STATUTORY INSTRUMENTS

1962 No. 626

RHODESIA AND NYASALAND FEDERATION

The Northern Rhodesia (Electoral Provisions) Order in Council, 1962

Made - - - -	28*th March*, 1962
Laid before Parliament	29*th March*, 1962
Coming into Operation	30*th March*, 1962

At the Court at Buckingham Palace, the 28th day of March, 1962

Present,

The Queen's Most Excellent Majesty in Council

Whereas it is proposed that in due course there should be established for Northern Rhodesia a Legislative Council (in this Order referred to as " the proposed Council ") containing forty-five elected members in addition to certain other members:

And whereas it is proposed that in due course provision should be made under which—

(*a*) the Territory would be divided into fifteen constituencies each returning one member to the proposed Council elected by voters having certain qualifications (in this Order referred to as " voters under the higher franchise ");

(*b*) the Territory would be divided into fifteen constituencies each returning one member to the proposed Council elected by voters each having certain other qualifications (in this Order referred to as " voters under the lower franchise ");

(*c*) the Territory would be divided into seven constituencies (in this Order referred to as " the proposed 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, namely those voters who are Europeans or Africans or who, being coloured persons, wish to vote for the purpose of returning such members ; and

(*d*) the Territory would form a single constituency (in this Order referred to as " the proposed Special National Constituency ") returning one member to the proposed Council elected by certain voters under the higher franchise and certain voters under the lower franchise, namely those voters who are Asians or who, being coloured persons, do not wish to vote for the purpose of returning members from the proposed National Constituencies:

And whereas it is expedient that provision should be made for the registration of voters for the proposed elections to the proposed Legislative Council:

Now, therefore, Her Majesty, by virtue and in exercise of the powers in that behalf by the Foreign Jurisdiction Act, 1890(a), or otherwise in Her vested, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement.

1. This Order may be cited as the Northern Rhodesia (Electoral Provisions) Order in Council, 1962, and shall come into operation on the thirtieth day of March, 1962.

Interpretation.

2.—(1) In this Order—

"coloured person" means a person who is not ordinarily accepted as either a European, an African, or an Asian;

"the existing Order" means the Northern Rhodesia (Legislative Council) Order in Council, 1959(b);

"prescribed", in relation to any of the purposes of any provision of this Order, means for the time being prescribed for those or corresponding purposes by regulations made under this Order or by or under any Territorial law.

(2) Subject to the provisions of subsection (1) of this section, the provisions of section 3 of the existing Order shall apply for the purposes of interpreting this Order as they apply for the purposes of interpreting the existing Order.

Qualifications of voters.

3.—(1) Subject to the provisions of this section, a person shall be qualified for registration as a voter at elections to the proposed Council as a voter under the higher franchise or as a voter under the lower franchise, as the case may be, if, and shall not be qualified to be so registered unless,—

(*a*) he is a citizen of the United Kingdom and Colonies or of the Federation or is a British protected person by virtue of his connection with the Territory;

(*b*) he has attained the age of twenty-one years;

(*c*) he has been resident in the Federation for any continuous period of two years;

(*d*) he is able to complete in his own handwriting, in English and without assistance, such form of application for registration as may be prescribed or, if he is unable so to do by reason only of some physical incapacity—

(i) is determined in such manner as may be prescribed to have an adequate knowledge of the English language; or

(ii) if no such manner of determination has been prescribed, has sufficient knowledge of the English language to give the necessary instructions for the completion of that form on his behalf by the registering officer:

Provided that a person who possesses any of the qualifications specified in sub-paragraphs (*d*) to (*n*) inclusive of paragraph 2 of Part II of the Schedule to this Order shall, for the purposes of registration as a voter under the lower franchise, be deemed to possess the qualification required by this paragraph if he is able, without assistance, to complete in his own handwriting the prescribed form of application for registration in any of the following languages, that is to say, Bemba, Nyanja, Lozi, Tonga, Lunda, Lovale, Gujerati or Urdu, or, if he is unable so to do by reason only of some physical incapacity, is determined in such manner

(a) 53 & 54 Vict. c. 37. (b) S.I. 1959/105 (1959 II, p. 2321).

as may be prescribed to have an adequate knowledge of one of the said languages, or, if no such manner of determination has been prescribed, has a sufficient knowledge of one of the said languages to give the necessary instructions for the completion of that form on his behalf by the registering officer;

(*e*) if it is so prescribed he has made a declaration of allegiance to Her Majesty in such form and manner as may be prescribed; and

(*f*) he is not disqualified for registration as a voter under the provisions of subsection (4) of this section.

