Federation ; or

(c) in its application to any State, is inconsistent with any provision for the protection of human rights and fundamental freedoms in the Constitution of that State, being a provision that was in force at the date of the accession of that State to the Federation and, in the case of a State other than Aden, that is declared by the Federal law providing for the accession of that State to the Federation to be a provision to which this paragraph applies:

Provided that nothing in paragraph (a) of this subsection shall prevent the introduction in accordance with the provisions of this Constitution of a draft law containing proposals for the amendment of this Constitution or the moving of amendments to any such draft law.

(3) No draft law or amendment to any draft law which would—

(a) effect any amendment of this Constitution; or

(b) impose or remit or increase or decrease any tax, levy or other charge or impose, vary, increase or remove any charge on the revenues of the Federation,

shall be introduced into or moved in the Federal Council save on behalf of the Supreme Council or with the consent of the Supreme Council first obtained.

28.—(1) Any draft law duly introduced into and passed by the Federal Council shall be submitted to the Supreme Council which shall either assent or refuse its assent thereto: Assent of Supreme Council.

Provided that the Supreme Council may assent to any part or parts only of any such law to the exclusion of any other part or parts thereof.

(2) Any draft law or part or parts thereof assented to by the Supreme Council in accordance with the provisions of subsection (1) of this section shall come into operation on the date on which such assent shall be given or such other date as the Supreme Council in giving its assent may specify or, if it shall be provided either in such law or in this Constitution that it shall come into operation on some other date, on that date.

### *Part 2—Legislation by Provisional Order*

29. At any time when the Federal Council is not meeting the Supreme Council may by Provisional Order make provision for any matter (other than an amendment to this Constitution) with respect to which a Federal law could be enacted under Part 1 of this Chapter.

Supreme Council may make Provisional Orders.

30. Every Order made under section 29 of this Constitution shall be laid before the Federal Council at the next meeting of that Council held after the making of the Order.

Provisional Orders to be laid before Federal Council.

31. When any Order is laid before the Federal Council in accordance with section 30 of this Constitution the Council may, during the meeting at which the Order is so laid, by resolution—

Amendment or annulment of Provisional Orders.

(a) propose an amendment of the Order; or  
(b) annul the Order.

32. If within one month of the passing of a resolution under paragraph (a) of section 31 of this Constitution the Supreme Council signifies its approval of the proposed amendment the amendment shall take effect at the expiration of that period and if within that period the Supreme Council does not so signify its approval the Order shall cease to have effect at the expiration of that period.

Supreme Council may agree to amendment of Provisional Order.

Effect of resolution annulling a Provisional Order.

Provisional Orders may be revoked.

Effect of a Provisional Order ceasing to have effect.

Supreme Council may make decrees in times of public emergency.

Decrees to give effect to treaty obligations.

Effect of decrees.

33. Where a resolution is passed under paragraph (b) of section 31 of this Constitution the Order to which the resolution relates shall cease to have effect at the expiration of a period of one month from the date of the resolution.

34. Any Order made under section 29 of this Constitution shall have effect as if it were a Federal law made under Part 1 of this Chapter and may be amended or revoked at any time by a Federal law.

35. On any Order made under section 29 of this Constitution ceasing to have effect in accordance with section 32 or section 33 of this Constitution any law repealed or amended by or in pursuance of that Order shall have effect as from the date of the Order ceasing to have effect as if that Order had not been made but the ceasing to have effect of the Order as aforesaid shall not—

- (a) affect the previous operation of such Order or anything duly done or suffered thereunder ; or
- (b) affect any right, privilege, obligation or liability acquired, accrued or incurred under such Order ; or
- (c) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against such Order ; or
- (d) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the Order had not ceased to have effect.

### *Part 3—Legislation by decree of the Supreme Council*

36.—(1) The Supreme Council may declare that a state of public emergency exists in the Federation or in any part of the Federation in respect of which such declaration is made and may subsequently terminate such state of public emergency.

(2) While a declaration such as is referred to in subsection (1) of this section is in force the Supreme Council may make such decrees with respect to the matters in respect of which the Federation has legislative and executive authority as appear to the Supreme Council to be required by the exigencies of the situation prevailing during the state of public emergency.

37. The Supreme Council may at any time make such decrees as appear to it to be necessary or expedient for giving effect in the Federation or any part thereof to the obligations of the Federation or the Federal Government under any treaty, agreement or other engagement with any State or authority outside the Federation.

38.—(1) Subject to the provisions of subsection (2) of this section any decree made under the provisions of this Part of this Chapter shall have effect as if it were a Federal law enacted under Part 1 of this Chapter and may be amended or revoked at any time by a Federal law.

(2) Where a state of public emergency is terminated any decree made under section 36 of this Constitution shall thereupon cease to have effect and the provisions of section 35 of this Constitution shall apply in relation to such decree as they apply in relation to a Provisional Order ceasing to have effect.

## CHAPTER 6

### FINANCIAL PROCEDURE

39.—(1) All revenues and moneys raised or received by the Federation shall unless otherwise provided by Federal law be paid into and form the Federal Consolidated Fund (hereinafter called "the Consolidated Fund").

