RHODESIA AND NYASALAND FEDERATION

1959 No. 296

The Northern Rhodesia (Gwembe District) Order in Council, 1959

Made - - - -	*20th February*, 1959
Laid before Parliament	*26th February*, 1959
Coming into Operation	*27th February*, 1959

At the Court at Buckingham Palace, the 20th day of February, 1959

Present,

The Queen's Most Excellent Majesty in Council

Whereas it is in the interests of the Government and people of Northern Rhodesia and of the Federation of Rhodesia and Nyasaland that there should be established at the Kariba Gorge in the valley of the River Zambezi a hydro-electric generating station, and that the waters of the River Zambezi should be used for that purpose:

And Whereas for the aforesaid purpose it is necessary to create a lake the waters of which will cover certain lands in Northern Rhodesia:

And Whereas the creation of the said lake will afford the opportunity to develop certain other lands in Northern Rhodesia:

And Whereas some of the lands so affected are Native Reserves and Native Trust Land within the meaning of the Northern Rhodesia (Crown Lands and Native Reserves) Orders in Council, 1928 to 1956(a) (hereinafter called the Native Reserves Order), and the Northern Rhodesia (Native Trust Land) Orders in Council, 1947 to 1954(b) (hereinafter called the Native Trust Land Order), respectively:

And Whereas it is expedient to make provision for the well being of the African inhabitants of the lands so affected:

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

Citation and commencement

1.—(1) This Order may be cited as the Northern Rhodesia (Gwembe District) Order in Council, 1959.

(2) This Order shall come into operation on the 27th day of February, 1959, and shall be published in the Northern Rhodesia Government Gazette.

(a) S.R. & O. 1928/246, 1936/1380, 1947/2214 (Rev. VIII, p. 173: 1928, p. 601; 1936 I, p. 936; 1947 I, p. 779), 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); S.I. 1950/1966, 1951/1168, 1955/1953, 1956/1892 (1950 II, p. 95; 1951 II, p. 96; 1955 II, p. 2211; 1956 II, p. 1990).

(b) S.R. & O. 1947/2214 (Rev. VIII, p. 201: 1947 I, p. 779), S.I. 1954/1142, 1374 (1954 II, pp. 1937, 1938).

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

Application of Order

2. This Order applies to the Gwembe Administrative District (hereinafter called "the District") as defined by any Proclamation made by the Governor under sub-paragraph (*b*) of paragraph (1) of Article 13 of the Northern Rhodesia Order in Council, 1924(**a**).

Interpretation

3.—(1) In this Order, unless it is otherwise provided or required by the context—

"the affected native areas" means those parts of the District which are also parts of—

(*a*) the Tonga (Sigongo) Reserve X, the Tonga (Magoye) Reserve XI, and the Tonga (Choma) Reserve XII, as described in the Schedule to the Native Reserves Order, and

(*b*) the Native Trust Land areas No. VII and No. XI as described in the Schedule to the Native Trust Land Order;

"the Board" means the Federal Power Board established under section 19 of the Electricity Act, 1956(**b**), being a law of the Legislature of the Federation of Rhodesia and Nyasaland, or any other body corporate established by any law of the Legislature of Northern Rhodesia or of the Federation for the purpose of supplying electricity from a hydro-electric generating station situated on the Zambezi River at the Kariba Gorge;

"the Federation" means the Federation of Rhodesia and Nyasaland;

"forest produce" includes trees, timber, plants, grass, reeds, fruits, seeds, roots and generally everything of a like nature but does not include cultivated crops;

"the Fund" means the Gwembe District Special Fund established under section 9 of this Order;

"the Gazette" means the Northern Rhodesia Government Gazette;

"the Governor" means the Governor of Northern Rhodesia and includes the officer for the time being administering the Government and, to the extent to which a Deputy for the Governor is authorised to act, that Deputy;

"the native authority" means the native authority recognised under the Native Authority Ordinance(**c**) as the Gwembe Tonga Native Authority;

"the Northern Rhodesia Order in Council, 1924", means the Northern Rhodesia Order in Council, 1924, as amended by the Northern Rhodesia Order in Council, 1949(**d**);

"the Territory" means the Territory of Northern Rhodesia.

(2) Save as is in this Order otherwise provided, or required by the context, the Interpretation Act, 1889(**e**) shall apply for the purpose of interpreting this Order as it applies for the purpose of interpreting an Act of Parliament.

The Board permitted to inundate lands

4. The Board may inundate any of the lands to which this Order applies by the construction of a dam at the Kariba Gorge for the

(**a**) S.R. & O. 1924/324 (Rev. VIII, p. 154: 1924, p. 395).
(**b**) Laws of the Federation of Rhodesia and Nyasaland, No. 8, 1956.
(**c**) Laws of Northern Rhodesia, Vol. V, Cap. 157, p. 2.
(**d**) S.I. 1949/1054 (1949 I, p. 1858).
(**e**) 52 & 53 Vict. c. 63.

purposes of the generation of hydro-electric power, provided that the normal operating level of the dam shall be not more than 1,590 feet above sea level at Beira.

