

1974 No. 1895

**BRITISH NATIONALITY****The British Protectorates, Protected States and Protected Persons Order 1974***Made* - - - - 14th November 1974*Coming into Operation* - 1st January 1975

At the Court at Buckingham Palace, the 14th day of November 1974

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by sections 29(5), 30 and 32(1) of the British Nationality Act 1948(a), and by section 5 of the British Nationality (No. 2) Act 1964(b) 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:—

*Citation and commencement*

1. This Order may be cited as the British Protectorates, Protected States and Protected Persons Order 1974 and shall come into operation on 1st January 1975.

*Interpretation*

2.—(1) In this Order, unless the context otherwise requires—

“the Act” means the British Nationality Act 1948, as from time to time amended (whether before or after the commencement of this Order);

“British protected person” means a British protected person by virtue of any provision of this Order or, in relation to any time before the commencement of this Order, by virtue of any provision of the British Protectorates, Protected States and Protected Persons Order in Council 1949(c), the British Protectorates, Protected States and Protected Persons Order 1965(d) or the British Protectorates, Protected States and Protected Persons Order 1969(e) (as those Orders were from time to time amended) or of any enactment mentioned in the second column of the Schedule to this Order;

“former Arabian protectorate” means Kamaran or the Protectorate of South Arabia;

“former protectorate” means a territory named in the first column of Part I of the Schedule to this Order and accordingly does not include a former Arabian protectorate;

(a) 1948 c. 56.

(b) 1964 c. 54.

(c) S.I. 1949/140 (1949 I, p. 522).

(d) S.I. 1965/1864 (1965 III, p. 5649).

(e) S.I. 1969/1832 (1969 III, p. 5707).

“former trust territory” means a territory named in the first column of Part II of the Schedule to this Order ;

“High Commissioner” includes acting High Commissioner.

(2) A person shall, for the purposes of this Order, be of full age if he has attained the age of eighteen years or if, being a woman under that age, she has been married, and shall be of full capacity if he or she is not of unsound mind.

(3) The Interpretation Act 1889(a) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament, and as if this Order and the Order hereby revoked were Acts of Parliament.

#### *Revocation*

**3.** The British Protectorates, Protected States and Protected Persons Order 1969 is hereby revoked.

#### *Legitimated children*

**4.—(1)** A person born out of wedlock and legitimated by the subsequent marriage of his parents shall, as from the date of the marriage or 28th January 1949, whichever is later, be treated, for the purpose of determining whether he is a British protected person under this Order, as if he had been born legitimate.

(2) A person shall be deemed for the purposes of this Article to have been legitimated by the subsequent marriage of his parents if by the law of the place in which his father was domiciled at the time of the marriage the marriage operated immediately or subsequently to legitimate him, and not otherwise.

#### *Posthumous children*

**5.** Any reference in this Order to the status or description 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 status or description of the father at the time of the father's death ; and if that death occurred before 28 January 1949 and the birth occurred on or after that date, the status or description which would have been applicable to the father had he died after 28 January 1949 shall be deemed to be the status or description applicable to him at the time of his death.

#### *British Solomon Islands Protectorate*

**6.—(1)** The British Solomon Islands Protectorate (hereinafter referred to as “the Protectorate”) is hereby declared to be a protectorate for the purposes of the Act.

(2) Subject to the provisions of paragraph (3) and (4), a person shall be a British protected person by virtue of his connection with the Protectorate—

- (a) if he was born (whether before or after the commencement of this Order) in the Protectorate ; or
- (b) in the case of a person born elsewhere than in the Protectorate before 28 January 1949, if his father was born in the Protectorate ;
- (c) in the case of a person born elsewhere than in the Protectorate on or after 28 January 1949, if his father was born in the Protectorate and was a British protected person at the time of that person's birth.

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(a) 1889 c. 63.

(3) A person who was an enemy alien on 28 January 1949 shall not be a British protected person under this Article unless the authority specified in Article 17 of this Order, on application made to him by that person, so orders.

(4) A person born after the commencement of this Order shall not become a British protected person by virtue of his connection with the Protectorate unless he would otherwise be stateless.

#### *Brunei*

7.—(1) A person who, under any law providing for citizenship or nationality in force in Brunei, is a citizen or national of Brunei shall be a British protected person by virtue of his connection with Brunei.