(2) All expenditure of the Federation unless otherwise provided by law shall be met out of the Consolidated Fund, and in particular there shall be paid therefrom any sum which by this Constitution is charged upon and payable out of the revenues of the Federation.

(3) A fund or funds in addition to the Consolidated Fund may be established for specific purposes into which all or part of any specified revenues or moneys shall be paid and out of which shall be met such expenditure as may be provided.

40.—(1) The Supreme Council shall in respect of each financial year cause to be laid before the Federal Council on such date as will allow reasonable time for their consideration and approval before the beginning of the year to which they relate estimates of the expenditure of the Federation.

(2) The estimates of expenditure shall show under specified heads the amounts required to be spent to carry out the functions of the Federation during the financial year to which they relate.

(3) The estimates shall also show the sums required to meet any expenditure which by this Constitution or any Federal law is charged upon and payable out of the revenues of the Federation.

(4) There shall accompany the estimates of expenditure a statement of the estimated revenue for the corresponding financial year and a statement of the assets and liabilities of the Federation for the last complete financial year.

41.—(1) The Federal Council shall consider the estimates of expenditure and may approve, with or without amendment, the expenditure of any sum contained therein other than the sums referred to in subsection (3) of section 40 of this Constitution.

(2) After the Federal Council has approved the expenditure of any sums in accordance with subsection (1) of this section the Supreme Council shall introduce a draft law (which shall be dealt with in the manner prescribed by Part 1 of Chapter 5 of this Constitution) authorising the expenditure of those sums.

42. No disbursement from the Consolidated Fund or other funds of the Federation shall be made unless :

(a) the expenditure is authorised by this Constitution or any Federal law ; and

(b) a warrant has been signed :

(i) by a Minister who is authorised by the Supreme Council to order such disbursement ; or

(ii) by some other person authorised by law to order such disbursement.

Consolidated Fund established.

Estimates of expenditure to be laid before and approved by Federal Council.

Appropriation law authorising expenditure to be passed.

Payments from Consolidated Fund to require authorisation.

Authorisation of payments before the passage of Appropriation law.

Supplementary expenditure.

Audit of public accounts.

43. The Supreme Council may authorise the payment of such sums as are necessary to enable the functions of the Federal Government to be carried out during any period not exceeding three months between the beginning of a financial year and the coming into force of the law for that year which is referred to in section 41 of this Constitution.

44. When during any financial year it is found that expenditure is required under a new head not included in the approved estimates or that additional expenditure is required under any existing head of such estimates and in the opinion of the Supreme Council such expenditure could not have been foreseen or cannot be postponed without detriment to the interests of the Federation, such expenditure or such additional expenditure shall be authorised by a Federal law.

45.—(1) There shall be a Director of Audit of the Federation, whose office shall be an office in the Federal Public Service and whose salary shall be prescribed by a Federal law and charged upon and payable out of the revenues of the Federation.

(2) The public accounts of the Federation and of all officers, courts and authorities of the Federation shall be audited and reported on by the Director of Audit of the Federation and for that purpose the Director or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Director of Audit of the Federation shall submit his reports to the Supreme Council who shall cause them to be laid before the Federal Council.

(4) In the exercise of his functions under this Constitution the Director of Audit of the Federation shall not be subject to the direction or control of any other person or authority, and shall not be removed from office save with the approval of the Federal Council.

Federal Public Service.

## CHAPTER 7

### THE FEDERAL PUBLIC SERVICE

46.—(1) There shall be a Federal Public Service and subject to the provisions of any Federal law the Supreme Council—

- (a) may constitute and abolish offices in the Federal Public Service; and
- (b) may make appointments (including appointments on promotion and transfer) to any office so constituted.

(2) A person appointed to an office constituted under this section shall, subject to the provisions of this Constitution or any Federal law, hold office during the pleasure of the Supreme Council.

Dismissal and suspension of public officers.

47. Subject to the provisions of any Federal law the Supreme Council may, for cause shown to its satisfaction, dismiss any person holding an office in the Federal Public Service, suspend him from performing the functions of his office or take such other disciplinary action as may seem to be desirable.

48.—(1) There shall be a Federal Public Service Commission which shall consist of such person or persons as may be appointed by the Supreme Council, who shall hold office on such terms and conditions as may be prescribed by a Federal law or, subject to the provisions of any such law, by the Supreme Council.

Public  
Service  
Commission.

(2) A person shall not be qualified to be a member of the Federal Public Service Commission if he is a member of the Federal Council or holds such other office as may be prescribed by a Federal law.

(3) The Supreme Council shall refer any matter relating to the exercise of its powers under paragraph (b) of subsection (1) of section 46 or section 47 of this Constitution to the Federal Public Service Commission for its advice.

(4) It shall be the duty of the Federal Public Service Commission to advise the Supreme Council on any matter which is referred to it under this section but the Supreme Council shall not be obliged to act in accordance with the advice given to it by the Commission.

