
STATUTORY INSTRUMENTS

1963 No. 2085

The Federation of Rhodesia and Nyasaland
(Dissolution) Order in Council 1963

PART I

DISSOLUTION OF THE FEDERATION

Dissolution of the Federation

1. The Federation of Rhodesia and Nyasaland and, with it, the Federal Government, the Federal Legislature and, except as provided in section 19, the other Federal authorities established by the Constitution of the Federation shall be dissolved immediately before 1st January 1964; and accordingly the Constitution of the Federation shall, except as aforesaid, thereupon cease to have effect.

Continuation and adaptation of existing law

2.—(1) Subject to the provisions of this section, all law in force in a Territory immediately before the dissolution of the Federation shall continue to have effect as respects that Territory, subject however to amendment or repeal by the Legislature of the Territory or other authority empowered in that behalf.

(2) The Governor of a Territory may, by order made before the dissolution of the Federation, declare that any law of the Federal Legislature specified in the order shall cease to have effect as respects that Territory on the dissolution of the Federation, and that law shall cease to have effect accordingly.

(3) The Governor of a Territory may, by regulation made before 1st July 1964, make as respects that Territory such modifications or adaptations in any law made by the Legislature of the Territory or the Federal Legislature in force immediately before the dissolution of the Federation and continuing to have effect in that Territory as appear to him necessary or expedient in consequence of any provision of this Order:

Provided that this subsection shall not have effect in relation to any of the Acts specified in section 68.

(4) Subsections (1), (2) and (3) shall have effect subject to the other provisions of this Order.

(5) A regulation made under subsection (3) shall have effect from such time, not being earlier than the dissolution of the Federation, as may be specified therein:

Provided that where by virtue of any such regulation a power is conferred to make any regulation, order or appointment or to do any other act, the power may be exercised at any time after the making of the first-mentioned regulation, so however that any regulation, order or appointment made or other act done under the power shall not have effect before the first-mentioned regulation has effect.

(6) In this section, any reference to a law made by any legislature includes a reference to any instrument having the force of law made under such a law.

Constitution of Liquidating Agency

3.—(1) There is hereby constituted jointly for the Territories an authority which shall be known as the Liquidating Agency.

(2) The Liquidating Agency shall consist of three members, namely the persons for the time being holding or acting in the office of Secretary to the Treasury of Southern Rhodesia, Permanent Secretary to the Ministry of Finance of Northern Rhodesia, and Secretary to the Treasury of Nyasaland, or any office which may be substituted therefor.

(3) A person referred to in subsection (2) may act through a deputy appointed by him.

Agency to be a body corporate

4. The Liquidating Agency shall be a body corporate and capable of suing and being sued and of purchasing or otherwise acquiring, holding and alienating movable or immovable property and, subject to the provisions of this Order, of doing all such acts as a body corporate may perform.

Procedure and exemptions of Agency

5.—(1) The Liquidating Agency shall determine its own procedure; and the question whether it has acted in accordance with the procedure so determined shall not be enquired into by any court.

(2) The Liquidating Agency shall be exempt from any law of a Territory imposing taxation, stamp duties or other duties, or registration fees.

Functions of Agency

6.—(1) It shall be the general function of the Liquidating Agency to wind up the affairs of the Federation and, subject to the provisions of this Order, to dispose of its assets and liabilities.

(2) The Liquidating Agency shall have the following particular functions—

- (a) to apportion and distribute as may be agreed between the Governments of the Territories the assets and liabilities of the Federation or of any other body vesting in or devolving upon the Agency by virtue of any provision of this Order;
- (b) to exercise until 31st March 1965 the functions of the Commissioner of Taxes of levying and collecting taxes on income or profits under the Income Tax Act 1954 or other Act of the Legislature of the Federation, and Territorial surcharge under the Territorial Surcharges Act 1959 of the Federation, in respect of periods of assessment up to and including the period ended on 31st March 1963; and
- (c) to collect excise duty and surtax payable under section 122 of the Customs and Excise Act 1955 of the Federation in respect of any month up to and including December 1963.

