STATUTORY INSTRUMENTS

1979 No. 1654

SOUTHERN RHODESIA

The Southern Rhodesia (Constitution of Zimbabwe) (Elections and Appointments) Order 1979

Made - - -	*12th December* 1979
Laid before Parliament	*13th December* 1979
Coming into Operation	
Sections 3(2), 4, 5, 6(2) and 7 - -	*In accordance with section* 1(2)
Remainder	*13th December* 1979

At the Court at Buckingham Palace, the 12th day of December 1979

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 2 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:—

Citation and commencement

1.—(1) This Order may be cited as the Southern Rhodesia (Constitution of Zimbabwe) (Elections and Appointments) Order 1979 and, save as provided in subsection (2), shall come into operation on 13th December 1979.

(2) Sections 3(2), 4, 5, 6(2) and 7 shall come into operation on such date as the Secretary of State may appoint by notice under his hand; and different dates may be so appointed for different provisions.

(3) A notice under this section shall be published in the London Gazette and in the official Gazette of Southern Rhodesia.

(a) 1979 c. 52.

Interpretation

2. In this Order,

"the Constitution of Zimbabwe" means the Constitution of Zimbabwe provided by Order in Council(**a**) under section 1 of the Southern Rhodesia Act 1979 and, in relation to anything done or to be done before Independence Day, means the provisions of that Constitution as brought into force and modified by this Order;

"the Governor" means the Governor of Southern Rhodesia appointed pursuant to the Southern Rhodesia Constitution (Interim Provisions) Order 1979(**b**);

"Independence Day" means the day on which, in accordance with such provision in that behalf as may be made by Act of Parliament, Southern Rhodesia becomes independent as a Republic under the name of Zimbabwe.

Election and appointment of members of a Parliament for Zimbabwe

3.—(1) The Governor shall make arrangements for the holding of a general election of the members of a House of Assembly for Zimbabwe.

(2) The Governor shall make arrangements for the election of members of a Senate for Zimbabwe and, acting on the advice of the person appointed Prime Minister under section 4, may appoint members of that Senate in accordance with the provisions of the Constitution of Zimbabwe.

Appointment of Prime Minister and other Ministers

4. Following the election of members of a House of Assembly for Zimbabwe, the Governor shall appoint a Prime Minister, and, acting on the advice of the person appointed Prime Minister, may appoint other Ministers.

Election of a President-elect

5. The Governor shall make arrangements for the persons elected members of the House of Assembly and the persons elected and appointed members of the Senate to elect a President for Zimbabwe to assume office on Independence Day.

Proclamations

6.—(1) The Governor shall give notice, by proclamation in the *Gazette*, of the days appointed for the elections referred to in sections 3 and 5.

(2) The Governor, acting on the advice of the person appointed Prime Minister under section 4, may, by proclamation in the *Gazette*, fix a place and time on or after Independence Day for the commencement of the first session of the Parliament of Zimbabwe.

(**a**) S.I. 1979/1600. (**b**) S.I. 1979/1571.

Presiding officers of Legislature

7. In addition to meeting for the purpose of the elections referred to in section 3(2) and section 5, the persons elected as members of the House of Assembly, or elected or appointed as members of the Senate, may meet for the purpose of electing the presiding officers of their respective Houses but, save as aforesaid, the Senate and the House of Assembly shall not meet, and the members thereof shall not assume their functions as such, before Independence Day.

Commencement of certain provisions of Constitution of Zimbabwe

8.—(1) Subject to subsection (2), the following provisions of the Constitution of Zimbabwe shall come into force for the purposes of the elections and appointments referred to in this Order, and otherwise for enabling the Constitution of Zimbabwe to function as from Independence Day:—

(*a*) on the commencement of this Order:—

sections 28, 33, 34, 35, 38, 39, 40, 41, 42 and Schedule 3;

(*b*) on the last of the days appointed by the Governor for the election of members of the House of Assembly:—

sections 69, 70 and 71.

(2) The provisions of the Constitution of Zimbabwe enumerated in subsection (1) shall apply before Independence Day as modified in accordance with the Schedule to this Order.

