

APP. 3.

REPUBLIC OF ZAMBIA

CONSTITUTION OF ZAMBIA

APPENDIX 3 TO THE LAWS

1965 EDITION

1965

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PART I

ZAMBIA INDEPENDENCE ACT, 1964.

ZAMBIA INDEPENDENCE ORDER, 1964.

ZAMBIA INDEPENDENCE ACT, 1964.

1964 c. 65.

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AN ACT TO MAKE PROVISION FOR, AND IN CONNECTION WITH, THE ESTABLISHMENT OF NORTHERN RHODESIA, UNDER THE NAME OF ZAMBIA, AS AN INDEPENDENT REPUBLIC WITHIN THE COMMONWEALTH.

[31st July, 1964.]

Establish-
ment of
Republic of
Zambia

1. On 24th October, 1964 (in this Act referred to as "the appointed day"), the territories which immediately before the appointed day are comprised in Northern Rhodesia shall cease to be a protectorate and shall together become an independent republic under the name of Zambia; and on and after that day Her Majesty shall have no jurisdiction over those territories.

Operation of
existing
law

2. (1) Subject to the following provisions of this Act, on and after the appointed day all law which, whether being a rule of law or a provision of an Act of Parliament or of any other enactment or instrument whatsoever, is in force on that day or has been passed or made before that day and comes into force thereafter, shall, unless and until provision to the con-

(4) The references in subsection (1) of this section to proceedings for the dissolution of a marriage include references to proceedings for such a decree of presumption of death and dissolution of marriage as is authorised by section 16 of the Matrimonial Causes Act, 1950.

8. (1) Subject to the next following subsection, all agreements which immediately before the appointed day have effect as agreements between Her Majesty or the Government of Northern Rhodesia, and the Litunga of Barotseland shall on that day cease to have effect in so far as immediately before that day they confer any rights, or impose any obligations, on Her Majesty or the Government of Northern Rhodesia.

Agreements
relating to
Barotseland

(2) The preceding subsection shall not apply to the Barotseland Agreement, 1964 (that is to say, the agreement, dated 18th May, 1964, between the Government of Northern Rhodesia and the Litunga of Barotseland which provides that it may be cited by that title), or to any agreement, whether made before or after the passing of this Act, whereby that agreement has been varied or superseded.

(3) In this section "agreement" includes any concession, undertaking or understanding, whether given or made orally or in writing; and for the purposes of subsection (1) of this section it is immaterial, in relation to any agreement, whether Her Majesty or the Government of Northern Rhodesia or the Litunga of Barotseland was an original party to the agreement or not or whether there are any parties to the agreement other than Her Majesty and the said Government and Litunga.

9. Her Majesty may by Order in Council make such adaptations in any Act of Parliament passed before this Act, or in any instrument made or having effect under any such Act, as appear to Her necessary or expedient in consequence of the change in the status of Northern Rhodesia taking effect on the appointed day.

Power to
make
consequen-
tial
provisions

10. (1) An Order in Council or other instrument made under any Act of Parliament passed before the appointed day, other than this Act, which varies or revokes a previous Order in Council or instrument in consequence of the change in the status of Northern Rhodesia taking effect on the appointed day, and any Order in Council under section 6 or section 9 of this Act, may, if made after the appointed day, be made so as to take effect on the appointed day.

Provisions
as to Orders
in Council
and other
instruments

(2) An Order in Council under section 6 or section 9 of this Act—

- (a) may contain such transitional or other incidental or supplemental provisions as appear to Her Majesty to be necessary or expedient;
- (b) may be varied or revoked by a subsequent Order in Council; and
- (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

TABLE OF STATUTES REFERRED TO IN THIS ACT.

<i>Short Title</i>	<i>Session and Chapter</i>
Judicial Committee Act, 1833... ..	3 & 4 Will. 4. c. 41.
Copyright Act, 1911	1 & 2 Geo. 5. c. 46.
Imperial Institute Act, 1925	15 & 16 Geo. 5. c. cvii.
Indian and Colonial Divorce Jurisdiction Act, 1926... ..	16 & 17 Geo. 5. c. 40.
Statute of Westminster, 1931	22 & 23 Geo. 5. c. 4.
Visiting Forces (British Commonwealth) Act, 1933... ..	23 & 24 Geo. 5. c. 6.
British Nationality Act, 1948... ..	6 & 7 Eliz. 2. c. 10.
Matrimonial Causes Act, 1950	14 Geo. 6. c. 25.
Income Tax Act, 1952	15 & 16 Geo. 6. & 1 Eliz. 2. c. 10.
Diplomatic Immunities (Commonwealth Countries and Republic of Ireland) Act, 1952.	15 & 16 Geo. 6. & 1 Eliz. 2. c. 18.
Visiting Forces Act, 1952	15 & 16 Geo. 6. & 1 Eliz. 2. c. 67.
Army Act, 1955... ..	3 & 4 Eliz. 2. c. 18.
Air Force Act, 1955	3 & 4 Eliz. 2. c. 19.
Copyright Act, 1956	4 & 5 Eliz. 2. c. 74.
Naval Discipline Act, 1957	5 & 6 Eliz. 2. c. 53.
Import Duties Act, 1958	6 & 7 Eliz. 2. c. 6.
Commonwealth Institute Act, 1958	6 & 7 Eliz. 2. c. 16.
Colonial Development and Welfare Act, 1959	7 & 8 Eliz. 2. c. 71.
Civil Aviation (Licensing) Act, 1960	8 & 9 Eliz. 2. c. 38.
Diplomatic Immunities (Conferences with Commonwealth Countries and Republic of Ireland) Act, 1961	9 & 10 Eliz. 2. c. 11.
Offices, Shops and Railway Premises Act, 1963	1963 c. 41.