## CHAPTER 8

### THE FEDERAL HIGH COURT AND JUDICIAL PROCEEDINGS

49. There shall be a Federal High Court which shall consist of such number of judges, not being less than three, as may be prescribed by a Federal law and a Federal law may fix the number of judges of the Court who may sit for any purpose.

Federal  
High Court  
established.

50.—(1) The Federal High Court shall, to the exclusion of any other court, have original jurisdiction—

Jurisdiction  
of Federal  
High Court.

(i) to determine any question as to the interpretation of this Constitution that may be required by any Federal law to be referred by any court of a State to the Federal High Court for decision ; and

(ii) in any dispute between the Federation and any State or between States if and in so far as that dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends.

(2) The Federal High Court shall have original jurisdiction in any matter in which proceedings are brought by any person against an officer or authority of the Federation in which an order is sought against such officer or authority requiring the doing of or abstaining from doing any act by such officer or authority on the grounds that the doing of such act is required by law or that such act is not authorised by law and such jurisdiction shall, unless otherwise provided by a Federal law, be to the exclusion of that of any other court.

(3) The Federal High Court shall, to the exclusion of any other court, have jurisdiction to hear and determine appeals from decisions of the principal court of a State on any question as to the interpretation of this Constitution.

(4) The Federal High Court shall have such jurisdiction to hear and determine appeals from the decisions of the principal court of a State as may be conferred upon it—

(i) in respect of matters within the legislative and executive authority of the Federation, by a Federal law ;

(ii) in respect of matters within the legislative and executive authority of a State, by the law of that State:

Provided that the Federal High Court shall not exercise any jurisdiction conferred upon it by a law of a State unless the Supreme Council has given notice to the Court that it has approved the conferment of that jurisdiction.

(5) The Federal High Court shall consider and advise upon any question as to the interpretation of this Constitution that may be referred to the Court by the Supreme Council.

(6) The Federal High Court shall have such other jurisdiction with respect to matters within the legislative and executive authority of the Federation, as may be conferred upon it by a Federal law.

(7) The Federal High Court shall have such jurisdiction with respect to appeals from Courts established for the Seat of Government of the Federation as may be conferred upon it by or under a law made for or applying to the Seat of Government.

(8) All authorities in the Federation shall act in aid of the Federal High Court and any judgment or order or sentence of the Federal High Court given in exercise of the jurisdiction conferred on it by or under this Constitution shall be enforced by all courts and authorities in any State as if it were a judgment order or sentence of a superior court of that State.

(9) A Federal law may confer on the Federal High Court such powers as may appear necessary or desirable and be consistent with this Constitution for enabling the Court more effectively to exercise any jurisdiction conferred on it by or under this Constitution.

(10) Provision may be made by or under the authority of a Federal law for regulating the practice and procedure of the Federal High Court, and, in relation to appeals brought from other courts or questions of law referred to the Federal High Court from such courts, the practice and procedure of such courts.

(11) In this section the phrase "principal court of a State" means any court or courts of a State defined as such by a Federal law.

**Appoint-  
ment of  
judges.**

51.—(1) Subject to the provisions of subsection (2) of this section the Supreme Council shall, after consultation with the Federal Public Service Commission, appoint persons to be judges of the Federal High Court.

(2) A person shall not be qualified for appointment as a judge unless—

(i) he is or has been a judge of any court having unlimited jurisdiction in civil or criminal matters in any country that may be prescribed by a Federal law or of a court having jurisdiction in appeals from any such court; or

(ii) he is qualified to practise as an advocate in any such court, or is qualified in accordance with a Federal law to practise as an advocate in the Federal High Court, and has been so qualified for not less than seven years.

52.—(1) A judge of the Federal High Court shall not be removed from office—

(i) except for inability to perform the functions of his office (whether arising from infirmity of body or mind or from any other cause) or for misbehaviour; and

**Removal  
and retire-  
ment of  
judges.**

(ii) unless a tribunal composed of persons qualified to be appointed judges of the Federal High Court and appointed by the Supreme Council has investigated the allegation of inability or misconduct and has recommended to the Supreme Council that the judge should be removed from office.

(2) If the question of removing a judge of the Federal High Court from office has been referred to a tribunal in accordance with subsection (1) of this section the Supreme Council may suspend him from performing the functions of his office and any such suspension may be revoked at any time and shall cease to take effect if the tribunal recommends that he should not be removed from office.

(3) A person holding the office of a judge of the Federal High Court shall vacate that office on attaining such age as may be prescribed by a Federal law.

(4) Notwithstanding that he has attained the age at which he is required by the provisions of subsection (3) of this section to vacate his office, a person holding the office of a judge of the Federal High Court may continue in office for so long after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

**53.**—(1) The salaries to be paid to the judges of the Federal High Court shall be prescribed by a Federal law and charged upon and payable out of the revenues of the Federation. Salaries of judges.

(2) The salary and other conditions of service of a judge shall not be altered to his disadvantage after his appointment.

**54.** A Federal law may provide that appeals from decisions of the Federal High Court may lie to some other superior court outside the Federation in such cases and subject to such conditions as may be prescribed by a Federal law. Appeals from the Federal High court.

