
 S T A T U T O R Y I N S T R U M E N T S

1980 No. 395

SOUTHERN RHODESIA

**The Zimbabwe Constitution
(Transitional, Supplementary and Consequential
Provisions) Order 1980**

Made - - - - - 19th March 1980

Laid before Parliament 20th March 1980

Coming into Operation as provided in section 1(2)

At the Court at Buckingham Palace, the 19th day of March 1980

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 1 of the Southern Rhodesia Act 1979(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

- 1.—(1) This Order may be cited as the Zimbabwe Constitution (Transitional, Supplementary and Consequential Provisions) Order 1980. Citation and commencement.
- (2) This Order shall come into operation immediately before the day appointed for the purpose of section 1(1) of the Zimbabwe Act 1979(b) therein and hereinafter referred to as "Independence Day").

- 2.—(1) In this Order— Interpretation.
- "the Constitution" means the Constitution of Zimbabwe set out in the Schedule to the Zimbabwe Constitution Order 1979(c);
- "the Elections Order" means the Southern Rhodesia (Constitution of Zimbabwe) (Elections and Appointments) Order 1979(d), as amended by the Southern Rhodesia (Constitution of Zimbabwe) (Elections and Appointments) (Amendment) Order 1980(e);
- "the existing laws" means any law or instrument having force and effect as part of the law of Southern Rhodesia immediately before Independence Day (and includes any such law or instrument made before that day and promulgated or otherwise coming into operation on or after that day), but does not include any such law or instrument which is repealed or revoked as from Independence Day or (save as provided in section 4(5) or section 12) any provision of the instrument entitled "The Constitution of Zimbabwe Rhodesia, 1979";

(a) 1979 c. 52. (b) 1979 c. 60. (c) S.I. 1979/1600.
(d) S.I. 1979/1654. (e) S.I. 1980/243.

“the Governor” means the Governor of Southern Rhodesia appointed pursuant to the Southern Rhodesia Constitution (Interim Provisions) Order 1979(a);

“the revoked Orders” means the Orders specified in Schedule 1 to this Order.

(2) Save where the context otherwise requires, expressions used in this Order shall have the same meaning as in the Constitution and the provisions of sections 113 and 114 of the Constitution shall apply for the purposes of interpreting this Order and otherwise in relation thereto as they apply for the purposes of interpreting and in relation to the Constitution.

Revocation. 3. The Orders specified in Part 1 of Schedule 1 to this Order are revoked as from Independence Day.

Existing law and related matters. 4.—(1) Subject to the provisions of the Constitution and this Order, the existing laws shall, notwithstanding the revocation of the revoked Orders and the establishment of a Republic in Zimbabwe, continue in force and effect on and after Independence Day and shall then have effect as if they had been made in pursuance of the Constitution, but they shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution and this Order.

(2) Where any matter that falls to be prescribed or otherwise provided for under the Constitution by Parliament or by any other person or authority is prescribed or provided for by or under any of the existing laws (including any amendment to any such law made under this section), that prescription or provision shall, as from Independence Day, have effect (with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the Zimbabwe Act 1979, the Constitution and this Order) as if it had been made under the Constitution by Parliament or, as the case may be, by the other person or authority.

(3) The President may by order published in the *Gazette* at any time before 1st March 1981 make such amendments to any of the existing laws as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of the Constitution or this Order or otherwise for giving effect or enabling effect to be given to those provisions.

(4) An order made under this section may be amended or revoked by Parliament or, in relation to any of the existing laws affected thereby, by any other authority having power to amend, repeal or revoke that existing law.

(5) Notwithstanding anything contained in the definition of “the existing laws” in section 2(1), Parts III and IV of the Third Schedule to the instrument entitled “The Constitution of Zimbabwe Rhodesia, 1979” shall be deemed to be an existing law to which subsection (1) of this section applies, and those provisions shall have effect as an Act of Parliament and may be cited as “The Pensions and Other Benefits Act, 1979”.