THE ZAMBIA INDEPENDENCE ORDER, 1964.

AT THE COURT AT BUCKINGHAM PALACE, THE 15TH DAY OF
OCTOBER, 1964.

Present: *

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

HER MAJESTY, by virtue and in exercise of the powers in that behalf conferred by the Foreign Jurisdiction Act, 1890, and the Zambia Independence Act, 1964, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

Citation,
commence-
ment and
construction

1. (1) This Order may be cited as the Zambia Independence Order, 1964.

(2) This Order shall come into operation immediately before 24th October, 1964:

Provided that the Governor of Northern Rhodesia acting in accordance with the advice of the Prime Minister may at any time after 15th October, 1964, exercise any of the powers conferred upon the President by section 4 (3) (a) of this Order or section 82 of the Constitution of Zambia established by this Order to such extent as may, in his opinion, be necessary or expedient to enable that Constitution to function as from 24th October, 1964.

(3) Save where the context otherwise requires, expressions used in sections 1 to 22 (inclusive) of this Order have the same meaning as in the Constitution set out in Schedule 2 to this Order and the provisions of section 125 of that Constitution shall apply for the purposes of interpreting those sections as they apply for the purposes of interpreting that Constitution.

2. The Orders specified in Schedule 1 to this Order (hereinafter referred to as "the existing Orders"), excepting sections 19 and 20 of the Northern Rhodesia (Procedure in Appeals to Privy Council) Order in Council, 1963, are revoked.

Revocations

App. 10

3. Subject to the provisions of this Order, the Constitution set out in Schedule 2 to this Order (hereinafter referred to as "the Constitution") shall come into effect in Zambia at the commencement of this Order:

Establish-
ment of
Constitution

Provided that section 20 (8) of the Constitution shall come into effect in Zambia on 24th October, 1966, or such later date as Parliament may prescribe.

4. (1) Subject to the provisions of this section, the existing laws shall, notwithstanding the revocation of the existing Orders or the establishment of a Republic in Zambia, continue in force after the commencement of this Order as if they had been made in pursuance of this Order.

Existing
laws

(2) The existing laws and any Act of Parliament of the United Kingdom or Order of Her Majesty in Council (other than the Zambia Independence Act, 1964, or this Order) having effect as part of the law of Zambia or any part thereof immediately before the commencement of this Order shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Order.

(3) The President may by order made at any time before 24th April, 1965, make such amendments to—

(a) the existing laws; or

(b) any Act of Parliament of the United Kingdom or Order of Her Majesty in Council (other than the Zambia Independence Act, 1964, or this Order) having effect as part of the law of Zambia or any part thereof immediately before the commencement of this Order;

as may appear to him to be necessary or expedient for bringing those laws or that Act of Parliament or Order into conformity with the provisions of this Order or otherwise for giving effect or enabling effect to be given to those provisions.

(4) Where any matter that falls to be prescribed or otherwise provided for under the Constitution by Parliament or by any other authority or person is prescribed or provided for by or under an existing law (including any amendment to any

(d) is an overseas officer who, after the commencement of this Order, is appointed to any public office (otherwise than on promotion or transfer from another public office) and who is notified at the time of his appointment that this section will apply to him.

(6) In this section "overseas officer" means an officer in the public service who is, either individually or as a member of a class, declared by the appropriate Commission to be an overseas officer, and "the appropriate Commission" means—

(a) in relation to an officer who can be removed from his office by the Judicial Service Commission, that Commission; and

(b) in any other case, the Public Service Commission.

Legal
proceedings

17. (1) All proceedings that, immediately before the commencement of this Order, are pending before any court established by or under the existing Orders may be continued and concluded after the commencement of this Order before the corresponding court established by or under the Constitution.

(2) Any decision given before the commencement of this Order by any such court as aforesaid shall, for the purpose of its enforcement or for the purpose of any appeal therefrom, have effect after the commencement of this Order as if it were a decision of the corresponding court established by or under the Constitution.