(2) A person shall be qualified for registration as a voter under the higher franchise if he possesses, in addition to the qualifications required by subsection (1) of this section, the qualifications specified in Part I of the Schedule to this Order:

Provided that a person who, immediately before the commencement of this Order, was registered as an ordinary voter for the purposes of elections under the existing Order shall be deemed to possess the qualification required by paragraphs (*a*) to (*e*) (inclusive) of subsection (1) of this section and the additional qualifications required by this subsection.

(3) A person shall be qualified for registration as a voter under the lower franchise if he possesses, in addition to the qualifications required by subsection (1) of this section, the qualifications specified in Part II of the Schedule to this Order:

Provided that—

(*a*) a person who, immediately before the commencement of this Order, was registered as a special voter for the purposes of elections under the existing Order shall be deemed to possess the qualification required by paragraphs (*a*) to (*e*) (inclusive) of subsection (1) of this section and the additional qualifications required by this subsection; and

(*b*) no person shall be qualified for registration as a voter under the lower franchise if he is qualified for registration as a voter under the higher franchise.

(4) No person shall be qualified to be registered as a voter under the higher franchise or as a voter under the lower franchise who—

(*a*) is, by virtue of his own act, under any acknowledgment of allegiance, obedience or adherence to a foreign power or state;

(*b*) is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in the Territory or is detained as a criminal lunatic under any such law;

(*c*) is under sentence of death imposed on him by a court in any part of Her Majesty's dominions or is under sentence of imprisonment (by whatever name called), other than a sentence in lieu of a fine but including a suspended sentence, imposed on him by such a court or substituted by a competent authority for some other sentence imposed on him by such a court;

(*d*) is detained under a detention order under any law for the time being in force in the Territory; or

(*e*) is disqualified for registration as a voter under any law for the time being in force in the Territory relating to offences connected with elections.

Electoral areas.

4.—(1) For the purposes of this Order the Territory shall be divided into electoral areas in such manner as may be prescribed and a register of voters shall be prepared for each electoral area.

(2) Any person who considers that he is qualified for registration as a voter at elections to the proposed Council (whether as a voter under the higher franchise or a voter under the lower franchise) may apply for registration in any electoral area in which he has been resident for a continuous period of three months immediately preceding the date on which he applies for registration:

Provided that—

(*a*) a person who was registered as an ordinary voter or as a special voter for the purposes of elections under the existing Order may apply for registration in the electoral area in which he is resident at the time at which he applies for registration;

(*b*) a member of one of Her Majesty's naval, military or air forces may, if he wishes, apply for registration in any electoral area in which he was resident for a continuous period of three months immediately before he became a member of one of those forces.

Statements to be made on applying for registration.

5.—(1) When an Asian or a coloured person applies for registration as a voter (whether as a voter under the higher franchise or as a voter under the lower franchise) he shall state that he is an Asian or a coloured person, as the case may be.

(2) When any coloured person applies for registration as a voter (whether as a voter under the higher franchise or a voter under the lower franchise) and that person does not wish to vote for the purpose of returning to the proposed Council the member from the proposed Special National Constituency, he may declare that he wishes to vote for the purposes of returning to the proposed Council members from one of the proposed National Constituencies, in which case he shall elect whether, in the event that the votes of Europeans and Africans are counted separately for that purpose, he wishes his vote to be counted among the votes of the voters who are Europeans or whether he wishes his vote to be counted among the votes of voters who are Africans:

Provided that—

(*a*) a coloured person who has no European ancestry may not elect to have his vote counted among the votes of the voters who are Europeans; and

(*b*) a coloured person who has no African ancestry may not elect to have his vote counted among the votes of the voters who are Africans.

Matters to be specified in registers.

6.—(1) The register of voters prepared for each electoral area shall contain, in addition to such other particulars as may be prescribed, the name and place of residence of each person who duly applies for registration in that area and is qualified to be registered as a voter under the higher franchise or as a voter under the lower franchise:

Provided that no person shall be registered in more than one electoral area.

