STATUTORY INSTRUMENTS

# 1962 No. 1334

# RHODESIA AND NYASALAND FEDERATION

## The Northern Rhodesia (Delimitation Commission) Order in Council 1962

| | |
|---|---|
| *Made* - - - - | *27th June* 1962 |
| *Laid before Parliament* | *3rd July* 1962 |
| *Coming into Operation* | *4th July* 1962 |

At the Court at Buckingham Palace, the 27th day of June 1962

Present,

The Queen's Most Excellent Majesty in Council

Whereas it is proposed that there shall be established for Northern Rhodesia a Legislative Council (hereinafter referred to as " the proposed Council ") which shall include forty-five elected members:

And whereas it is proposed that for the purposes of electing the said elected members there shall be two classes of voters, that is to say voters qualified and registered under a higher franchise and voters qualified and registered under a lower franchise:

And whereas it is proposed that—

(*a*) the Territory should be divided into fifteen constituencies each returning one member to the proposed Council elected by voters under the higher franchise;

(*b*) the Territory should be divided into fifteen constituencies each returning one member to the proposed Council elected by voters under the lower franchise;

(*c*) the Territory should be divided into seven constituencies (to be known as National constituencies) each returning two members to the proposed Council elected by certain voters under the higher franchise and certain voters under the lower franchise;

(*d*) in four of the said National constituencies one member returned by the constituency should be a European and one member returned by the constituency should be an African:

And whereas it is expedient that a Delimitation Commission should be established for the purpose of delimiting constituencies for the return of elected members to the proposed Council:

Now, therefore, Her Majesty, by virtue of the powers conferred on Her by the Foreign Jurisdiction Act 1890(**a**) and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

(**a**) 53 & 54 Vict. c. 37.

Citation and commencement.

**1.**—(1) This Order may be cited as the Northern Rhodesia (Delimitation Commission) Order in Council 1962.

(2) This Order shall come into operation on 4th July 1962.

Interpretation.

**2.** The provisions of section 3 of the Northern Rhodesia (Legislative Council) Order in Council 1959(a) shall apply for the purposes of interpreting this Order as they apply for the purpose of interpreting that Order.

Appointment of Delimitation Commission.

**3.**—(1) The Governor shall, as soon as practicable after the coming into operation of this Order, appoint a Delimitation Commission (in this Order referred to as " the Commission ") which shall consist of a Chairman and two other members of whom one shall be a European and one shall be an African.

(2) A person shall not be qualified for appointment as Chairman of the Commission unless he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of Her Majesty's dominions or a court having jurisdiction in appeals from such a court.

(3) A person shall not be qualified for appointment as a member of the Commission if he is a member of the Legislative Council or of the Federal Assembly.

(4) If, after the appointment of the Commission and before a proclamation has been made under section 6 of this Order, the office of the Chairman or any other member of the Commission falls vacant or the holder of the office is unable for any reason to discharge his functions as a member of the Commission, the Governor may appoint another person qualified for appointment to be a member of the Commission.

(5) Before appointing any person to be a member of the Commission under this section the Governor shall consult the Chief Justice.

(6) When any matter falls to be determined by the Commission and the members of the Commission are not unanimous with respect to that matter, the decision of any two members of the Commission shall be the decision of the Commission.

Division of Territory into constituencies.

**4.**—(1) For the purposes of the election of the elected members of the proposed Council the Territory shall—

(*a*) be divided into fifteen higher franchise constituencies;

(*b*) be divided into fifteen lower franchise constituencies; and

(*c*) be divided into seven National constituencies,

and the boundaries of those constituencies shall be delimited by the Commission.

(2) Of the seven National constituencies, four shall be designated by the Commission as National constituencies which shall each return one European member and one African member to the proposed Council.

(3) In the exercise of its functions under this section the Commission shall comply with the provisions set out in the schedule to this Order.

(a) S.I. 1959/105 (1959 I, p. 2321).

Report of Commission.

**5.**—(1) The Commission shall, within ten weeks after the coming into operation of this Order, submit to the Governor a report which shall include—

(*a*) a list of the constituencies delimited by the Commission and a description of the boundaries of those constituencies;

(*b*) a map or maps showing the constituencies so described;

(*c*) the recommendation of the Commission as to the name by which each constituency shall be known; and

(*d*) the designation by the Commission of four National constituencies which shall each return one European member and one African member to the proposed Council.

(2) The Governor may refer back to the Commission for its further consideration any matter arising out of the Commission's report and the Commission shall either confirm or amend its findings with respect to the matter so referred.

Governor to proclaim constituencies.