(3) Immediately before the day on which section 69 of the Constitution of Zimbabwe comes into force as herein provided, any provision of the law of Southern Rhodesia theretofore in force which establishes the office of Prime Minister or other Minister, or Deputy Minister, or makes provision for the tenure of office of any such person, shall expire.

N. E. Leigh,

Clerk of the Privy Council.

Section 8(2) SCHEDULE

MODIFICATIONS OF CERTAIN PROVISIONS OF THE CONSTITUTION OF ZIMBABWE AS THEY APPLY BEFORE INDEPENDENCE DAY

General Modifications

1.—(1) References to the President (other than in section 28) shall be read as references to the Governor.

(2) References to—

(*a*) the Standing Orders of the Senate or of the House of Assembly shall be read as references to the Standing Orders of the bodies purporting to be the Senate and the House of Assembly under the instrument entitled "The Constitution of Zimbabwe Rhodesia 1979"; and the Standing Orders shall have effect with such modifications as shall be necessary in order that they may conform with the status of Southern Rhodesia as part of Her Majesty's dominions and with the Southern Rhodesia Constitution (Interim Provisions) Order 1979;

(*b*) a person who has been a member of the Senate or the House of Assembly shall be read as a reference to a person who has been a member of a body in Southern Rhodesia which, in accordance with any provision purporting to be law in Southern Rhodesia at any time before the commencement of this Order, was established as a Senate or House of Assembly.

(3) References to the Electoral Law shall have effect as references to the Electoral Law 1979 of Southern Rhodesia as in force in accordance with any provision in that behalf made by the Governor in exercise of powers conferred on him pursuant to section 3 of the Southern Rhodesia Act 1979.

(4) Notwithstanding any provision of the Constitution of Zimbabwe, no person shall be required to take an oath of loyalty or office as described therein before Independence Day.

Constitutional provision

2. *Particular Modifications*

Section 28 (1) References to the President shall be read as references to a President-elect, and the section shall have effect as for the election of the President-elect.

(2) References to regulations in subsection (8) shall be read as references to regulations made by the Governor for the purpose of the election of a President-elect.

Section 33. References to—

(*a*) Chiefs shall be read as references to persons who are the holders of such office; and

(*b*) the Council of Chiefs shall be read as references to a Council of Chiefs which is established,

in accordance with the law in force on the first day appointed by the Governor for the election of Chiefs as members of the Senate.

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

"(*a*) eighty shall be elected by voters qualified for registration on the common roll and voting for a registered political party in the following electoral districts for the number of members specified in respect thereto by the Governor by proclamation in the official Gazette of Southern Rhodesia:—

Manicaland, Mashonaland Central, Mashonaland East, Mashonaland West, Matabeleland North, Matabeleland South, Midlands, Victoria."

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 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 Chief.

(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.".

(2) Paragraph 3 shall have effect as if:—

(*a*) the references to a citizen of Zimbabwe were references to a citizen of Southern Rhodesia and include a person who was purportedly deprived of his citizenship under section 16 of the Citizenship of Rhodesia Act otherwise than on the ground that he obtained naturalisation or registration by fraud, false pretences or concealment of a material fact, and a person who lost his citizenship under section 20 of that Act, and, in relation to the entitlement to vote for a registered political party as provided in section 38(1)(*a*), include a person who is entitled to apply for registration as a citizen;

(*b*) the reference to the day of registration included a reference to the first of the days appointed by the Governor for elections to the House of Assembly;

(*c*) the reference to "the Electoral Act 1979 as in force immediately before the appointed day" were a reference to the Electoral Law as provided in paragraph 1(3) of this Schedule;

(*d*) there was 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 the holding of elections and the making of certain appointments in Southern Rhodesia for the purpose of enabling the Independence Constitution of Zimbabwe to function from Independence Day.

The Governor is required to make arrangements for the holding of elections to a House of Assembly (section 3(1)) and for the Senate (section 3(2)). The latter provision also authorises the Governor to appoint certain Senators. Sections 4 and 5 provide for the appointment of a Prime Minister and other Ministers, and for the election of a President-elect. Section 7 relates to the presiding officers of the Legislature.

By section 8 certain provisions of the Independence Constitution of Zimbabwe are brought into force for the purposes of these elections and appointments, subject to the modifications set out in the Schedule.

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