(6) References to Zimbabwe in the Constitution shall, in relation to any time or period before Independence Day, be construed as including references to Southern Rhodesia, Rhodesia and Zimbabwe Rhodesia.

(7) References to the Governor in any of the existing laws shall be construed as references to the President.

(8) The provisions of this section shall be without prejudice to any powers conferred by the Constitution, this Order or any other law upon any person or authority to make provision for any matter, including the amendment or repeal of any existing law; and for the purposes of amendment or repeal, an Order in Council or an Ordinance shall be deemed to be an Act of Parliament.

5. The person elected to be President at the election held under section 5 of the Elections Order shall be deemed to have been elected under section 28 of the Constitution on Independence Day and shall be the first President of Zimbabwe.

6.—(1) The persons elected or, as the case may be, appointed members of the Senate at the elections held, or pursuant to appointments to be made, under section 3(2) of the Elections Order shall, unless they have in the meanwhile vacated their seats under section 41 of the Constitution, be deemed to have been elected or, as the case may be, appointed members of the Senate under section 33 of the Constitution, and shall hold their seats in accordance with the provisions of the Constitution.

(2) The persons elected to be members of the House of Assembly at the general election held under section 3(1) of the Elections Order shall, unless they have in the meanwhile vacated their seats under section 41 of the Constitution, be deemed to have been elected as members of the House of Assembly under section 38 of the Constitution and shall hold their seats in accordance with the provisions of the Constitution.

(3) If the Governor has, by proclamation in the *Gazette* under section 6(2) of the Elections Order, fixed a place and time for the commencement of the first session of Parliament that proclamation shall have effect, for the purposes of the Constitution, as if it were a proclamation by the President fixing the place and time of the first session of Parliament after a general election.

(4) The Secretary to Parliament may, at any time before the commencement of the first session of Parliament, publish Standing Orders and Select Committee rules of the Senate and the House of Assembly, and the Standing Orders and rules so published shall be deemed to be, respectively, Standing Orders made in accordance with section 57 of the Constitution and rules made in accordance with those Standing Orders.

(5) Sections 34 and 39 of the Constitution shall have effect as if the references therein to the Senate or the House of Assembly first meeting after any dissolution of Parliament included references to the Senate and the House of Assembly first meeting on or after Independence Day.

(6) For the purposes of the Constitution, a person who has been a member of a body which, in accordance with any provision purporting to be, or to have the effect of, law in Southern Rhodesia before 12th December 1979, was established as a Senate or, as the case may be, a House of Assembly (or Legislative Assembly or unicameral Parliament) shall be deemed to have been a member of the Senate or, as the case may be, the House of Assembly; and references to a person nominated for election as a member of the Senate or the House of Assembly shall be read accordingly.

(7) The terms of service applicable to the staff of Parliament immediately before Independence Day shall, on and after Independence Day, be applicable as if they had been approved by the House of Assembly pursuant to section 48(4) of the Constitution.

(8) The Act of Parliament having effect for the purposes of section 58(4) of the Constitution shall, except as otherwise provided by Parliament, be the Electoral Act, 1979, as in force on Independence Day and as then modified, adapted or amended by the Electoral Ordinances 1979 and 1980; and those instruments shall have effect as if the references therein to the elections were references to any election referred to in the said section 58(4):

Provided that Chapter XI of the Electoral Act, 1979 shall have effect as if the said references were references to the elections to which subsection (9) applies.

(9) Notwithstanding anything to the contrary contained in the Constitution, for the purposes of—

- (a) any general election which is held before the publication of the first proclamation by the President of constituencies under section 60(8) of the Constitution, and any election or appointment of members of the Senate consequent thereon; and
- (b) the filling, before the first general election following the publication referred to in paragraph (a), of any vacancy in the membership of the Senate or the House of Assembly,

section 38 of, and Schedule 3 to, the Constitution shall have effect as if they were modified in the manner set out in Schedule 2 to this Order.