**55.** Subject to the provisions of this Constitution and of any Federal law, jurisdiction in civil or criminal proceedings arising under any Federal law in any State shall vest in and be exercisable by the courts of that State as if that law were a law of that State. Jurisdiction of State courts.

**56.**—(1) The Supreme Council may—

- (a) grant to any person concerned in or convicted of any offence created by or under a Federal law, a pardon either free or subject to conditions;
- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for such an offence;
- (c) substitute a less severe form of punishment for any punishment imposed on that person for such an offence; or
- (d) remit the whole or any part of any punishment imposed on that person for such an offence or of any penalty or forfeiture otherwise due to the Federation on account of such offence.

(2) In this section references to an offence created by or under a Federal law do not include offences created by or under a State law enacted in pursuance of an authority conferred by a Federal law in accordance with subsection (5) of section 58 of this Constitution.

Power to grant pardons, etc.

Control of  
prosecu-  
tions.

57.—(1) The Supreme Council shall appoint an officer in the Federal Public Service to be responsible for public prosecutions who shall have power in any case in which he considers it desirable so to do—

- (a) to institute and undertake criminal proceedings against any person before any court in the Federation in respect of any offence created by or under a Federal law;
- (b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority; and
- (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.

(2) The powers of the officer appointed under this section may be exercised by him in person or through persons authorised by him to act under and in accordance with his general or special instructions.

(3) The officer appointed under this section may confer a general or special authority upon an official or authority of a State to exercise subject to such conditions and exceptions as the officer appointed may think fit any of the powers conferred upon him by subsection (1) of this section in relation to criminal proceedings under any Federal law in that State and may vary or revoke any such authority:

Provided that, where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before a court.

(4) For the purposes of this section any appeal from any determination in any criminal proceedings before any court or any case stated or question of law reserved or any review in relation to any such proceedings shall be deemed to be part of those proceedings.

(5) In this section references to an offence created by or under a Federal law do not include offences created by or under a State law enacted in pursuance of an authority conferred by a Federal law in accordance with subsection (5) of section 58 of this Constitution.

## CHAPTER 9

### THE LEGISLATIVE AND EXECUTIVE AUTHORITY OF THE FEDERATION

Legislative  
and  
executive  
authority  
of the  
Federation.

58.—(1) Subject to the provisions of this Constitution, the Federation shall have legislative and executive authority in respect of the peace, order and good government of the Federation with regard to:

- (a) any matter included in the Second Schedule to this Constitution and any matter incidental to those matters;
- (b) any matter included in the Third Schedule to this Constitution and any matter incidental to those matters;
- (c) any matter incidental to the discharge by the Supreme Council, the Federal Council or any court, officer or authority of the Federation, of its functions under this Constitution.

(2) Subject to the provisions of subsections (5) and (6) of this section, the legislative and executive authority of the Federation with regard to the matters referred to in paragraphs (a) and (c) of subsection (1) of this section shall be to the exclusion of any authority of any State.

(3) If any provision of a law of a State is inconsistent with any provision of a Federal law which the Federation was competent to enact, whether the Federal law was made before or after the State law, the Federal law shall prevail and the State law shall, to the extent of the inconsistency be void.

(4) The legislative and executive authority of any State shall be so exercised as not to impede or prejudice the exercise of the legislative and executive authority of the Federation within that State and in such manner as to ensure respect for this Constitution and for the laws of the Federation which apply to that State.

(5) A Federal law may delegate to the Legislature of a State of the Federation authority to make laws for that State with respect to any matter within the legislative and executive authority of the Federation.

(6) A Federal law or the Supreme Council may confer on or delegate to any officer or authority of any State in the Federation authority or functions in respect of any matter within the executive authority of the Federation falling to be exercised or performed in or in respect of such State.

(7) A Federal law may confer authority on the Supreme Council to make laws for the peace, order and good government of the Seat of Government of the Federation.

(8) Nothing in this section or in section 7 of this Constitution shall be interpreted as preventing the conferment by a Federal law of functions upon any Minister, officer or authority of the Federation.

(9) Any delegation or conferment of authority made under the provisions of subsections (5) to (8) of this section may be for such period or subject to such conditions as may be specified and may be terminated at any time without prejudice to the validity of anything lawfully done thereunder.

(10) In this section, references to incidental matters include, without prejudice to their generality—

- (a) offences (including punishments, penalties and forfeitures in relation to offences) ;
- (b) the jurisdiction, powers and procedure of courts ;
- (c) the establishment and regulation of tribunals of enquiry ;
- (d) fees and other charges.

59. Subject to the provisions of this Constitution and of any Federal law it shall be the duty of all authorities of the States forming the Federation to enforce within their respective States all Federal laws and to give effect to all executive instructions issued in accordance with law and conveyed to them by the Federal authorities in exercise of the executive authority of the Federation:

Duty of  
States to  
enforce  
Federal  
laws.

Provided that the foregoing provisions of this section shall be without prejudice to the power of the authorities of the Federation to enforce any Federal law or to give effect to any matter falling within the executive authority of the Federation within any State if it appears to the authorities of the Federation that any Federal law or executive instruction has not been or is not likely to be enforced or carried out within that State by the authorities of that State to the satisfaction of the authorities of the Federation.

