5. NORTHERN RHODESIA

The Northern Rhodesia (Legislative Council) (Amendment) Order in Council, 1948

1948 No. 340

Made - - - - 24th February, 1948
Laid before Parliament 24th February, 1948
Coming into Operation: Section 10 *on the day after the Order is laid before Parliament and the remaining sections on the day appointed under section* 1.*

At the Court at Buckingham Palace, the 24th day of February, 1948

Present,

The King's Most Excellent Majesty in Council

Whereas by the Northern Rhodesia (Legislative Council) Order in Council, 1945(a) (hereinafter referred to as " the Principal Order ") provision is made for the constitution of a Legislative Council in and for Northern Rhodesia:

And Whereas it is expedient to make other provisions than in the Principal Order is contained in regard to the constitution of the said Legislative Council and to make certain other amendments to the Principal Order:

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

53 & 54 Vict. c. 37.

Short title and commencement.

1.—(1) This Order may be cited as the Northern Rhodesia (Legislative Council) (Amendment) Order in Council, 1948, and shall be construed as one with the Principal Order, and that Order and this Order may be cited together as the Northern Rhodesia (Legislative Council) Orders in Council, 1945 to 1948.

(2) This Order shall be published in the Gazette and, save as otherwise expressly provided in this Order, shall come into operation on a day to be appointed by the Governor by Proclamation in the Gazette (hereinafter referred to as " the appointed day "), which day shall not be earlier than the day after the day on which this Order shall have been laid before both Houses of Parliament.

African Representative Council.

2. In subsection (1) of Section 1 of the Principal Order, immediately before the definition of " the Council " there shall be inserted the following definition:—

' " the African Representative Council " means the body of persons recognised by the Governor as the African Representative Council; '.

Legislative Council and Speaker.

3. For Section 5 of the Principal Order there shall be substituted the following sections:—

" Members of Legislative Council.

" **5.** The Council shall consist of a Speaker, six *ex-officio* Members, three Nominated Official Members, two Nominated Unofficial Members appointed to represent the interests of the African community, ten Elected Members and two African Members.

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* 2nd July, 1948.

(a) S.R. & O. 1945 (No. 620) I, p. 403.

The Speaker.

5A.—(1) The Speaker shall be a person not holding any office of emolument under the Crown in the Territory, and shall be appointed by Instructions or Warrant under His Majesty's Sign Manual and Signet or by the Governor by Instrument under the Public Seal in pursuance of His Majesty's instructions through a Secretary of State:

Provided that nothing in this subsection shall prevent the payment of emoluments to the Speaker if provision is duly made therefor.

(2) The Speaker shall hold office during His Majesty's pleasure and, subject thereto, for such period as may be specified in the instrument by which he is appointed, and shall not vacate his office by reason only of a dissolution of the Council:

Provided that the Speaker may at any time resign his office by writing under his hand addressed to the Governor."

Ex-officio Members.

4. For Section 6 of the Principal Order there shall be substituted the following section:—

" *Ex-officio* Members.

" **6.** The *ex-officio* Members shall be the persons for the time being lawfully discharging the functions of Chief Secretary to the Government, of Attorney-General, of Financial Secretary, of Secretary for Native Affairs, of Administrative Secretary and of Economic Secretary."

African Members

5. Immediately after Section 9 of the Principal Order there shall be inserted the following section:—

" African Members.

" **9A.** The African Members shall be appointed by the Governor by Instrument under the Public Seal. They shall be persons not holding any office of emolument under the Crown in the Territory and shall be selected for appointment by the African Representative Council from among its members in accordance with such procedure as the Governor may approve."

Decision of questions as to Membership.

6. Immediately after Section 10 of the Principal Order there shall be inserted the following section:—

" Decision of questions as to Membership.

" **10A.** Subject to the provisions of this Order,

(*a*) all questions which may arise as to the right of any person to be or remain a Nominated Official, Nominated Unofficial or African Member of the Council shall be referred to, and determined by, the Governor in Council; and

(*b*) all questions which may arise as to the right of any person to be or remain an Elected Member of the Council shall be determined in accordance with the provisions of any law for the time being in force in the Territory."

Vacancies and Quorum.

7. For Section 14 of the Principal Order there shall be substituted the following sections:—

" Council may transact business notwithstanding vacancies.