(3) The Liquidating Agency shall have such further functions as are conferred by any other provision of this Order or, if within the scope of subsection (1), by agreement between the Governments of the Territories.

Powers of Agency

7. The Liquidating Agency shall have power to do anything which is calculated to facilitate the discharge of its functions or which is incidental or conducive thereto, including in particular, but without prejudice to the generality of the foregoing power, power—

- (a) to declare forfeit to the Agency, after three months' notice, any unclaimed moneys or other property held to the order of the Exchange Control Suspense Account of the Federation;
- (b) to dispose of outstanding matters in relation to the Commonwealth Assistance Loan under the Federation of Rhodesia and Nyasaland Credit Agreement 1962;

- (c) to pay to the Government of a Territory any expenditure incurred by it in the performance of functions on behalf of Territories jointly;
- (d) to invest moneys in such bonds, stock or other securities as it may think fit;
- (e) to borrow sums required by it for meeting any of its obligations or discharging any of its functions;
- (f) to write off debts or settle claims;
- (g) to delegate the exercise of any of its functions or powers; and
- (h) to arrange for the audit of accounts relating to the winding up of the affairs of the Federation.

Performance of functions and powers of Agency

8.—(1) Any law in force in a Territory immediately before the dissolution of the Federation shall continue in force in that Territory so far as may be necessary to enable the Liquidating Agency to discharge its functions and exercise its powers under this Order and shall be construed with such modifications and adaptations as may be required for that purpose.

(2) In particular, any provision in any such law conferring or imposing rights, powers or duties on any officer in relation to any matter shall be construed as conferring or imposing such rights, powers or duties on the Liquidating Agency so far as may be necessary to enable it to discharge its functions and exercise its powers in relation to that matter; and the rights, duties and liabilities (including criminal liabilities) of all persons in relation to that matter shall remain as provided by that law.

(3) Nothing in this section shall be construed as giving any person a right of recourse to any court or tribunal mentioned in section 19.

Termination of Liquidating Agency

9. When the Liquidating Agency is satisfied, with the concurrence of the Governments of the Territories, that it has completed the performance of its functions and made any other arrangements necessary for bringing the Agency to an end, it shall so certify, and thereupon the Agency shall cease to exist.

Property of the Federation

10.—(1) Freehold property of the Federation situate in a Territory shall on the dissolution of the Federation vest in Her Majesty, or such other person or authority as the Governor of the Territory may by order have designated, for the purposes of the Government of the Territory; and any such property not so situate shall on the dissolution of the Federation vest in the Liquidating Agency.

(2) The movable property of the Federation including currency notes, coin, bonds, securities, money in any bank and other funds shall, unless otherwise provided by this Order or allocated to the Government of a Territory by agreement made before the dissolution of the Federation, vest on the dissolution in the Liquidating Agency.

(3) Property vested by this section shall be vested subject to any liabilities or obligations relating to that property existing immediately before the dissolution of the Federation.

(4) The officer having charge of any register relating to property vested by this section shall, on application, make the required alterations in the register, and endorsements on the deeds relating to the property, if presented therefor; and no stamp duty or other duties or fees shall be payable in respect thereof.

(5) In this section “property of the Federation” means property vested immediately before the dissolution of the Federation in the Federal Government or Her Majesty or any other person or authority for the purposes of that Government, and includes any rights in respect of such property.

Claims by and against the Federal Government

11.—(1) Save as otherwise provided by this Order, sums of whatsoever nature due to be paid to or by the Federal Government before the dissolution of the Federation and any sum payable after the dissolution in respect of a period before the dissolution, shall be paid to or by the Liquidating Agency, or to or by the Government of a Territory if that Government so agrees with the Liquidating Agency; and any right of action in respect of such sums, or otherwise in contract, tort or delict, by or against the Federal Government existing immediately before the dissolution of the Federation may be prosecuted by or against the Liquidating Agency, or the Government of a Territory if that Government so agrees with the Liquidating Agency.