Provision  
of services  
by the  
Federation.

**60.** The Federation shall within the limits of its executive and legislative authority provide such services as it deems necessary or expedient having regard to the financial resources of the Federation and to the interests of the Federation and the States forming the Federation.

## CHAPTER 10

### THE ACQUISITION OF IMMOVABLE PROPERTY, THE VESTING OF CUSTOMS IN THE FEDERATION AND FINANCIAL ARRANGEMENTS

Acquisition  
of property.

**61.**—(1) If the Supreme Council is satisfied that any immovable property in a State is required for the purpose of any matter within the legislative or executive authority of the Federation it may acquire such property for the Federation by agreement and with the assent of the State in which such property is situated.

(2) If the Supreme Council is satisfied that any immovable property in a State is required for the purpose of any matter within the legislative or executive authority of the Federation other than for agricultural purposes and if the State in which such property is situated agrees that such property is suitable for the purpose for which it is required, then the Supreme Council may require the State and it shall then be the duty of the State—

(i) if the property is owned by the State, to grant the property to the Federation; or

(ii) if the property is not owned by the State, to acquire the property by agreement or compulsorily and to grant it to the Federation.

(3) Where in accordance with subsection (2) of this section any immovable property is granted to the Federation it shall pay therefor to the State fair compensation which in default of agreement between the Federation and the State shall be determined by the Federal High Court.

(4) For the purposes of determining the amount of compensation which shall be paid in accordance with subsection (3) of this section in any case in which immovable property is granted to the Federation in accordance with paragraph (ii) of subsection (2) of this section there shall be taken into account the provisions of any law relating to the compulsory acquisition of immovable property in force in the State concerned.

(5) Subject to the provisions of any Federal law the Supreme Council shall be responsible for the management of any immovable property vested in the Federation from time to time.

(6) A Federal law may make provision for the procedure to be followed in the exercise of the powers conferred by this section.

(7) In this section references to immovable property include any interest in immovable property.

**62.**—(1) The Federation shall have legislative and executive authority to the exclusion of the authority of any State to impose and collect customs and excise duties, that is to say—

(a) duties payable in respect of the importation into the Federation of goods or commodities;

Federation  
to have  
exclusive  
power  
to levy  
customs  
and excise  
duties.

- (b) duties payable in respect of the exportation from the Federation of goods or commodities (excluding agricultural produce and minerals and mineral oils originating in the Federation); and
- (c) duties payable in respect of the manufacture or part manufacture in the Federation of goods or commodities:

Provided that the rate of duty payable in respect of the manufacture in the Federation of goods or commodities substantially from agricultural produce, or minerals or mineral oil raw materials originating in the Federation shall not exceed the rate of duty payable either in respect of the importation into the Federation of similar goods or commodities or in respect of the manufacture in the Federation of similar goods or commodities from agricultural produce or minerals or mineral oil raw materials imported into the Federation.

(2) For the purposes of this section "manufacture" in relation to goods or commodities means the making of or the application of any process to goods or commodities.

**63.**—(1) No law of any State shall provide for the imposition of any tax which has or is likely to have the effect of restricting the freedom of movement of goods, vehicles, aircraft, vessels or persons between that State and any other State and any such law shall to the extent that it makes such provision be void.

Freedom of  
inter-state  
trade and  
movement.

(2) It shall not be within the power of the Federation or any State to impose or collect customs and excise duties in respect of the importation of any goods or commodities from a State in the Federation into another such State or to impose or collect such duties in respect of the exportation of any goods or commodities from a State in the Federation to another such State and it shall not be within the power of any State to impose or collect such duties in respect of the exportation from the Federation of any agricultural produce, minerals or mineral oils originating in the Federation.

**64.** (1) Each State (other than Aden) mentioned in the First Schedule to this Constitution shall in each and every year pay to the Federation in quarterly instalments and in advance such sum of money as may be ascertained in relation to each such State in accordance with sub-section (2) of this section.

Contribu-  
tions  
payable  
by States.

(2) The sum to be paid by each such State in accordance with the provisions of subsection (1) of this section shall be of such amount as may be ascertained by the Supreme Council to be equal to the total of:—

- (a) the sum which the State was liable to pay to the Federation as a contribution to the revenues of the Federation in respect of the year ending on the 31st day of March, 1963; and
- (b) the net expenditure of the State other than on capital works in respect of primary education in the State as shown in the original approved estimates of the State in respect of the year ending on the 31st day of March, 1963.

**65.** (1) The Federation shall in each and every year pay to each State mentioned in the First Schedule to this Constitution (other than Aden) in quarterly instalments and in advance such sum of money as may be ascertained in relation to each State in accordance with sub-section (2) of this section.

Compensa-  
tion  
payable  
to States.

(2) The sum to be paid to each State in accordance with the provisions of subsection (1) of this section shall be of an amount equal to the total revenue received in, by or on behalf of that State during the year ending on the 31st day of March, 1962, in respect of customs and excise duties as defined in section 62 of this Constitution and in respect of tolls in respect of vehicles, animals or persons using and goods being transported over any road in the State, as shall be ascertained by a Commission appointed by the Supreme Council for the purpose.