**6.**—(1) As soon as practicable after the submission of the report of the Commission and, if any matter has been referred back to the Commission, the submission of the Commission's decision on that matter, the Governor shall, by proclamation in the Gazette—

(*a*) declare the boundaries of the constituencies as delimited by the Commission; and

(*b*) assign to each constituency the name by which it shall be known:

Provided that in assigning a name to a constituency the Governor shall not be obliged to act in accordance with the recommendation of the Commission;

(*c*) declare the National constituencies designated by the Commission as National constituencies which shall each return one European member and one African member.

(2) If there shall be any discrepancy between the written description of the boundaries of a constituency contained in the report of the Commission and the delimitation of the boundaries of that constituency on a map included in the report the written description shall prevail.

*W. G. Agnew.*

## SCHEDULE

Section 4.

1. Subject to paragraph 2 of this schedule—

(*a*) the boundaries of each higher franchise constituency shall be such that the number of voters registered under the higher franchise included in that constituency is as nearly equal to the electoral quota as is reasonably practicable;

(*b*) the boundaries of each lower franchise constituency shall be such that the number of adult African inhabitants thereof as estimated by the Delimitation Commission is as nearly equal to the population quota as is reasonably practicable;

(*c*) the boundaries of each National constituency shall be such that—

(i) the ratio between the number of voters registered under the higher franchise included in that constituency and the number of voters registered under the lower franchise included in that constituency is as near to the average ratio as is reasonably practicable; and

(ii) the total number of voters (whether voters registered under the higher franchise or under the lower franchise) included in that constituency is equal to not less than one tenth of the number of all the voters registered (whether under the higher franchise or under the lower franchise) throughout the Territory.

2. The number of voters or inhabitants, as the case may be, included in a constituency may be greater or less than the electoral quota or the population quota, and the ratio between the number of voters registered under the higher franchise and under the lower franchise greater or less than the average ratio, in order to take account of means of communication, geographical features, the distribution of population and administrative boundaries:

Provided that—

(*a*) the number of voters registered under the higher franchise in a higher franchise constituency shall not be greater or less than the electoral quota—

(i) in the case of an urban constituency, by a number equal to more than one quarter of that quota ;

(ii) in the case of a rural constituency, by a number equal to more than one third of that quota ;

(*b*) the number of adult African inhabitants in a lower franchise constituency as estimated by the Delimitation Commission shall not be greater or less than the population quota—

(i) in the case of an urban constituency, by a number equal to more than one quarter of that quota ;

(ii) in the case of a rural constituency, by a number equal to more than one third of that quota.

3. The Commission shall apply the provisions of paragraphs 1 and 2 of this schedule so as to ensure that in the case of a lower franchise constituency neither the whole nor any part of the Barotseland Protectorate is included with any other part of the Territory.

4. Every higher franchise rural constituency shall be coterminous with a lower franchise constituency or shall consist of two or more complete lower franchise constituencies.

5. Every lower franchise urban constituency shall be coterminous with a higher franchise constituency or shall consist of two or more complete higher franchise constituencies.

6. Every National constituency shall consist of two or more complete constituencies any one of which may be either a higher franchise constituency or a lower franchise constituency.

7. Every constituency shall comprise a single area of territory:

Provided that a constituency may comprise two separate areas of territory where one of those areas is bounded in part by the northern boundary of the Katanga pedicle and the other area is bounded in part by the southern boundary of the Katanga pedicle.

8. The four national constituencies in which the ratio between the number of voters registered under the higher franchise included in the constituency and the number of voters registered under the lower franchise included in the constituency is greater or less than the average ratio by the smallest amount shall be designated as constituencies which shall return one European member and one African member.

9.—(1) In this schedule—

"average ratio" means the proportion which the total number of voters registered under the higher franchise throughout the Territory bears to the total number of voters registered under the lower franchise throughout the Territory;

"electoral quota" means the number obtained by dividing the total number of voters registered under the higher franchise throughout the Territory by fifteen;

"the Katanga pedicle" means all that part of the Province of Katanga of the Republic of the Congo that lies to the southeast of a line drawn between the westernmost point of Kilwa Island in the Kawambwa District of the Territory and boundary pillar No. 29 on the boundary of the Solwezi District of the Territory;

"population quota" means the number obtained by dividing the number of adult African inhabitants of the Territory, as estimated by the Commission after taking into account the latest official statistics of the population of the Territory compiled by the Government of the Territory, by fifteen;

"rural constituency" means a constituency which is not an urban constituency;

"urban constituency" means a constituency which has within its boundaries the whole or any part of any area declared to be a municipality under the Municipal Corporation Ordinance(a) or of the township of Mabazuka.