(2) In any action brought in pursuance of this section any defence which would have been available to or against the Federal Government shall be available to or against the Liquidating Agency or the Territorial Government, as the case may be.

Outstanding internal public debt of the Federation

12.—(1) The liabilities of the Federation in respect of each of the loans raised in the Federation and specified in Parts A, B and C of Schedule I are hereby apportioned amongst the Territories as follows—

- (a) those in Part A as to 52.120 per cent. to Southern Rhodesia, 37.127 per cent. to Northern Rhodesia, and 10.753 per cent. to Nyasaland;
- (b) those in Part B as to 50.000 per cent. to Southern Rhodesia and 50.000 per cent. to Northern Rhodesia; and
- (c) those in Part C, in the manner set out in that Part.

(2) The liabilities of the Federation as apportioned by subsection (1) are hereby transferred to the respective Territories in accordance with the provisions of this section.

(3) The Government of each Territory, to the extent of the liability apportioned to it by subsection (1), is hereby authorised to and shall issue bonds or stock of that Government in substitution for any bonds or stock (in this section referred to as “original bonds or stock”) issued under any Act of the Federal Legislature in respect of any loan referred to in subsection (1).

(4) Any document of title relating to original bonds or stock shall be valid as against the Territories in proportion to the liability apportioned to them by subsection (1) in respect of the loan concerned until such time as new documents of title are issued in substitution therefor.

(5) In respect of bonds or stock issued under this section—

- (a) interest thereon shall be paid at the place stated therein and in the currency of the Territory of issue, and on the dates and at the percentage rate and on the terms and conditions applicable to the payment of interest on the original bonds or stock;
- (b) they shall be redeemable or repayable at the place stated therein and in the currency of the Territory of issue, and otherwise be redeemable or repayable on the terms and conditions applicable to the original bonds or stock; and
- (c) they shall be held by the holder in the same right and on the same trusts and subject to the same powers, privileges, charges, restraints and liabilities as those in, on or subject to which he held the original bonds or stock, and any provision of any deed, will, disposition or other instrument shall have the same effect in relation to the bonds or stock issued under this section as it would have had in relation to the original bonds or stock.

(6) In relation to any loans in respect of which no bonds or stock have been issued the lenders shall, subject to the provisions of subsection (1) and of any agreement entered into with the respective Territories, continue to enjoy the same rights as they enjoyed immediately before the dissolution of

the Federation, except that interest on the loans shall be paid, and the loans shall be redeemed or repaid, both in, and in the currency of, the respective Territories.

(7) The Government of each Territory, to the extent of the liability apportioned to it by subsection (1), shall establish a sinking fund for any bonds or stock for which a sinking fund was required to be established by the Federal Government, and on the same terms and conditions, and shall maintain the sinking fund until the bonds or stock for which it was established are redeemed or repaid.

(8) The sinking funds established by the Federal Government in respect of any loan referred to in subsection (1) are hereby apportioned amongst the Territories in the same proportions as the relevant loans are apportioned by that subsection and shall be transferred accordingly to the appropriate sinking funds established under subsection (7).

(9) The trustees of any such sinking fund established by the Federal Government shall—

- (a) as soon as may be after the dissolution of the Federation, submit to the Government of each Territory a full account of the assets of the fund subsisting immediately before the dissolution of the Federation;
- (b) take such steps as may be necessary to give effect to the provisions of subsection (8); and
- (c) continue to have all the powers that at present appertain to them in relation to the fund until effect is given to the provisions of subsection (8) in relation to that fund;

and no stamp duty, transfer fee or any other duty shall be payable in respect of anything done for the purposes of subsection (8).