Contributions and compensation in case of acceding States.

**66.** Where any State not mentioned in the First Schedule to this Constitution accedes to the Federation, the Federal law passed in respect of the accession of that State in accordance with the provisions of subsection (2) of section 4 of this Constitution shall specify:—

- (a) the annual amount of contribution to be paid by that State to the revenues of the Federation and any sum so specified shall be payable to the Federation as though it were a sum ascertained under the provisions of section 64 of this Constitution; and
- (b) the annual amount to be paid by the Federation to that State as compensation for the vesting in the Federation of the exclusive right to impose and collect customs and excise duties as defined in section 62 of this Constitution and tolls in respect of vehicles, animals or persons using, or goods being transported over, any road in the Federation and any sum so specified shall be payable by the Federation as though it were a sum ascertained under the provisions of section 65 of this Constitution.

Set-off.

**67.** Where, under the provisions of section 64 and section 65 or section 66 of this Constitution, the Federation and any State are each under a liability to pay a sum to the other, such sums shall be set-off one against the other and the Federation or the State, as the case may be, shall be liable to pay only such balance as may remain after such set-off.

**68.** (1) Subject to the provisions of subsection (2) of this section the financial arrangements between the Federation and Aden shall be as follows, that is to say:—

- (a) the Minister responsible for finance in the Government of the Federation and the Minister responsible for finance in the Government of Aden shall in consultation ascertain:
  - (i) the total revenue actually received by Aden during the year ending on the 31st day of March, 1962, from the sources of revenue vesting in the Federation, whether by virtue of the provisions of section 62 of this Constitution or otherwise by virtue of the provisions of this Constitution, upon the accession of Aden to the Federation; and
  - (ii) the total expenditure by the Government of Aden during that year on all services in respect of works, other than development works, and functions carried out or performed by, or on behalf of, the Government of Aden in connection with any matters which are, under the provisions of this Constitution, upon the accession of Aden to the Federation transferred to the Federation;
- (b) where the total revenue so ascertained exceeds the total expenditure so ascertained there shall in each and every year be paid

Financial provisions relating to Aden.

to Aden by the Federation a sum equal to the amount of the excess and where the total expenditure so ascertained exceeds the total revenue so ascertained there shall in each and every year be paid to the Federation by Aden a sum equal to the amount of the excess.

(2) On a date not earlier than six months before the expiration of the period of three years from the date of the coming into operation of this section, the Supreme Council shall convene a conference consisting of representatives equally of the Government of the Federation and of the Government of Aden to consider and, before the expiration of that period, to make recommendations regarding the financial arrangements set out in this section, and if such conference recommends that any alteration should be made in those financial arrangements, the Supreme Council shall by Order declare that such arrangements as may be so recommended shall be substituted for the arrangements set out in this section and on and after the date of such Order such arrangements so substituted shall be binding upon the Federation and Aden in place of the arrangements set out in this section.

(3) In this section "development works" means works financed by the "Aden Development Plan 1960 to 1964".

69. Any sum which the Federation or a State is liable to pay under any of the provisions of section 64, 65, 66, 67 or 68 of this Constitution shall be charged on and paid out of the revenues of the Federation or of that State as the case may be.

Sums charged on Federal revenue.

## CHAPTER 11

### THE AMENDMENT OF THE CONSTITUTION

70. Subject to the provisions of section 71 of this Constitution, this Constitution may be amended from time to time by a Federal law enacted in accordance with the procedure for enacting Federal laws set out in Part 1 of Chapter 5 of this Constitution:

Method of amending this Constitution.

Provided that—

- (i) the draft law concerned shall not be deemed to have been passed by the Federal Council unless at least two-thirds of the total number of members of the Federal Council vote in favour of such draft law when the final decision thereon is taken;
- (ii) the Supreme Council shall not assent to the draft law concerned or any part thereof until twenty-eight days have elapsed from the date on which the draft law was passed by the Federal Council; and
- (iii) if within the period of twenty-eight days mentioned in the preceding paragraph not less than three States inform the Supreme Council in writing of their objection to the draft or to any part thereof the Supreme Council shall not assent to such draft law or part thereof but if the said draft law or part thereof is again submitted by the Supreme Council to the Federal Council for its further consideration at the same or the next meeting of the Federal Council and if on the final decision of the Federal Council thereon at that meeting not less than four-fifths of the total number of members of the Federal Council vote in favour thereof the Supreme Council may assent thereto and the draft law shall take effect notwithstanding any further objection thereto.

Method of amending this Constitution in particular cases.