(2) Every registered voter who is an Asian or who, being a coloured person, has not declared that he wishes to vote for the purpose of returning to the proposed Council the members from one of the proposed National Constituencies shall be distinguished in the register in such manner as may be prescribed.

(3) Every registered voter who is a coloured person and has declared that he wishes to vote for the purpose of returning to the proposed Council the members from one of the proposed National Constituencies shall be distinguished in the register in such manner as may be prescribed so as to show whether, in the event that the votes of Europeans and Africans are counted separately for the purpose of electing members to the proposed Council from the proposed National Constituencies, his vote should be counted among those of voters who are Europeans or among the votes of voters who are Africans.

Power to make laws.

7.—(1) Provision may be made by or in pursuance of any law enacted under the existing Order for giving effect to the provisions of this Order and in particular (without prejudice to the generality of the foregoing power) for the following matters, that is to say :—

(*a*) prescribing anything that is required by this Order to be prescribed ;

(*b*) the manner in which persons may apply for registration ;

(*c*) the definition of the circumstances in which a person is to be regarded as resident in the Federation or in any electoral area ;

(*d*) the ascertainment of the qualifications of any person as a voter ;

(*e*) the determination of any question whether any person is entitled to be registered as a voter or as a member of a particular class of voters ; or

(*f*) any other matter that is incidental to the registration of voters under this Order (including the termination of the registration of voters under the existing Order).

(2) The Governor may by regulation make provision for all or any of the matters for which provision may be made by a law enacted in pursuance of subsection (1) of this section, but if any such regulation is inconsistent with any such law the provisions of the law shall prevail.

(3) Subject to the provisions of any law enacted in pursuance of subsection (1) of this section or of any regulations made under subsection (2) of this section, the provisions of the Legislative Council Ordinance of Northern Rhodesia(a) and any rules made thereunder shall (so far as they are consistent with the provisions of this Order) apply in relation to the registration of voters under this Order and matters connected therewith as they apply in relation to the registration of voters for the purpose of elections under the existing Order and matters connected therewith.

W. G. Agnew.

THE SCHEDULE

Section 3.

PART I

Additional qualifications for voters registered under the higher franchise

1. Subject to Part III of this Schedule, the additional qualifications required for registration as a voter under the higher franchise are that the person applying therefor either—

(*a*) has an income qualification of not less than seven hundred and twenty pounds ; or

(a) Laws of Northern Rhodesia; Vol. I, c. 2.

(*b*) has a property qualification of not less than fifteen hundred pounds; or

(*c*) has completed a full course of primary education of the prescribed standard or possesses any prescribed alternative educational qualifications, and in either case has either—

(i) an income qualification of not less than four hundred and eighty pounds; or

(ii) a property qualification of not less than one thousand pounds; or

(*d*) has completed the first four years of a course of secondary education of the prescribed standard or possesses any prescribed alternative educational qualifications and in either case has either—

(i) an income qualification of not less than three hundred pounds; or

(ii) a property qualification of not less than five hundred pounds; or

(*e*) is a Chief; or

(*f*) is a Tribal Councillor; or

(*g*) is a member of a Native Authority or a member of a Native Court; or

(*h*) is a member of a Municipal Council or a member of a Township Management Board or a member of an Area Housing Board; or

(*i*) is a Minister of Religion; or

(*j*) is a member of a prescribed religious body or order who has attended the first two years of a course of secondary education of the prescribed standard or possesses any prescribed alternative educational qualification; or

(*k*) is a University Graduate; or

(*l*) is the holder of a Certificate of Honour or a decoration for gallantry or other award from Her Majesty; or

(*m*) is the holder of a letter of exemption issued under the African Exemption Ordinance(a) before the first day of July, 1961; or

(*n*) is a pensioner; or

(*o*) has an income qualification of not less than three hundred pounds and has been in the service of an employer or in the service of the same firm or business for a continuous period of ten years immediately preceding the date of his application for registration as a voter:

Provided that service partly under the Government of the Federation and partly under the Government of a Territory shall be regarded as service with a single employer and provided further that unbroken service with more than one Native Authority shall be regarded as service with a single employer; or

(*p*) is the wife of a person who for the time being possesses any of the qualifications specified in the foregoing sub-paragraphs of this paragraph.