(10) Notwithstanding any other provision of this section, the liabilities apportioned and transferred by subsections (1) and (2) shall be calculated to the nearest penny, and bonds or stock issued under subsection (3) shall be expressed in units of one pound nominal or multiples thereof, so however that the aggregate amount of bonds or stock issued shall be of the same face value as the bonds or stock for which they are substituted, and shall be issued to each holder in proportion to the liability in respect of the loan apportioned to the Territory by subsection (1).

Federal tax reserve certificates

13. The sums standing to the credit of the Tax Reserve Certificates Fund of the Federation immediately before the dissolution of the Federation are hereby vested in the Liquidating Agency and, the Agency shall redeem any Federal Tax Reserve certificates unredeemed before dissolution.

Post Office Savings Bank

14.—(1) The assets and liabilities of the Post Office Savings Bank of the Federation as existing immediately before the dissolution of the Federation are hereby vested in the Liquidating Agency and, subject to the provisions of this section, the Agency shall be responsible for the management of the assets and liabilities in accordance with the laws of the Federal Legislature relating thereto immediately before the dissolution.

(2) The Liquidating Agency shall apportion the liabilities of the Savings Bank amongst the Territories according to the Territory in which the passbook held by a depositor was issued, or, if a new passbook was issued to him in replacement of a lost passbook, according to the Territory in which the lost passbook was issued; and the assets of the Savings Bank shall be apportioned in accordance with the liabilities.

(3) The Liquidating Agency shall transfer to the Territories the assets and liabilities existing immediately before the transfer in accordance with such apportionment, and on such transfer the functions of the Liquidating Agency under this section shall cease.

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Post Office savings certificates

15. The liabilities of the Federation in respect of Post Office savings certificates issued under the Post Office Savings Bank and Savings Certificates Act 1954 of the Federation are hereby apportioned and transferred to the Government of Southern Rhodesia, and the assets of the Post Office Savings Certificates Fund established by the said Act are hereby vested in that Government.

Outstanding external public debt of the Federation

16.—(1) The liabilities of the Federation in respect of each of the loans raised outside the Federation and specified in Parts D, E, F and G of Schedule I are hereby apportioned amongst the Territories as follows—

- (a) those in Parts D and E as to 52.120 per cent. to Southern Rhodesia, 37.127 per cent. to Northern Rhodesia, and 10.753 per cent. to Nyasaland;
- (b) those in Part F as to 50.000 per cent. to Southern Rhodesia and 50.000 per cent. to Northern Rhodesia; and
- (c) those in Part G, in the manner set out in that Part.

(2) The liabilities of the Federation as apportioned by sub-section (1) are hereby transferred to the respective Territories.

(3) In respect of any of the said loans—

- (a) any bonds or stock issued under any Act of the Federal Legislature shall continue to be valid and, subject to the provisions of subsection (1) and of any agreement entered into by the respective Territories with the lenders in relation to the loans specified in Part H of Schedule I, continue to confer on the holders thereof the same rights as those enjoyed by the holders immediately before the dissolution of the Federation; and
- (b) in relation to which no bonds or stock have been issued the lenders shall, subject to the provisions of subsection (1) and of any agreement entered into by the respective Territories with the lenders in relation to the loans so specified, continue to enjoy the same rights as they enjoyed immediately before the dissolution of the Federation.

(4) The sinking funds established by the Federal Government in respect of the loans specified in Part D of Schedule I shall continue in existence and the Territories shall, to the extent of the liabilities apportioned to them in respect of those loans by subsection (1), discharge the liabilities of the Federal Government in relation to the said sinking funds.

(5) The existing trustees of the sinking funds referred to in subsection (4) shall continue as trustees on the existing terms and conditions and shall administer each sinking fund until the stock for which it is established is redeemed or repaid.