(10) Notwithstanding anything to the contrary contained in the Constitution—

- (a) the first Delimitation Commission shall be convened as soon as possible after Independence Day in order to divide Zimbabwe provisionally into eighty common roll constituencies for the purpose of enabling voters to register on the common roll;
- (b) for the purpose of the provisional delimitation under paragraph (a), the Delimitation Commission shall have regard to the number of persons who, in its opinion after it has consulted the Director of Census and Statistics of Zimbabwe, are ordinarily resident in the areas concerned and are eligible to be registered as voters on the common roll, and
- (c) as soon as may be after the Delimitation Commission has completed its report on the provisional delimitation, the President shall, by proclamation in the *Gazette*, declare the names and boundaries of the constituencies as provisionally delimited, which shall have effect only for the purposes of the registration of voters on the common roll.

(11) A Delimitation Commission shall be convened two years after the Delimitation Commission convened in accordance with subsection (10) has submitted its report in order to carry out, in accordance with section 60 of the Constitution, the first delimitation for the purposes of the Constitution.

7.—(1) The person appointed Prime Minister under section 4 of the Ministers Elections Order, and holding that office immediately before Independence Day, shall, as from Independence Day, hold office as Prime Minister as if he had been appointed thereto under section 69(1)(a) of the Constitution. ^{Ministers and Deputy Ministers}

(2) Any other person who was appointed by the Governor to be a Minister or a Deputy Minister under an appointment subsisting immediately before Independence Day shall, as from Independence Day, hold office as such Minister or Deputy Minister, as the case may be, as if he had been appointed thereto under section 69(1) of the Constitution.

8.—(1) Every person who immediately before Independence Day holds or is acting in a public office shall, as from Independence Day, hold or act in that office or the corresponding office established by the Constitution as if he had been appointed to do so in accordance with the law in force on that day and as if he had taken any necessary oath under the Constitution: ^{Existing officers.}

Provided that any person who, under the revoked Orders, any provision of the instrument entitled "The Constitution of Zimbabwe Rhodesia, 1979", or any of the existing laws, would have been required to vacate office at the expiration of any period or on the attainment of any age shall, unless his term of office is extended or he is earlier removed in accordance with the law for the time being in force, vacate his office at the expiration of that period or upon the attainment of that age.

(2) For the avoidance of doubt it is hereby declared that the reference in subsection (1) to a person holding or acting in a public office includes a reference to a member of the staff of Parliament and to a person holding or acting in the office of Chief or a member, other than an *ex officio* member, of a Commission to which Chapter VI of the instrument entitled "The Constitution of Zimbabwe Rhodesia, 1979" refers, and also includes a reference to a judge who was continued in office by virtue of section 5 of the Constitution (Interim Provisions) Ordinance 1979(a).

(3) The provisions of this section shall be without prejudice to any powers conferred by or under the Constitution upon any person or authority to make provision for the abolition of offices and the removal from office of persons holding or acting in any office.

9.—(1) The High Court of Southern Rhodesia as established immediately before Independence Day shall be deemed to have been duly constituted as the High Court under Chapter VIII of the Constitution. ^{High Court.}

(2) For the purposes of the Constitution, a person who was before Independence Day appointed a judge of a High Court in the territory, whether or not validly so appointed, shall be deemed to have been a judge of the High Court.

10.—(1) All proceedings that, immediately before Independence Day, are pending before any court exercising jurisdiction in accordance with the law in force immediately before Independence Day may be continued and concluded on and after that day before the corresponding court established by or under the Constitution. ^{Legal proceedings.}

(2) Any decision given before Independence Day by any such court shall for the purposes of its enforcement or of any appeal therefrom have effect on and after that day as if it were a decision of the corresponding court established by or under the Constitution.

Property
and assets.