- 71.—(1) Any draft law which proposes to amend this Constitution :
- (a) by increasing or decreasing the number of members of the Federal Council to which any State is entitled in accordance with the provisions of subsection (2) of section 19 of this Constitution ;
  - (b) by increasing or decreasing the amount of any contribution payable by or compensation payable to any State in accordance with the provisions of sections 64 to 68 inclusive of this Constitution ;
  - (c) by extending the matters in respect of which the Federation has legislative or executive authority ;
  - (d) by altering the method by which jurisdiction may be conferred on the Federal High Court in any matter not within the legislative and executive authority of the Federation ;
  - (e) by altering the procedure or conditions for the acquisition by the Federation of immovable property in the States ;
  - (f) by extending the power of the Federation to impose and collect customs and excise duties ; or
  - (g) by altering the provisions of this Chapter :

shall be dealt with in the manner provided by this section.

(2) The Supreme Council shall cause a copy of any draft law referred to in subsection (1) of this section to be delivered to each State in the Federation together with an intimation that the Supreme Council proposes to introduce such draft law into the Federal Council and that any State which objects to the enactment of such draft law may within a period of twenty-eight days from the date of delivery to it of such draft law or such longer period as may be specified in such intimation deliver a written objection to such draft law to the Supreme Council specifying whether the objection is to the whole draft law or to any and, if so, which, part thereof.

(3) If in respect of any draft law or part thereof as aforesaid any State delivers a written objection to the Supreme Council in accordance with the terms of the intimation referred to in subsection (2) of this section and such objection is not subsequently withdrawn the Supreme Council shall not introduce into the Federal Council the draft law or the part thereof to which objection has been taken and not withdrawn.

(4) If in respect of any draft law or part thereof as aforesaid no objection is taken in the manner aforesaid by any State or, if taken, is subsequently withdrawn the Supreme Council may introduce the same into the Federal Council as a draft law and it shall be dealt with in accordance with the procedure for enacting Federal laws set out in Part 1 of Chapter 5 of this Constitution :

Provided that the draft law concerned shall not be deemed to have been passed by the Federal Council unless at least two-thirds of the total number of members of the Federal Council vote in favour thereof when the final decision thereon is taken.

## CHAPTER 12

### MISCELLANEOUS PROVISIONS

Bringing the Federation into being.

72. On the signature of this Constitution as provided for in subsection (2) of section 2 hereof the signatories shall take all such steps as may be necessary or expedient for bringing the Federation into being.

**73.—(1)** Wherever by reason of the provisions of this Constitution exclusive legislative or executive authority in respect of any matter is vested in the Federation and there is in any State any law of that State on any such matter such law shall, subject to the provisions of this section, have effect as if it were a Federal law applying to such State and any such laws shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Constitution or any Federal law.

Continuing validity of State laws.

**(2)** The Supreme Council may by Order make such amendments to any law of a State to the extent that such law has effect as a Federal law by virtue of the provisions of subsection (1) of this section as may appear to the Supreme Council to be necessary or expedient for bringing that law into conformity with the provisions of this Constitution or any Federal law or otherwise for giving effect or enabling effect to be given to those provisions.

**(3)** The provisions of this section shall be without prejudice to any powers conferred by this Constitution upon any authority to make provision for any matter including the amendment or repeal of any law.

**74.** Where any State proposes to borrow any sum from a source outside the Federation it shall first inform the Federation of its proposal and shall supply the Federation with such particulars as the Federation may require relating to such loan and the progress of negotiations therefor.

States seeking loans to inform Federation.

**75.** Where any treaty, agreement or other engagement between a Federating State and a country outside the Federation or between a State which has acceded to the Federation and any such country which is in force at the commencement of this Constitution or on the date of the accession of a State to the Federation, as the case may be, provides for the giving of advice or assistance by that country or any authority thereof to any such State, such State may, so long as that treaty, agreement or engagement remains in force, receive such advice or assistance thereunder in relation to matters which are not within the exclusive legislative and executive authority of the Federation in accordance with this Constitution.

Treaties with States.

**76.** Subject to the provisions of any Federal law, the Federation and any employee, officer or authority of the Federation shall be entitled to the like immunities, privileges and exemptions in law in each State of the Federation as may be enjoyed in accordance with the written or other law of that State by the Government of that State or a like person or authority of such Government and without prejudice to any other provision of this Constitution the Federation shall not be subjected in any State to any tax, rate, charge or other liability to which the Government of that State is not subjected.

Immunity of the Federation.

**77.** Notwithstanding the provisions of section 61 of this Constitution a Federal law may make provision for the transfer to the Federation of any assets or liabilities of a State in regard to any matter in respect of which legislative or executive authority becomes transferred from that State to the Federation.

Transfer of State assets or liabilities.

Interpreta-  
tion.

**78.—(1) In this Constitution unless the context otherwise requires:**

“Seat of Government of the Federation” means such area of land vested in the Federation as may be declared by the Supreme Council to be the Seat of Government of the Federation;

“meeting”, in relation to the Federal Council, means the sitting or series of sittings of the Council which are held consequent upon a summons issued by the Supreme Council in accordance with section 23 of this Constitution;

“Federal law” includes any order or decree made under Chapter 5 of this Constitution and any State law having effect as if it were a Federal law under section 73 of this Constitution;

“State” means a State which is a member of the Federation and includes Aden;

“Aden” has the meaning assigned to that expression for the purposes of the Constitution of Aden.

