STATUTORY INSTRUMENTS

1963 No. 1635

RHODESIA AND NYASALAND FEDERATION

The Federation of Rhodesia and Nyasaland Order in Council 1963

Made - - - -	*27th September* 1963
Laid before Parliament	*30th September* 1963
Coming into Operation	*1st October* 1963

At the Court at Balmoral, the 27th day of September 1963

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 1 of the Rhodesia and Nyasaland Act 1963(a), and of 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: —

1.—(1) The power of the Legislature of the Federation of Rhodesia and Nyasaland to make laws shall, on the date appointed, cease to extend to the making of laws with respect to the matters described in the Schedule to this Order (being matters included in the Second Schedule to the Constitution of the Federation, hereinafter called the Constitution, contained in the Annex to the Federation of Rhodesia and Nyasaland (Constitution) Order in Council 1953(b)).

(2) The Legislature of a Territory shall, notwithstanding article 29(2) of the Constitution, have power to make laws for that Territory with respect to duties of customs and excise (including export duties) and taxes on income and profits (being further matters included in the Second Schedule to the Constitution, in respect of which the Legislature of the Federation has exclusive legislative power):

Provided that—

(*a*) no such law shall have effect before the date appointed;

(*b*) in the case of a law with respect to taxes on income or profits, it shall relate only to a period of assessment beginning on or after 1st April 1963, and to any such tax due or payable in respect of any such period of assessment.

(3) The date appointed is—

(*a*) with respect to the matters described in Part I of the Schedule to this Order, the date of coming into operation of this Order;

(*b*) with respect to the matters described in Part II of the said Schedule, 1st November 1963;

(*c*) with respect to the matters described in Part III of the said Schedule, 1st December 1963; and

(*d*) with respect to the matters described in subsection (2) of this section, the day after the date of dissolution of the Federation.

(a) 1963 c. 34. (b) S.I. 1953/1199 (1953 II, p. 1804).

2. Notwithstanding article 35(1) of the Constitution, but subject to paragraph (*b*) of the proviso to section 1(2) of this Order, no law of a Territory made after the coming into operation of this Order shall be void by reason only that it amends or repeals as regards that Territory a law of the Federation with respect to a matter described in the Schedule to or in section 1(2) of this Order, with effect from a date not earlier than the date appointed.

3.—(1) Subject to the provisions of this Order, any law with respect to a matter described in the Schedule to or in section 1(2) of this Order, and in force in a Territory immediately before the date appointed, shall continue to have full force and effect as respects that Territory until amended or repealed by the Legislature or other authority empowered in that behalf.

(2) The Governor of a Territory may by regulation make, with effect from a date not earlier than the date appointed, such modifications and adaptations in a law mentioned in subsection (1) of this section as he may consider expedient for the purpose of the application of that law in the Territory and its administration by the Governor or other authority of the Territory.

4. Notwithstanding section 1(1) of this Order, the Government of the Federation may, at the request of the Governor of a Territory, continue to exercise in that Territory, on and after the date appointed, full executive authority with respect to any of the matters described in Parts II and III of the Schedule to this Order.

5. Nothing in this Order shall derogate from any existing power of the Legislature or other authority of a Territory to make laws for the Territory.

6.—(1) In this Order, except where the context otherwise requires—

"date appointed" has, with reference to any matter described in the Schedule or in section 1(2), the meaning given to it with respect to that matter by section 1(3);

"law" includes any instrument having the force of law made in the exercise of a power conferred by a law of a Legislature;

"Territory" means Southern Rhodesia, Northern Rhodesia or Nyasaland.

(2) Where a matter is described in the Schedule to this Order in relation to a named Territory, the provisions of this Order shall have effect with respect to that matter in relation only to the Territory named.

(3) Nothing in this Order shall be construed as conferring any power to amend, repeal, modify or adapt the Insurance Act 1956 of the Federation (which includes provisions relating to bankruptcy and insolvency) or the Insolvency (Income Tax) Act 1958 of the Federation, with effect from before the dissolution of the Federation.

(4) The Interpretation Act 1889(**a**) shall apply for the purpose of interpreting this Order as it applies for the purpose of interpreting an Act of Parliament.

7. This Order may be cited as the Federation of Rhodesia and Nyasaland Order in Council 1963, and shall come into operation on 1st October 1963.

W. G. Agnew.

(**a**) 52 & 53 Vict. c. 63.

SCHEDULE

PART I

Item

15. In relation to Nyasaland, companies, that is to say, general provision as to the incorporation, regulation and winding up of bodies corporate other than bodies incorporated directly by a law of the Legislature of a Territory or incorporated under a law of such a Legislature for special purposes specified in that law, and other than co-operative societies or co-operative companies.

20. In relation to Nyasaland, railways and ancillary services, including ancillary transport services.

21. In relation to Nyasaland, shipping, harbours and ancillary services, including ancillary transport services.

28. Such irrigation works and water works as the Governor-General of the Federation may by order designate as major irrigation or water works or as works ancillary to such major works, excepting the works so designated at Kariba.