11.—(1) Subject to the provisions of this section, any property and assets which immediately before Independence Day are vested in Her Majesty or in the Governor of Southern Rhodesia for the purposes of the Government of Southern Rhodesia, or are vested in that Government, shall, as from that day, vest in the President on behalf of Zimbabwe.

(2) Where, immediately before Independence Day, any person holds any property or assets on account of or in trust for Her Majesty or for the Governor or Government of Southern Rhodesia for the purposes of that Government, that person shall, as from that day, hold such property or assets on account of or, as the case may be, on the like trust for the President on behalf of Zimbabwe.

Rights,
liabilities
and
obligations.

12.—(1) Without prejudice to section 11, all rights, liabilities and obligations of—

- (a) Her Majesty in respect of the Government of Southern Rhodesia;
- (b) the Governor of Southern Rhodesia or the holder of any other office under the Crown in respect of the Government of Southern Rhodesia on behalf of that Government; and
- (c) the Government of Southern Rhodesia,

shall, as from Independence Day, be rights, liabilities and obligations of the President on behalf of Zimbabwe and, subject to the provisions of any law, shall be enforceable by or against the President accordingly.

(2) In this section, rights, liabilities and obligations include rights, liabilities and obligations arising from law, contract or otherwise and all debts and liabilities of, or assumed by, any former Government of Southern Rhodesia (including the obligations so assumed in respect of the Central African Pension Fund).

(3) Notwithstanding anything contained in the definition of “the existing laws” in section 2(1), paragraph 16(1), (2) and (4), other than the references therein to subparagraph (3), of the Third Schedule to the instrument entitled “The Constitution of Zimbabwe Rhodesia, 1979”, shall be deemed to be existing law to which section 4(1) applies, and those provisions shall have effect as an Act of Parliament and may be cited as “The Former Administration (Liabilities) Act, 1979”.

Nationality.

13.—(1) The references in section 4 of the Constitution to a person who immediately before the appointed day was or was deemed to be a citizen are references to a person who, before that day, was or was deemed to be a citizen of Southern Rhodesia.

(2) A person to whom subsection (3) of this section applies shall be entitled, upon making application at any time during the period of two years from Independence Day in such manner as may be prescribed by or under an Act of Parliament, to be registered as a citizen of Zimbabwe; and the provisions of section 7(6) of the Constitution shall apply to such a person as they apply to a person referred to in section 7(1) of the Constitution and as if the period referred to therein were the period referred to in this subsection.

(3) This subsection applies to any person who does not become a citizen of Zimbabwe on Independence Day by virtue of section 4 of the Constitution by reason of his having at any time between 11th November 1965 and 12th December 1979:—

- (a) been deprived of his citizenship by order made in terms of section 16(1) of the Citizenship of Rhodesia Act (Chapter 23), other than by order made solely on a ground specified in section 16(1)(a) or 16(1)(b)(i) of that Act;
- (b) been deprived of his citizenship by order made in terms of section 17 of that Act as from time to time in force otherwise than on the grounds specified in subsection (1)(c) thereof;
- (c) in the case of a person who has been deprived of his citizenship of another country on grounds substantially similar to any of the grounds specified in section 16(1) of that Act other than a ground specified in section 16(1)(a) or 16(1)(b)(i) of that Act, been deprived of his citizenship by order made in terms of section 18(1) of that Act;
- (d) in the case of any child of a person to whom paragraph (a), (b) or (c) applies, been deprived of his citizenship by order made in terms of section 19(1) of that Act, or
- (e) lost his citizenship by virtue of section 20 of that Act.

(4) In this section, the references to the provisions of the Citizenship of Rhodesia Act shall be read as including references to substantially corresponding provisions of any law or instrument purporting to be law in Southern Rhodesia which was directly or indirectly replaced by the Citizenship of Rhodesia Act.

14. If, immediately before Independence Day, a declaration of emergency in terms of section 75, or a proclamation of martial law under section 66(2)(c), of the instrument entitled “The Constitution of Zimbabwe Rhodesia, 1979” is in effect, that declaration or proclamation shall have effect on and after Independence Day as if it were a declaration under section 68(1), or, as the case may be, a proclamation under section 65(2)(c), of the Constitution and, in the case of such a declaration, as if it had been approved by the House of Assembly at the commencement of this Order.