Prerogatives
and
privileges
of Crown

18. Where under any law in force in Northern Rhodesia immediately before the commencement of this Order any prerogative or privileges are vested in Her Majesty those prerogatives or privileges shall, from the commencement of this Order, vest in the President.

Property
and assets

19. (1) Subject to the provisions of this section, any property and assets which immediately before the commencement of this Order are vested in Her Majesty, or in the Governor of Northern Rhodesia, for the purposes of the Government of Northern Rhodesia shall, from the commencement of this Order, vest in the President on behalf of the Government of Zambia.

(2) Any property which, immediately before the commencement of this Order, is liable to escheat or be forfeited to Her Majesty for the purposes of the Government of Northern Rhodesia, shall, from the commencement of this Order, be liable to escheat or be forfeited to the President on behalf of the Government of Zambia.

(3) Where, immediately before the commencement of this Order, any person holds any property or assets in trust for Her Majesty or for the Governor of Northern Rhodesia for the

purposes of the Government of Northern Rhodesia, that person shall, from the commencement of this Order, hold such property or assets on the like trust for the President.

(4) Nothing in subsection (1) or (3) of this section shall apply in relation to any property or assets which, immediately before the commencement of this Order, are vested in Her Majesty, the Secretary of State or the Governor of Northern Rhodesia by virtue of the Northern Rhodesia (Crown Lands and Native Reserves) Orders in Council, 1928 to 1963, or the Northern Rhodesia (Native Trust Land) Orders in Council, 1947 to 1963.

20. (1) All rights, liabilities and obligations of—

Rights,
liabilities and
obligations

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

shall, from the commencement of this Order, be rights, liabilities and obligations of the President on behalf of the Government of Zambia 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 contract or otherwise (other than any rights referred to in subsections (1), (2), (3) and (4) of section 19 of this Order, any rights, liabilities or obligations of Her Majesty in respect of the Government of Northern Rhodesia arising under any treaty, convention or agreement with another country or with any international organisation, and any rights or obligations which cease to have effect by virtue of section 8 of the Zambia Independence Act, 1964).

21. Until other provision is made in that behalf by Parliament in pursuance of section 111 of the Constitution and subject to the other provisions of that section, there shall be paid to the holders of the offices to which that section applies the salaries payable to the holders of the corresponding offices immediately before the commencement of this Order.

Remunera-
tion of
certain
officers

22. Parliament may alter any of the provisions of this Order in the same manner as it may alter any of the provisions of the Zambia Independence Act, 1964, which form part of the law of Zambia.

Alteration
of this
order

Section 2

SCHEDULE 1 TO THE ORDER.

ORDERS REVOKED BY THIS ORDER.

The Northern Rhodesia (Barotseland) Order in Council, 1953.

The Northern Rhodesia (Barotseland) (Amendment) Order in Council, 1963.

The Northern Rhodesia (Constitution) Order in Council, 1963.

The Northern Rhodesia (Procedure in Appeals to Privy Council) Order in Council, 1963.

The Northern Rhodesia (Constitution) (Amendment) Order, 1964.

The Northern Rhodesia (Constitution) (Amendment No. 2) Order, 1964.

The Zambia (Election of First President) Order, 1964.

Section 3

SCHEDULE 2 TO THE ORDER

THE CONSTITUTION OF ZAMBIA.

ARRANGEMENT OF SECTIONS.

CHAPTER I

THE REPUBLIC.

Section

1. Declaration of Republic.
2. Public Seal.

CHAPTER II.

CITIZENSHIP.

3. Persons who become citizens on 24th October, 1964.
4. Persons entitled to be registered as citizens by virtue of connexion with Northern Rhodesia.
5. Persons born in Zambia after 23rd October, 1964.
6. Persons born outside Zambia after 23rd October, 1964.
7. Marriage to Zambia citizen after 23rd October, 1964.
8. Persons entitled to be registered as Zambia citizens by virtue of connexion with Zambia.
9. Commonwealth citizens.
10. Reciprocal privileges for citizens of other countries.
11. Powers of Parliament.
12. Interpretation.

(3) Parliament may make provision for the renunciation by any person of his citizenship of Zambia.

(4) Parliament may provide that any period during which a person—

- (a) has been detained in execution of a sentence of imprisonment imposed by any court in Zambia or in the former Protectorate of Northern Rhodesia;
- (b) has been a patient in a hospital or other institution for the care or treatment of persons of unsound mind; or
- (c) has the right to reside in Zambia or in the former Protectorate of Northern Rhodesia by virtue only of a temporary permit issued under the authority of any law relating to immigration;

shall not be taken into account in computing the prescribed period, for the purposes of section 8 of this Constitution, in relation to that person.