(2) For the purposes of this schedule the number of voters registered under the higher franchise or under the lower franchise shall be the number so registered in pursuance of the Northern Rhodesia (Electoral Provisions) Order in Council 1962(b) on such date as the Governor may prescribe by notice in the Gazette.

(3) In reckoning the number of voters registered under the higher franchise or under the lower franchise throughout the Territory or in any part of the Territory for the purposes of ascertaining the average ratio or for the purposes of paragraph 1 (*c*) or paragraph 8 of this schedule a voter distinguished in the register of voters (as an Asian or as a coloured person not wishing to vote in the election of members to represent a National constituency) in accordance with section 6 (2) of the Northern Rhodesia (Electoral Provisions) Order in Council 1962 shall not be counted.

## EXPLANATORY NOTE

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

This Order makes provision for the delimitation of constituencies for the purpose of elections to a new Legislative Council that it is proposed should hereafter be established for Northern Rhodesia.

(a) Revised Laws of Northern Rhodesia: Chapter 119.
(b) S.I. 1962/626 (1962 I, p. 617).

STATUTORY INSTRUMENTS

# 1962 No. 1335

# RHODESIA AND NYASALAND FEDERATION

## The Northern Rhodesia (Native Reserves) (Amendment) (No. 3) Order in Council 1962

| | |
|---|---|
| *Made* - - - - | *27th June* 1962 |
| *Laid before Parliament* | *3rd July* 1962 |
| *Coming into Operation* | *4th July* 1962 |

At the Court at Buckingham Palace, the 27th day of June 1962

**Present,**

The Queen's Most Excellent Majesty in Council

Her Majesty, by virtue and in exercise of the powers by the Foreign Jurisdiction Act 1890(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 :—

Citation, construction and commencement.

**1.**—(1) This Order may be cited as the Northern Rhodesia (Native Reserves) (Amendment) (No. 3) Order in Council 1962.

(2) This Order shall be included among the Orders in Council that may be cited together as the Northern Rhodesia (Crown Lands and Native Reserves) Orders in Council 1928 to 1962(b) and shall be construed accordingly.

(3) This Order shall come into operation on the 4th day of July 1962.

Replacement of article 5 of Order of 1928.

**2.** Article 5 of the Northern Rhodesia (Crown Lands and Native Reserves) Order in Council 1928(c) is revoked and the following article is substituted:—

"5. Subject to the general or special directions of the Secretary of State and to the provisions of any law in force in Northern Rhodesia, the Governor may make grants or dispositions of Crown lands to any person on such terms and conditions as he may think fit.".

Amendment of article 6 of Order of 1928.

**3.** Article 6 of the said Order in Council of 1928 is amended by the deletion from paragraph (1) of the words "No portion" and the substitution of the words "Subject to the general or special directions of

(a) 53 & 54 Vict. c. 37.

(b) S.R. & O. 1928/246; 1936/1380 (Rev. VIII, p. 173: 1928, p. 601; 1936 I, p. 936); 1929/103, 651, 1931/167, 849, 1933/227, 488, 1937/760, 1943/76, 1947/194 (Rev. VIII, p. 182: 1929, pp. 457, 467; 1931, pp. 453, 458; 1933, pp. 824, 828; 1937, p. 809; 1943 I, p. 295; 1947 I, p. 778); 1929/1002, 1938/181 (Rev. VIII, p. 193: 1929, p. 468; 1938 I, p. 1309); 1947/2214 (Rev. VIII, p. 201: 1947 I, p. 779): S.I. 1950/1966, 1951/1168, 1955/1953, 1956/1892, 1960/2209, 1961/1503, 1962/403, 633 (1950 II, p. 95; 1951 II, p. 96; 1955 II, p. 2211; 1956 II, p. 1990; 1960 III, p. 2906; 1961 II, p. 3057; 1962 I, pp. 370, 642).

(c) S.R. & O. 1928/246 (Rev. VIII, p. 173: 1928, p. 601).

the Secretary of State and to the provisions of any regulations made in that behalf by the Governor with the approval of the Secretary of State the Governor may make grants or dispositions of land in the Native Reserves to any person in accordance with the provisions of any law enacted in that behalf by the legislature of Northern Rhodesia, but no portion ".

*W. G. Agnew.*

## EXPLANATORY NOTE

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

This Order amends the Northern Rhodesia (Crown Lands and Native Reserves) Order in Council 1928 so as to provide for the making of grants and dispositions of Crown lands and of land in Native Reserves to natives.