(2) If any question arises whether any such law as is mentioned in paragraph (1) is in force, a certificate of the Secretary of State on the question shall be conclusive.

#### *New Hebrides*

8. The provisions of the Act shall apply to the New Hebrides as if it were a protected state.

#### *British protected persons by virtue of connection with a former Arabian protectorate*

9.—(1) Subject to the provisions of paragraph (2), a person shall be a British protected person by virtue of his connection with a former Arabian protectorate—

(a) if immediately before 30 November 1967 (being the date upon which the former Arabian protectorates ceased to be territories under Her Majesty's protection) he was, in accordance with the provisions of the British Protectorates, Protected States and Protected Persons Order 1965, a British protected person by virtue of his connection with one of those territories; or

(b) if he was born on or after 30 November 1967 and his father was born in a former Arabian protectorate and is (or would but for his death have been) a British protected person by virtue of sub-paragraph (a).

(2) A person shall not be a British protected person under paragraph (1) if he is or has at any time been a national of the People's Democratic Republic of Yemen.

#### *British protected persons by virtue of connection with a former protectorate or trust territory*

10.—(1) A person shall be a British protected person by virtue of his connection with a former protectorate or trust territory if he was a British protected person immediately before the commencement of this Order by virtue of Article 13(1) of the British Protectorates, Protected States and Protected Persons Order 1969 and any enactment mentioned in the second column of the Schedule to this Order.

(2) Subject to the provisions of paragraph (3), a person shall be a British protected person by virtue of his connection with a former protectorate or trust territory if his father was born there and, at the time of that person's

birth, was (or would but for his death have been) such a British protected person by virtue of paragraph (1) or by virtue of any such provisions as are mentioned in that paragraph.

(3) A person shall not be a British protected person under paragraph (2) by virtue of his connection with a former protectorate or trust territory if he is, or has at any time been, a citizen of a country mentioned in section 1(3) of the Act which is constituted by that former protectorate or trust territory or of which that former protectorate or trust territory forms part.

*Additional grounds for status of British protected person by birth*

**11.**—(1) For the purposes of this Order, a person born aboard a ship or aircraft which is registered in a protectorate, a former protectorate or trust territory or a former Arabian protectorate, or aboard an unregistered ship or aircraft of the government of a protectorate, or a former protectorate or trust territory or a former Arabian protectorate shall be deemed to have been born in that protectorate, former protectorate or trust territory or former Arabian protectorate.

(2) Where a new-born infant is found on or after 29 October 1965 abandoned in a protectorate, a former protectorate or trust territory or a former Arabian protectorate, that infant shall, unless the contrary is shown, be deemed for the purposes of this Order to have been born in the territory where he was so found.

(3) In paragraph (1) any reference to a ship shall include a reference to a hovercraft within the meaning of the Hovercraft Act 1968(a).

*Registration of stateless persons as British protected persons by virtue of connection with the Protectorate or one of certain other territories*

**12.**—(1) A person shall be entitled, on making application in the prescribed manner, to be registered as a British protected person if he satisfies the authority to whom application is made that he is and always has been stateless and that he has the following connection with the Protectorate or a former protectorate or trust territory, that is to say—

- (a) if he was born before 28 January 1949, that his father or mother became (or would but for his or her death have become) a British protected person on 28 January 1949 by virtue of his or her connection with the Protectorate or that former protectorate or trust territory ;
- (b) if he was born on or after 28 January 1949, that his father or mother was (or would but for his or her death have been) a British protected person at the time of his birth by virtue of his or her connection with the Protectorate or that former protectorate or trust territory.

(2) A person shall be entitled, on making application in the prescribed manner, to be registered as a British protected person if he satisfies the authority to whom application is made that he is and always has been stateless and that he has a connection with a former Arabian protectorate by reason that his father or mother is (or would but for his or her death have been) a British protected person by virtue of Article 9(1)(a) of this Order.

(3) An application for the registration under this Article of a person who is not of full age may be made by his parent or guardian or, if he has attained the age of sixteen years, by that person himself or by his parent or guardian.

(4) The provisions of paragraphs (1) and (2) shall apply, where the relevant parent is the mother, to persons born illegitimate as well as to persons born legitimate.

*Registration of women married to British protected persons*

**13.**—(1) Subject to the provisions of paragraph (2), a woman may, on making application in the prescribed manner, be registered as a British protected person if she satisfies the authority to whom the application is made that she has been married to a person who, at the time of the application is, or but for his death would be, a British protected person by virtue of his connection with—

- (a) the Protectorate ; or
- (b) a former protectorate, a former trust territory or a former Arabian protectorate.