Effect of this Order on other Orders

5.—(1) The Native Reserves Order and the Native Trust Land Order shall on the commencement of this Order continue to apply to the affected native areas only in so far as those Orders are not inconsistent with the provisions of this Order, and if any provision of either of those Orders is inconsistent with any provision of this Order the provisions of this Order shall prevail, and the Native Reserves Order or the Native Trust Land Order, as the case may be, shall, to the extent of the inconsistency, be of no effect.

(2) For the purpose of this section a reference to the Native Reserves Order or the Native Trust Land Order shall include a reference to any law amending or replacing either of those Orders.

Governor may lease land

6. Subject to the general or special directions of the Secretary of State, the Governor may by notice in the Gazette designate any area of the affected native areas and in any such area so designated may—

(*a*) grant to the Board by lease for a period not exceeding 999 years and upon such terms and conditions as he may think fit any area of land which he may consider necessary for or ancillary to the construction and operation of a hydro-electric generating station at the Kariba Gorge and the supply therefrom of hydro-electric power;

(*b*) grant to any person by lease for a period not exceeding 99 years any area of land upon such terms and conditions and for such purposes as he may think fit, and in respect of any such lease the Governor may grant an option of renewal;

(*c*) demand a rental for the use of any lands so granted upon lease and revise the said rental at intervals of not more than 33 years;

(*d*) grant to the Board upon such terms and conditions as he may think fit any wayleave or right to place any power transmission lines over any land, and such terms and conditions may include a provision for payment by the Board in respect of such grant.

Governor's powers in relation to fishing, forests and other matters

7.—(1) The Governor may by notice in the Gazette declare—

(*a*) the fishing rights in any waters in the District to be reserved for any person who is a native or group of persons who are natives;

(*b*) any waters in the District to be a controlled fishing zone;

(*c*) any area of land in the District to be a national park, game reserve or game-controlled area;

(*d*) any area of land in the District to be a protected forest.

(2) The Governor, or any person authorized by the Governor in writing in that behalf, may grant to any person the right to work, cut or take away any forest produce in any area in the District.

(3) The Governor may by notice in the Gazette vary or revoke any declaration made by him under subsection (1) of this section.

(4) The powers exercisable by the Governor under this section shall be subject to the general or special directions of the Secretary of State.

Regulations

8.—(1) The Governor, with the approval of the Secretary of State and after consultation with the native authority, may make regulations for the conservation of any fish in any waters of the District declared to be a controlled fishing zone under paragraph (*b*) of subsection (1) of section 7 of this Order, and for prohibiting, restricting or regulating fishing in any such waters.

(2) The Governor may, with the approval of the Secretary of State, make regulations—

(*a*) for the purpose of facilitating the establishment and development of a fishing industry in the District, or in any part thereof, and without prejudice to the generality of the foregoing power for the following matters—

(i) the issue of fishing licences;

(ii) the registration of fishing boats and fishing appliances;

(iii) the keeping of records of fish taken or of fish exported from the District;

(iv) the promotion of research for the better development of fisheries in the waters of the District;

(v) the regulation of trade in and sale of fish from the District;

(*b*) for the preservation, development and control of any areas of land declared by the Governor under paragraphs (*c*) or (*d*) of subsection (1) of section 7 of this Order to be national parks, game reserves, game-controlled areas or protected forests, and for the issue of licences or permits in connection with the exercise of such powers;

(*c*) prescribing the terms and conditions upon which a person may be granted the right to work, cut or take away any forest produce under subsection (2) of section 7 of this Order;

(*d*) for the licensing of, and control of any matters relating to, shipping, ferries and boats, of whatever description in the District, or in any part thereof, and whether such ships, ferries or boats ply for reward or otherwise;

(*e*) prescribing the form of any licence, permit or other document issued in pursuance of the powers conferred under this section and the fees payable thereon.

(3) Regulations made under this section may prescribe as penalties for breach of any such regulations a fine not exceeding £100 or imprisonment for a period not exceeding 12 months or both such fine and imprisonment.

(4) If any provision of a regulation made under this section is inconsistent with a law of the Legislature of the Federation which such Legislature was competent to enact, whether such law was made before or after the regulation, the Federal law shall prevail and the regulation shall, to the extent of the inconsistency, be of no effect.

The Gwembe District Special Fund

9.—(1) There is hereby established the Gwembe District Special Fund.