(6) If before the dissolution of the Federation the Governments of the United Kingdom, the Federation and the Territories agree that the liability in respect of any loan apportioned amongst the Territories by subsection (1) should be transferred to the Territories in accordance with the provisions of section 12 instead of this section, then the provisions of section 12 (except subsection (1)) shall apply to that loan in substitution for the provisions of subsections (2) to (5) of this section but subject to the following modifications—

- (a) the references to subsection (1) of section 12 shall be construed as references to subsection (1) of this section;
- (b) the references in subsection (5) to the Territory of issue shall be construed as references to the place of issue;
- (c) in subsection (6) the words “except that interest on the loans shall be paid, and the loans shall be redeemed or repaid both in, and in the currency of, the respective Territories” shall be omitted;

- (d) in subsection (8) the reference to any loan referred to in subsection (1) shall be construed as a reference to the loan which is the subject of the agreement under this subsection; and
 - (e) in subsection (10) for the words “be expressed in units of one pound nominal or multiples thereof, so however that” there shall be substituted the words “issued so that”.
- (7) The Governments of the Territories shall cause notice of any agreement under subsection (6) in respect of a loan to be given to the lenders in such manner as they consider appropriate.
- (8) Notwithstanding anything to the contrary contained in the Colonial Stock Acts 1877 to 1948, the Trustee Investments Act 1961 or any other law, the registration under the said Colonial Stock Acts of the stock relating to loans specified in Part D of Schedule I shall have the same effect as if the stock had been issued by the Territories and any stock issued by virtue of subsection (6) in substitution therefore shall be deemed to be registered under those Acts, and the stock shall continue to be, or as the case may be, shall be investments in which a trustee may invest.

Winding up of certain bodies established by Federal law

- 17.—(1) This section applies to the following bodies, that is to say—
- (a) the Agricultural Marketing Council established by the Agricultural Marketing Council Act 1956 of the Federation;
 - (b) the Cold Storage Commission established by the Cold Storage Commission Act 1960 of the Federation;
 - (c) the Dairy Marketing Board established by the Dairy Produce Marketing and Levy Act 1961 of the Federation;
 - (d) the Federal Broadcasting Corporation established by the Broadcasting Act 1957 of the Federation;
 - (e) the Grain Marketing Board established by the Grain Marketing Act 1957 of the Federation;
 - (f) the Pig Industry Board established by the Pig Industry Act 1959 of the Federation;
 - (g) the North-Eastern Tobacco Marketing Board established by the Tobacco Marketing and Levy Act 1960 of the Federation;
 - (h) the South-Western Tobacco Marketing Board established by the said Tobacco Marketing and Levy Act; and
 - (i) the Tobacco Export Promotion Council of Rhodesia and Nyasaland established by the said Tobacco Marketing and Levy Act.

(2) Each body to which this section applies shall, for the purpose of winding up its affairs before the dissolution of the Federation, and notwithstanding anything in the Act relating to it, have power to do anything which is necessary or expedient for that purpose or is incidental thereto, including in particular, but without prejudice to the generality of that power, power to enter into and carry out agreements for the transfer of its property, rights, liabilities and obligations to any other body or person.

(3) On the dissolution of the Federation each body to which this section applies shall be dissolved, and any property of the body remaining undisposed of shall vest in the Liquidating Agency.

(4) The provisions of subsections (3) and (4) of section 10 shall apply to any property vested in the Liquidating Agency by this section, and the provisions of the said subsection (4) shall apply to any property transferred under subsection (2), as they apply to property vested by section 10.

(5) The provisions of section 11 shall apply in relation to sums due to or by a body to which this section applies and in relation to any right of action by or against such a body as they apply in relation to sums due to or by, and rights of action by or against, the Federal Government.

Pending legal proceedings

18.—(1) In any legal proceedings pending on the dissolution of the Federation there shall be made such substitution of one party for another as may be necessary to take account of any transfer by this Order of functions, rights, liabilities or obligations.

(2) Any appeal brought after the dissolution of the Federation against a decision given in any legal proceedings before the dissolution of the Federation may be brought by or against the party who should, by virtue of subsection (1), have been the appellant or respondent if the proceedings had continued after the dissolution of the Federation.