12. (1) In this Chapter—

“ the Minister ” means the Minister who is for the time being responsible for matters relating to citizenship of Zambia;

“ British protected person ” means a person who is a British protected person for the purposes of the British Nationality Act, 1948.

Interpreta-
tion

(2) For the purposes of this Chapter, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the Government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.

(3) Any reference in this Chapter to the national status of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the national status of the father at the time of the father's death; and where that death occurred before 23rd October, 1964, and the birth occurred after 24th October, 1964, the national status that the father would have had if he had died on 24th October, 1964, shall be deemed to be his national status at the time of his death.

CHAPTER III.

PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL.

13. Whereas every person in Zambia is entitled to the fundamental rights and freedoms of the individual, that is to say the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest to each and all of the following, namely—

Funda-
mental rights
and
freedoms
of the
individual

- (a) life, liberty, security of the person and the protection of the law;
- (b) freedom of conscience, of expression and of assembly and association; and
- (c) protection for the privacy of his home and other property and from deprivation of property without compensation;

the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

Protection
of right to
life

14. (1) No person shall be deprived of his life intentionally save in execution of the sentence of a court in respect of a criminal offence under the law in force in Zambia of which he has been convicted.

(2) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use of force to such extent as is reasonably justifiable in the circumstances of the case—

- (a) for the defence of any person from violence or for the defence of property;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) for the purpose of suppressing a riot, insurrection or mutiny; or
- (d) in order to prevent the commission by that person of a criminal offence;

or if he dies as the result of a lawful act of war.

Protection
of right to
personal
liberty

15. (1) No person shall be deprived of his personal liberty save as may be authorised by law in any of the following cases, that is to say—

- (a) in execution of the sentence or order of a court, whether established for Zambia or some other country, in respect of a criminal offence of which he has been convicted;
- (b) in execution of the order of a court of record punishing him for contempt of that court or of a court inferior to it;
- (c) in execution of the order of a court made to secure the fulfilment of any obligation imposed on him by law;

- (d) for the purpose of bringing him before a court in execution of the order of a court;
- (e) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law in force in Zambia;
- (f) under the order of a court or with the consent of his parent or guardian, for his education or welfare during any period ending not later than the date when he attains the age of eighteen years;
- (g) for the purpose of preventing the spread of an infectious or contagious disease;
- (h) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community;
- (i) for the purpose of preventing the unlawful entry of that person into Zambia, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Zambia or for the purpose of restricting that person while he is being conveyed through Zambia in the course of his extradition or removal as a convicted prisoner from one country to another; or
- (j) to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within Zambia or prohibiting him from being within such an area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person relating to the making of any such order, or to such extent as may be reasonably justifiable for restraining that person during any visit that he is permitted to make to any part of Zambia in which, in consequence of any such order, his presence would otherwise be unlawful.

(2) Any person who is arrested or detained shall be informed as soon as reasonably practicable, in a language that he understands, of the reasons for his arrest or detention.

(3) Any person who is arrested or detained—

- (a) for the purpose of bringing him before a court in execution of the order of a court; or
- (b) upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law in force in Zambia;

and who is not released, shall be brought without undue delay before a court; and if any person arrested or detained as mentioned in paragraph (b) of this subsection is not tried within a reasonable time, then, without prejudice to any further pro-

Reappoint-
ments and
concurrent
appoint-
ments

124. (1) Where any person has vacated any office established by this Constitution, he may, if qualified, again be appointed or elected to hold that office in accordance with the provisions of this Constitution.

(2) Where a power is conferred by this Constitution upon any person to make any appointment to any office, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending the relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection, then, for the purposes of any function conferred upon the holder of that office, the person last appointed shall be deemed to be the sole holder of the office.

Interpreta-
tion

125. (1) In this Constitution, unless the context otherwise requires—

“ Act of Parliament ” means a law enacted by Parliament;

“ Barotseland ” means the territory that, on 23rd October, 1964, was comprised in the former Barotse-land Protectorate;

“ Chief ” means—

(a) the Litunga of Barotseland;

(b) an African who is recognised by the Litunga and Council to be a member of a ruling tribal family in Barotseland and who is recognised by the President to be of Chiefly status in Barotseland; or

(c) an African who is recognised by the President under the provisions of the Native Authority Ordinance or any law amending or replacing that Ordinance as a Paramount Chief, Senior Chief, Chief or Sub-Chief or an African who is appointed as a Deputy Chief;

“ the Commonwealth ” includes any dependency of a country which is a member of the Commonwealth;

“ financial year ” means the period of twelve months ending on 30th June in any year or on such other day as may be prescribed by or under an Act of Parliament;

“ the former Protectorate of Northern Rhodesia ” means the territory that, on 23rd October, 1964, was comprised in the Protectorate of Northern Rhodesia;

“ the Gazette ” means the official *Gazette* of the Government of Zambia;