15. Notwithstanding the provisions of the Constitution, the Parliament of Zimbabwe may amend, add to or repeal the provisions of this Order only in the same manner as it may amend, add to or repeal the provisions of the Constitution:

Provided that a Bill which is introduced into the House of Assembly less than seven years after Independence Day and which, if enacted, would amend, add to or repeal section 6(1), (2) or (9) of, or Schedule 2 to, this Order shall be deemed to be a Bill to which section 52(5) of the Constitution applies.

N. E. Leigh,
Clerk of the Privy Council.

Section 2(1)

SCHEDULE 1

REVOKED ORDERS

PART 1

ORDERS REVOKED BY THIS ORDER

- The Southern Rhodesia (Constitution) Order in Council 1961(a);
 The Constitution of Southern Rhodesia (Amendment) Order in Council 1964(b);
 The Southern Rhodesia Constitution (Interim Provisions) Order 1979(c);
 The Southern Rhodesia (Constitution of Zimbabwe) (Elections Appointments) Order 1979(d);
 The Southern Rhodesia (Constitution of Zimbabwe) (Elections Appointments) (Amendment) Order 1980(e).

PART 2

ORDERS REVOKED BY THE ZIMBABWE ACT 1979

- The Southern Rhodesia Constitution Order 1965(f);
 The Southern Rhodesia (Higher Authority for Power) Order 1970(g);
 The Southern Rhodesia (Matrimonial Jurisdiction) Order 1970(h);
 The Southern Rhodesia (Marriages, Matrimonial Causes and Adoptions) Order 1972(i).

Section 6(9)

SCHEDULE 2

ELECTIONS

(MODIFICATIONS TO SECTION 38 OF, AND SCHEDULE 3 TO, THE CONSTITUTION)

Section 38

Section 38(1)(a) shall have effect as if it read:—

“(a) eighty shall be elected by voters qualified for registration on a common roll and voting for a registered political party in the following electoral districts for the number of members set out opposite them:—

Manicaland	11 members
Mashonaland Central	6 members
Mashonaland East	16 members
Mashonaland West	8 members
Matabeleland North	10 members
Matabeleland South	6 members
Midlands	12 members
Victoria	11 members”.

Schedule 3

(1) Paragraph 1 shall have effect as if it read:—

“1.—(1) Subject to the provisions of paragraph 2, a person who—

(a) is qualified for registration as a voter; and

(b) has attained the age of forty years,

shall be qualified for election or appointment as a Senator, other than by appointment as a Senator to be elected pursuant to section 33(1)(c).

(2) Subject to the provisions of paragraph 2, a person shall be qualified for election as a Senator pursuant to section 33(1)(c) if he holds the office of Councillor.

(3) Subject to the provisions of paragraph 2, a person who—

(a) is qualified for registration as a voter; and

(b) has attained the age of twenty-one years,

shall be qualified for election as a member of the House of Assembly.”.

(a) S.I. 1961/2314.

(b) S.I. 1964/923.

(c) S.I. 1979/1571

(d) S.I. 1979/1654.

(e) S.I. 1980/243.

(f) S.I. 1965/1952

(g) S.I. 1970/892.

(h) S.I. 1970/1540.

(i) S.I. 1972/1718

(2) Paragraph 3 shall have effect as if there were added the following new subparagraph (3A):—

“(3A) Any person who is entitled to be registered on the common roll shall be entitled to vote at the election held in one, and only one, of the electoral districts specified in section 38(1)(a) unless he is then, in accordance with subparagraph (2), disqualified for registration.”.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order makes provision for certain transitional, supplementary and consequential matters connected with the Constitution set out in the Schedule to the Zimbabwe Constitution Order 1979.