29. The generation, supply and use of nuclear energy.

36. The establishment, training, maintenance and administration of a Federal police force for service in the employment of, or use in, any Territory at the request and under the operational control of the Governor of that Territory in addition to or in substitution for the police force of that Territory; and the conditions (including conditions as to payment by the Territory) on which the Federation will make that police force available for such use or employment.

41. The payment of old age pensions by the Federal Government.

43. Any monument designated as a National Monument by an order made by the Governor-General of the Federation with the consent of the Governor of the Territory in which that monument is situated.

48. In relation to Northern Rhodesia and Nyasaland, control of movement of goods and animals between those Territories.

51. Co-operative societies, and in relation to Northern Rhodesia and Nyasaland, co-operative companies, being such societies and companies with objects connected with agriculture, except where a majority of the members are African.

52. Bankruptcy and insolvency; assignments to and compositions with creditors.

54. Roads, other than those referred to in item 19 in Part I of the Second Schedule to the Constitution.

56. Regulation of road traffic.

62. Fingerprints, identification and criminal records.

66. Town planning.

67. Geological and cadastral surveys.

in part

73. In relation to Northern Rhodesia and Nyasaland, registration of births and deaths.

PART II

15. In relation to Northern Rhodesia, companies (as described in Part I above).

Item

19. The construction, alteration and maintenance of all roads (in so far as they lie within the Federation) scheduled as inter-territorial in the Final Act of the Transport Conference held in Johannesburg in the year nineteen hundred and fifty, and any other roads within the Federation which may be prescribed as inter-territorial by any law of the Federal Legislature.

27. *in part* In relation to Nyasaland, posts, telegraphs, telephones and wireless (other than broadcasting, television and other like forms of communication).

32. Weights and measures.

42. The control of any area which may be designated as a National Park by an order made by the Governor-General of the Federation with the consent of the Governor of the Territory in which that area is situated, being control with respect to such matters and to such extent as may be specified in that order.

60. In relation to Nyasaland, prisons and other institutions for the treatment of, and methods of treating, offenders against any law, whether or not that law is within the legislative competence of the Federal Legislature or, as the case may be, of the Legislature of the Territory.

61. In relation to Nyasaland, care and protection of minors.

64. In relation to Nyasaland, health.

65. Promotion of tourist traffic.

68. Production and distribution of Government films.

PART III

15. In relation to Southern Rhodesia, companies (as described in Part I above).

22. Aviation, aerodromes and ancillary services, including ancillary transport services and the safety of aircraft, excepting matters relating to (*a*) air services performed in the Federation and regulated by the Air Services Act 1960 and (*b*) the Central African Airways Corporation established by the Central African Airways Corporation Act 1960.

24. In relation to Southern Rhodesia, agriculture, that is to say—

(*a*) agriculture in general, including animal husbandry, dairies and dairy-farming, horticulture, poultry-farming, bee-keeping, fish-farming, pounds and agricultural colleges;

(*b*) agricultural research, including pasture, tobacco, veterinary and tsetse research;

(*c*) the provision and use of specialist services in connection with agriculture and agricultural products, including veterinary services and services dealing with chemistry, entomology and plant pathology; and

(*d*) conservation;

but not including forestry, irrigation or such agriculture as the Governor-General of the Federation and the Governor of Southern Rhodesia acting jointly shall by order have designated as African agriculture.

25. In relation to Southern Rhodesia, animal health, including animal pests and diseases.

26. In relation to Southern Rhodesia, plant pests and diseases.

27. *in part* In relation to Southern Rhodesia and Northern Rhodesia, posts, telegraphs, telephones and wireless (other than broadcasting, television and other like forms of communication).

Item

48. Control of movement of goods and animals between Territories.

50. Land banks, that is to say, government institutions or institutions set up by or under a law of the Federal Legislature or of the Legislature of a Territory, being institutions of which the main purpose is the granting of credits for housing or agricultural purposes.

51. In relation to Southern Rhodesia, co-operative companies (as described in Part I above).

60. In relation to Southern Rhodesia and Northern Rhodesia, prisons and other institutions for the treatment of, and methods of treating, offenders against any law, whether or not that law is within the legislative competence of the Federal Legislature or, as the case may be, of the Legislature of the Territory.

61. In relation to Southern Rhodesia and Northern Rhodesia, care and protection of minors.

64. In relation to Southern Rhodesia and Northern Rhodesia, health.

73. In relation to Southern Rhodesia, registration of births and deaths.

— In relation to Northern Rhodesia, non-African agriculture and plant pests and diseases (included in the Second Schedule to the Constitution by virtue of article 31 and the Non-African Agriculture (Transfer to the Concurrent List) Ordinance, 1955, of Northern Rhodesia.)

EXPLANATORY NOTE

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

This Order effects the transfer of legislative and executive power in respect of the matters specified from the Federation of Rhodesia and Nyasaland to the Territories of the Federation; and makes provision as to the continuation of existing law in the Territories.