PART II

Additional qualifications for voters registered under the lower franchise

2. Subject to Part III of this Schedule, the additional qualifications required for registration as a voter under the lower franchise are that the person applying therefor either—

(*a*) has an income qualification of not less than one hundred and twenty pounds; or

(*b*) has a property qualification of not less than two hundred and fifty pounds; or

(a) Laws of Northern Rhodesia; Vol. I, c. 2.

(*c*) is the wife of a person who for the time being possesses either of the qualifications specified in sub-paragraph (*a*) or sub-paragraph (*b*) of this paragraph; or

(*d*) is a Tribal Councillor; or

(*e*) is a member of a Native Authority or a member of a Native Court; or

(*f*) is a member of a Municipal Council or a member of a Township Management Board or a member of an area Housing Board; or

(*g*) is a Headman; or

(*h*) is a pensioner; or

(*i*) is an ex-serviceman; or

(*j*) is a person who has been registered as an Individual or Peasant Farmer or as an Improved Farmer for the two years immediately preceding his application for registration as a voter; or

(*k*) is a member of a prescribed religious body or order; or

(*l*) is the holder of a Certificate of Honour or a decoration for gallantry or other award from Her Majesty; or

(*m*) is the holder of a letter of exemption issued under the African Exemption Ordinance before the first day of July, 1961; or

(*n*) is the wife of a person who, for the time being, possesses any of the qualifications specified in sub-paragraphs (*d*) to (*m*) inclusive of this paragraph.

PART III

Interpretation

3. A person shall be treated for the purposes of this Schedule as having an income qualification of a particular amount if, and only if, during the twelve months immediately preceding his application for registration as a voter he has been in bona-fide receipt in his own right of an income of that amount; and in the computation of income—

(*a*) the value of any board or lodging which is provided for an employee by virtue of his employment and in respect of which he is not liable for any payment or deduction from his wages, and any money which, by virtue of his employment is paid to any employee in respect of his board or lodging, shall be included; and

(*b*) in relation to any income resulting from a trade, business, undertaking, profession or calling, regard shall be had only to net income.

4. A person shall be treated for the purposes of this Schedule as having a property qualification of a particular amount if, and only if, at the date of his application for registration he is the owner of immovable property within the Territory of that amount in value.

5. In paragraph 4 of this Schedule the expression "owner" means—

(*a*) a holder in fee simple;

(*b*) a lessee in occupation under a lease of which the unexpired term is not less than ten years; or

(*c*) in relation to developed land forming part of a Native Reserve or Native Trust Land, an African who is the holder of that land under native law and custom:

Provided that—

(i) where any property is held in trust for any person, that person shall be deemed to be the owner thereof to the extent of his beneficial interest therein;

(ii) where any property is beneficially owned by two or more persons as joint tenants, they shall be deemed to own it in equal undivided shares;

(iii) where any property is owned by two or more persons in undivided shares, each of them shall be deemed to be the owner thereof to the extent of his share therein ; and

(iv) a mortgagor in possession shall be deemed to be the owner of the property mortgaged.

6. For the purposes of paragraph 4 of this Schedule the value of any immovable property shall be taken to be—

(*a*) in the case of property held in fee simple, the amount which the property, free of all encumbrances, would realise if at the date of the owner's application for registration as a voter it were sold in the open market by a willing seller to a willing buyer ;

(*b*) in the case of leasehold property, either—

(i) the value of the property under the foregoing sub-paragraph if it were held in fee simple by the lessee ; or

(ii) a sum equal to one-hundredth part of that value for each year of the lease unexpired at the date of the lessee's application for registration as a voter,

whichever is the less ;

(*c*) in the case of developed land forming part of a Native Reserve or Native Trust Land, the value assessed in the prescribed manner of any buildings erected on and any prescribed improvements effected to that land.