Temporary continuation of certain Federal courts

19.—(1) For the purpose of hearing and determining proceedings pending before them immediately before the dissolution of the Federation, except any such proceedings in respect of matters arising from Nyasaland,—

- (a) the Federal Supreme Court,
- (b) the Court Martial Appeal Court,
- (c) the Special Court for income tax appeals, and
- (d) the Patents Tribunal,

(in this section referred to as “the courts”) shall, subject to the provisions of this section, continue in existence notwithstanding the dissolution of the Federation; and accordingly the persons holding the offices of the Chief Justice of the Federation, the Federal Justices, the President of the Special Court for income tax appeals and the President of the Patents Tribunal immediately before the dissolution of the Federation shall, subject as aforesaid, continue to hold their respective offices and to enjoy, or be subject to, all the terms and conditions of service which applied to them immediately before the dissolution of the Federation.

(2) In relation to the Federal Supreme Court as continued in existence by this section, paragraph (6) of Article 47 and Articles 48 and 49 of the Constitution of the Federation shall apply as if references therein to the Governor-General were references to the Secretary of State and as if in the said paragraph (6) the words “by instrument under the public seal of the Federation” and the words “on an address from the Federal Assembly praying for his removal” were omitted.

(3) For the purpose of the performance of functions requiring to be performed in order to give effect to this section in relation to the other courts continued in existence thereby, the laws of the Federal Legislature hereinafter mentioned shall be modified as follows—

- (a) section 120 of the Defence Act 1955 (providing for the appointment of a Registrar of the Court Martial Appeal Court) shall apply as if the reference to the Minister of Defence were a reference to the Chief Justice of the Federation;
- (b) section 57 of the Income Tax Act 1954 (providing for the establishment of the Special Court for income tax appeals) shall apply as if the reference in subsection (1) to the Governor-General were a reference to the Chief Justice of the Federation, the reference in subsection (3) to the Minister of Home Affairs after consultation with the President were a reference to the President of the Special Court, the reference in sub-section (4) to the Governor-General were a reference to the Liquidating Agency, and the reference in subsection (5) to the Minister were a reference to the said President;
- (c) section 71 of the Patents Act 1957 (providing for the establishment of a Patents Tribunal) shall have effect as if the reference in sub-section (1) to the Minister were a reference to the Chief Justice of the Federation, the reference in subsection (4) to the Minister acting with the approval of the Minister of Finance were a reference to the Liquidating Agency,

and the reference in subsection (5) to the Minister were a reference to the President of the Patents Tribunal.

(4) The administrative expenses of the courts, including all remuneration and allowances payable to the judges, officers and servants of the courts, shall be paid out of moneys in the hands of the Liquidating Agency; and any fees or other moneys taken by the courts shall be paid to the Agency.

(5) The provisions of the Constitution of the Federation and of any law or rules of court in force immediately before the dissolution of the Federation with respect to the jurisdiction, powers, practice and procedure of the courts shall continue to have effect for the purpose of the hearing and determining by the courts of proceedings pending before them immediately before the dissolution of the Federation; and the courts and authorities of Southern Rhodesia and Northern Rhodesia shall continue to act in aid of the courts in respect of such proceedings.

(6) When the Chief Justice of the Federation is satisfied that the Federal Supreme Court or any other court continued in existence by this section has disposed of all business which can in his opinion be reasonably dealt with by it under the provisions of this Order he shall by writing under his hand, so certify, whereupon the court shall cease to exist; and any business outstanding shall be dealt with in accordance with such provision as may be made by the law of Southern Rhodesia or Northern Rhodesia in relation to matters arising from that Territory.

(7) If the Special Court for income tax appeals or the Patents Tribunal continue in existence after the Federal Supreme Court has ceased to exist, the function conferred by subsection (6) on the Chief Justice of the Federation shall be performed by the President of the Special Court or the President of the Patents Tribunal, as the case may be.