(2) The Fund shall consist of all monies paid into it pursuant to this Order or under any law or any resolution of the Legislative Council of the Territory or otherwise.

(3) The Fund shall be vested in such number of trustees as may be appointed by the Governor, and shall be administered by the trustees in such manner as the Governor may determine.

(4) The Fund shall be administered—

(*a*) for the purpose of paying to any native inhabitant of the District such compensation as the Governor may decide to be appropriate for any particular loss, hardship or inconvenience suffered or experienced by such person due to the inundation of any lands occupied by him or to a decision to inundate such lands;

(*b*) for the purpose of making grants to the native authority; and

(*c*) for such other purposes as are for the use and common benefit of the inhabitants of the District as the Governor may decide.

Monies to be paid into the Fund

10.—(1) All monies received by the Government of the Territory by way of rent or other payments in respect of leases, wayleaves or other rights granted under section 6 of this Order shall be paid into the Fund.

(2) There shall be paid into the Fund any monies received by the Government of the Territory from the Board or the Government of the Federation under any agreement or arrangement made with the Board or that Government for the payment of—

(*a*) compensation for loss, hardship or inconvenience suffered or experienced by any native inhabitants of the District as a whole by reason of the inundation of lands in the District or by a decision to inundate such lands;

(*b*) sums to be spent on measures necessary for the rehabilitation of the economy of the District.

Payments from general revenue

11. In respect of any financial year the Governor may direct that such sum as he shall think fit, being a sum not exceeding in all the revenue received by the Government of the Territory in respect of fees payable on licences, permits or other documents issued in pursuance of the powers conferred by regulations made under section 8 of this Order, shall be charged on the general revenue of the Territory and shall be paid into the Fund.

Governor to have regard to native law and custom

12.—(1) In the exercise of the powers conferred on him by this Order the Governor shall have regard to the native laws and customs and traditional or customary rights existing in the District.

(2) Before the Governor under the powers conferred on him by this Order grants to any person, who in his opinion is not a native normally and lawfully resident in the District, any rights over land or in waters covering land in the affected native areas, the Governor shall arrange for the native authority to be consulted.

Validation

13.—(1) Anything which has been done by the Board before the commencement of this Order which would have been lawfully done if this Order had come into operation on the 1st day of December, 1958, shall be deemed to have been lawfully done.

(2) All lands in the Tonga (Choma) Reserve XII used on or after the 1st day of June, 1958, for the construction of airstrips, buildings or camps for purposes connected with bush clearance shall be deemed to have been occupied from or after the aforesaid date as if this Order had then been in force and as if the Governor had under section 6 of this Order by notice in the Gazette designated the area of land affected and as if leases had been granted in respect of such lands to the occupiers thereof under paragraph (*b*) of the said section 6.

W. G. Agnew.

EXPLANATORY NOTE

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

This Order makes provision for the use and development of land, whether Crown Land, Native Reserve or Native Trust Land, in the Gwembe Administrative District of Northern Rhodesia in connexion with and consequent upon the construction of the Kariba dam.

1959 No. 105

The Northern Rhodesia (Legislative Council) Order in Council, 1959

Made - - - -	19*th January*, 1959
Laid before Parliament	23*rd January*, 1959
Coming into Operation	24*th January*, 1959

At the Court at Buckingham Palace, the 19th day of January, 1959

Present,

The Queen's Most Excellent Majesty in Council

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:—

PART I

INTRODUCTORY

Citation and commencement

1.—(1) This Order may be cited as the Northern Rhodesia (Legislative Council) Order in Council, 1959.

(2) This Order shall be published in the Gazette and shall come into operation on such day as the Governor may by proclamation in the Gazette appoint, which day shall not be earlier than the day when this Order is so published or than the day after that on which this Order is laid before both Houses of the Parliament of the United Kingdom.

Revocations and savings

2.—(1) The Northern Rhodesia (Legislative Council) Orders in Council, 1945 to 1954(b), the Northern Rhodesia (Legislative Council) (Validation of Membership) Order in Council, 1954(c), and the Northern Rhodesia (Electoral Provisions) Order in Council, 1958(d), are hereby revoked.

(2) Nothing in the foregoing subsection shall prejudice anything done under or by virtue of any of the instruments revoked thereby and in particular the continued operation of any Territorial law in force immediately before the commencement date.

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

(b) S.R. & O. 1945/620, S.I. 1948/340, 2064 (Rev. VIII, p. 163: 1945 I, p. 403; 1948 I, pp. 1344, 1348); S.I. 1953/1907, 1954/145, 482, 1376 (1953 II, p. 1514; 1954 II, pp. 1928, 1932, 1934).

(c) S.I. 1954/1375 (1954 II, p. 1935).

(d) S.I. 1958/1520 (1958 II, p. 2086).