7. For the purposes of this Schedule—

"a Territory" means Southern Rhodesia, Northern Rhodesia or Nyasaland ;

"Chief" means—

(*a*) the Litunga of the Barotseland Protectorate ;

(*b*) an African who is recognised by the Litunga in Council to be a member of a ruling tribal family in the Barotseland Protectorate and who, on the advice of the Resident Commissioner, is recognised by the Governor to be of chiefly status in that Protectorate ; and

(*c*) an African who is recognised by the Governor under the provisions of the Native Authority Ordinance(a) as a Paramount Chief, Senior Chief, Chief, or Sub-Chief or an African who is appointed a Deputy Chief under that Ordinance ;

"ex-serviceman" means a person who has served in the armed forces of the Crown on active service, as defined in the Army Act, 1955(b), or for a minimum period of six years, is no longer so serving and was not discharged for misconduct ;

"headman" means a person who is a headman, recognised by his chief, of a registered village ;

"member of an Area Housing Board" means a person who has been appointed, elected or nominated to be a member of a Board constituted under or by virtue of the provisions of the Urban African Housing Ordinance(c) and who is, and has been for not less than twelve months immediately preceding the date of his application for registration as a voter, such a member ;

"member of a Municipal Council" means a person who has been elected, nominated or appointed to be a member of a City or Municipal Council and who is, and has been for not less than twelve months immediately preceding the date of his application for registration as a voter, such a member ;

(a) Laws of Northern Rhodesia Vol. V, c. 157.
(b) 3 & 4 Eliz. 2. c. 18.
(c) Laws of Northern Rhodesia Vol. VII, c. 234.

" member of a Native Authority " means—

(*a*) in respect of a Native Authority in the Barotseland Protectorate, a person who is and has been for the twelve months immediately preceding the date of the application for registration as a voter, a member of the Saa-Sikalo or of a District Kuta and who is not of chiefly status ;

(*b*) in respect of any other Native Authority, a person who has a right to attend, speak and vote in a Native Authority Council and whose name has consistently appeared in the list of members as shewn in the minutes of the meetings of the Council kept for the twelve months immediately preceding the date of his application for registration as a voter or a person certified by a Provincial Commissioner as being a member of a Native Authority for the said period of twelve months.

" member of a Native Court " means a person who is certified by the Resident Commissioner of the Barotseland Protectorate or a Provincial Commissioner as being a member of a Native Court for the twelve months immediately preceding the date of his application for registration as a voter ;

" member of a Township Management Board " means a person who has been elected or appointed to be a member of a Board of Management of a Township or of a Mine Township and who is, and has been for not less than twelve months immediately preceding the date of his application for registration as a voter, such a member ;

" member of a prescribed religious body or order " means a person who at the date of his application for registration as a voter follows, and for any period or periods amounting in all to four years prior to such date has followed, no other profession, trade or calling and who does not receive and has not received during any of the said period or periods amounting to four years any earned income other than that received by him directly as a member of such body or order ;

" Minister of religion " means a person who is ordained or appointed as a minister of religion and who follows no profession, trade or calling other than that of a minister of religion, receives no earned income other than that received by him directly as a minister of religion and who—

(*a*) has obtained a University degree in Divinity ; or

(*b*) has undergone a period of not less than three years' full-time training in divinity in a theological training college or seminary ; or

(*c*) has undergone a period of not less than two years' full-time training in divinity in a theological training college or seminary followed by a period of not less than one year's service in the capacity for which he has been trained ;

" pensioner " means a person who is at the date of his application for registration as a voter in receipt of a monthly or annual pension, or who has received a gratuity which in either case has been earned after not less than fifteen years' service with the same employer or in the same firm or business ;

Provided that service partly under the Government of the Federation and partly under the Government of a Territory shall be regarded as service with a single employer and that unbroken service with more than one Native Authority shall be regarded as service with a single employer ;

" Tribal Councillor " means—

(*a*) a Hereditary Councillor ; or

(*b*) a Departmental Councillor to a Native Authority whose appointment as such has been approved by a Provincial Commissioner ;

" University graduate " means a person who—

(*a*) holds a degree from a University in the United Kingdom or in the Republic of Ireland or from such other University as the Governor may from time to time approve in writing ; or

(*b*) holds a professional or other qualification which the Governor may from time to time approve in writing as being equivalent to a degree awarded by a University in the United Kingdom.

8. Where a man is married under a system permitting polygamy and has more than one wife, only the wife to whom he has been married for the longer period or, if the system under which he is married recognises any other wife to be the senior wife, only that other wife shall be treated as his wife for the purpose of sub-paragraph (*p*) of paragraph 1 and sub-paragraphs (*c*) and (*n*) of paragraph 2 of this Schedule.

EXPLANATORY NOTE

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

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