(2) Where any person has vacated any office constituted by this Constitution he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.

#### FIRST SCHEDULE

(Section 19 (2))

#### NUMBER OF MEMBERS OF THE FEDERAL COUNCIL

<i>State:</i>	<i>Number of Members:</i>					
The Amirate of Baihan	...	...	...	...	...	Six
The 'Audhali Sultanate	...	...	...	...	...	Six
The Fadhli Sultanate	...	...	...	...	...	Six
The Amirate of Dhala'	...	...	...	...	...	Six
The Upper 'Aulaqi Shaikhdom	...	...	...	...	...	Six
The Lower Yafa' Sultanate	...	...	...	...	...	Six
The Sultanate of Laheg	...	...	...	...	...	Six
The 'Aqrabi Shaikhdom	...	...	...	...	...	One
The Lower 'Aulaqi Sultanate	...	...	...	...	...	Six
The State of Dathina	...	...	...	...	...	Six
The Wahidi Sultanate	...	...	...	...	...	Six
Aden	...	...	...	...	...	Twenty-four

#### SECOND SCHEDULE

(Section 58)

Matters in respect of which the Federation has, and a State has not, legislative and executive authority

1. External affairs.
2. The defence and internal security of the Federation and of the States; and the forces to be maintained for those purposes.
3. Borrowing of money for the purposes of the Federation.

4. Aviation, aerodromes and ancillary services, including the safety of aircraft.
5. Posts, telegraphs, telephones, wireless (including broadcasting and television) and other like forms of communication.
6. The public relations of the Federation.
7. The public works of the Federation.
8. The Federal Public Service.
9. The construction, alteration, maintenance and improvement of roads declared to be Federal Trunk Roads by the Supreme Council.
10. Education.
11. Health.
12. Currency, coinage and legal tender.
13. Banks (including savings banks) and banking.
14. Exchange Control.
15. Tolls in respect of vehicles, animals or persons using, or goods being transported over, any road in the Federation.
16. The registration of motor vehicles:  
Provided that this item shall not confer authority on the Federation—  
(a) to require any motor vehicle to be registered in more than one State; or  
(b) to limit the number of motor vehicles that may be registered in any State;  
(c) to impose fees in respect of registration that are payable to any authority other than the State in which the vehicle is registered or an authority of such State; or  
(d) to impose fees that are not uniform throughout the Federation.
17. The peace, order and good government of the Seat of Government of the Federation.
18. Taxes on the income of Federal Ministers and persons serving in the Federal Public Service (including Federal armed and police forces) and on Federal pensions.
19. Federal nationality and citizenship:  
Provided that nothing in this item shall preclude a State from providing by law for persons to be regarded as citizens of that State for the internal purposes of the State.
20. The recognition and enforcement of judgments of the courts of any country outside the Federation.
21. The surrender of offenders and accused persons between the Federation and countries outside the Federation.
22. Public holidays to be observed by the Government of the Federation.
23. Legal proceedings by or against the Federation or any officer or authority of the Federation.
24. Matters in respect of which the Federation has authority under any section of this Constitution, other than paragraph (b) of subsection (1) of section 58 of this Constitution.

### THIRD SCHEDULE (Section 58)

Matters in respect of which both the Federation and a State have legislative and executive authority.

1. The surrender of offenders and accused persons between States.
2. The recognition and enforcement of judgements, the execution of warrants and the service of process between States.
3. Deportation from the Federation and the compulsory removal of persons from one State to another.

4. Immigration into and emigration from the Federation and control of the voluntary movement of persons between States.
  5. Criminal offences against the Federation and against the property of the Federation; criminal offences committed by or against persons in or in connexion with the execution of their duties as officers, servants or authorities of the Federation.
  6. Prisons and other institutions for the treatment of offenders:  
Provided that this item shall not confer authority on the Federation to require a State to receive into a State prison or institution any person other than a person convicted of an offence against or detained under a Federal law or a law of that State, without the consent of the State.
  7. Bills of exchange, promissory notes and negotiable instruments.
  8. Companies.
  9. Partnerships and other unincorporated associations.
  10. Bankruptcy.
  11. Copyright, patents, trade marks, designs and merchandise marks.
  12. Weights and measures.
  13. Co-operative societies.
  14. The marketing of agricultural produce and fish.
  15. Dangerous drugs.
  16. Explosives.
  17. The prohibition or control of publications prejudicial to the order, good government or welfare of the Federation.
  18. Control of imports and exports.
  19. The law of contract including the sale of goods.
  20. Shipping and navigation and the safety of life and property at sea but excluding ports and harbours.
  21. Commerce and industry (other than labour matters).
  22. Regulation of road traffic.
  23. Insurance.
  24. Agriculture (including animal husbandry, the protection of animals and plants against pests and diseases and the provision and use of agricultural and veterinary services).
  25. Fisheries.
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#### EXPLANATORY NOTE

*(This Note is not part of the Order, but is intended to indicate its general purport.)*

This Order provides for the application of the Constitution of the Federation of South Arabia to Aden, with modifications, upon the accession of Aden to the Federation.