" **14.** The Council shall not be disqualified for the transaction of business by reason of any vacancy among the Members thereof and any proceedings therein shall be valid notwithstanding that some person, who was not entitled so to do, sat or voted or otherwise took part in the proceedings.

Quorum.

14A. No business except that of adjournment shall be transacted in the Council if objection is taken by any Member present that there are less than seven Members present besides the Speaker or other Member presiding."

General elections and appointments.

8. For Section 28 of the Principal Order there shall be substituted the following section:—

"General elections and appointments.

" **28.** The Council shall be reconstituted by appointment and election in accordance with the provisions of this Order at such time within three months after every dissolution thereof as the Governor shall by Proclamation appoint."

Consequential and minor revocations and amendments.

9. The provisions of the Principal Order specified in Column 1 of the Schedule to this Order are hereby revoked to the extent, or amended in the manner, specified in Column 2 of that Schedule.

Provisions necessary to give effect to this Order.

10.—(1) Laws made under the Principal Order may, at any time after the date on which this Section comes into operation, make provision (to come into operation on or after the appointed day) for giving effect to the amendments of the Principal Order made by this Order.

(2) This Section shall come into operation on the day after the day on which this Order shall have been laid before both Houses of Parliament.

E. C. E. Leadbitter.

Section 9.

THE SCHEDULE

Revocations and amendments of provisions of the Principal Order.

COLUMN 1	COLUMN 2
Section	*Particulars of revocations and amendments*
Section 9 ...	For the words "in the manner provided by" there shall be substituted the words "in accordance with the provisions of".
Section 10 ...	In subsection (1) after the words "during His Majesty's pleasure and" there shall be inserted the words "every such Member and every Elected Member and every African Member".
	In subsection (2) for the words "The seat of a Member of the Council (other than an *ex-officio* Member) shall become vacant—" there shall be substituted the words "The seat of a Nominated Official, Nominated Unofficial or African Member of the Council shall become vacant—".
	For paragraph (*e*) of subsection (2) there shall be substituted the following paragraph:—
	"(*e*) if, in any part of His Majesty's dominions or in any territory under His Majesty's protection or in which His Majesty has for the time being jurisdiction, he shall be sentenced to death or to imprisonment (by whatever name called) for a term exceeding twelve months; or".
	In paragraph (*f*) of subsection (2) after the words "Nominated Unofficial Member" there shall be inserted the words "or African Member".

For the full stop at the end of paragraph (*j*) of subsection (2) there shall be substituted a semicolon and immediately after that paragraph there shall be inserted the following paragraph :—

"(*k*) if, being an African Member, he shall be appointed to, or to act in, any such office ".

COLUMN 1	COLUMN 2
Section 10 ...	In subsection (3) for the words " a Nominated Official or Nominated Unofficial Member " there shall be substituted the words " a Nominated Official, Nominated Unofficial or African Member ". In subsection (5) after the words " in manner aforesaid," the word " as " shall be deleted.
Section 11 ...	In paragraph (*b*) of subsection (1) for the word " five " there shall be substituted the word " six ".
Section 12 ...	In subsection (1) after the words " The Members of the Council shall take precedence " there shall be inserted the words " after the Speaker ".
Section 13 ...	For the word " Governor ", where it first occurs in the section and where it occurs in the marginal note, there shall be substituted the word " Speaker ".
Section 15 ...	This section shall be revoked.
Section 18 ...	For the words " by a majority of the votes of the Members present." there shall be substituted the words " by a majority of the votes of the Members present and voting." and for the word " Governor ", in both places where it occurs, there shall be substituted the word " Speaker ".
Section 19 ...	In subsection (4) for the words " shall cease to have effect, but, without prejudice to anything lawfully done thereunder." there shall be substituted the words " shall cease to have effect and the provisions of subsection (2) of section 38 of the Interpretation Act, 1889, shall apply to such revocation as they apply to the repeal of an Act of Parliament.".
Section 24 ...	After the word " Governor ", where it first occurs, there shall be inserted the words " or the Speaker ".
Section 25 ...	For the word " Governor ", where it occurs for the second time there shall be substituted the word " Speaker ".

EXPLANATORY NOTE

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

This Order alters the constitution of the Legislative Council by introducing a Speaker as President in place of the Governor, by increasing the number of *ex-officio* Members by one and of Elected Members by two, by decreasing the number of Nominated Official Members by one and of Nominated Unofficial Members by three and by introducing two African Members.

Opportunity has also been taken to make various minor and consequential amendments of the Principal Order.