(2) A woman shall not be registered under this Article—

- (a) where the connection is with a former protectorate or a trust territory, if she is a citizen of a country mentioned in section 1(3) of the Act which is constituted by that former protectorate or trust territory or of which that former protectorate or trust territory forms part ; or
- (b) where the connection is with a former Arabian protectorate, if she is, or has at any time been, a national of the People's Democratic Republic of Yemen.

*Effect of registration as a British protected person*

**14.** A person registered under Article 12 or 13 of this Order shall be a British protected person by registration as from the date on which he is registered.

*Loss of status of British protected person in certain cases*

**15.**—(1) A person who is a British protected person by virtue of his connection with a former protectorate or trust territory shall cease to be such if he becomes a citizen of a country mentioned in section 1(3) of the Act which is constituted by that former protectorate or trust territory or of which that former protectorate or trust territory forms part.

(2) A person who is a British protected person by virtue of his connection with a former Arabian protectorate shall cease to be such if he becomes a national of the People's Democratic Republic of Yemen.

*Renunciation of status of British protected person*

**16.**—(1) Notwithstanding any other provision of this Order, any person of full age and capacity who is a British protected person by or under any provision, other than Article 7, of this Order and—

- (a) is also a citizen of any country mentioned in section 1(3) of the Act or of the Republic of Ireland or a national of a foreign country as defined in section 32(1) of the Act ; or
- (b) satisfies the authority to whom the declaration of renunciation is submitted that after registration of the declaration he will become such a citizen or national,

may by declaration renounce his status as a British protected person.

(2) The authority to whom the declaration is submitted shall cause it to be registered, and upon registration the declarant shall cease to be a British protected person ; but if he is a person who made the declaration in pursuance of the provisions of paragraph (1)(b) and he does not become such a citizen or national within six months from the date of registration he shall be, and be deemed to have remained, a British protected person notwithstanding the registration.

(3) The authority to whom a declaration of renunciation under this Article is submitted may withhold registration thereof if it is made during any war in which Her Majesty may be engaged.

*Authority to whom applications and declarations are to be made or submitted*

**17.** An application for an order under Article 6 (3), an application for registration as a British protected person under Article 12 or 13 and a declaration of renunciation of the status of British protected person under Article 16 of this Order shall be made or submitted,—

(a) where a connection is claimed with the Protectorate, to the Governor thereof ;

(b) where a connection is claimed with a former protectorate or trust territory which constitutes or is comprised in a country mentioned in section 1(3) of the Act, in which there is a High Commissioner for Her Majesty's Government in the United Kingdom, to the High Commissioner in that country ;

(c) in any other case, to the Secretary of State ;

and the authority to whom the application is made or the declaration is submitted may prescribe the form thereof and the manner of making it.

*Transition*

**18.** Any application, declaration, order or registration made, given, effected or continuing to have effect before the commencement of this Order in accordance with any of the provisions of the British Protectorates, Protected States and Protected Persons Order 1969 or of any Order revoked by that Order shall continue to have effect as if made, given or effected in accordance with the corresponding provision of this Order, subject to any such modification or exception as may be necessary to bring it into conformity with that provision.

*N. E. Leigh*

## SCHEDULE

Article 2

## PART I

## FORMER PROTECTORATES

Bechuanaland Protectorate	...	Botswana Independence Act 1966, section 3(2).	1966 c. 23.
Gambia Protectorate	... ..	Gambia Independence Act 1964, section 2(2).	1964 c. 93.
Kenya Protectorate	... ..	Kenya Independence Act 1963, section 2(1).	1963 c. 54.
Nigeria Protectorate	... ..	Nigeria Independence Act 1960, section 2(1).	8 & 9 Eliz. 2. c. 55.
Northern Rhodesia	... ..	Zambia Independence Act 1964, section 3(2).	1964 c. 65.
Northern Territories of the Gold Coast.		Ghana Independence Act 1957, section 2.	5 & 6 Eliz. 2. c. 6.
Nyasaland Protectorate	... ..	Malawi Independence Act 1964, section 2(2).	1964 c. 46.
Sierra Leone Protectorate	... ..	Sierra Leone Independence Act 1961, section 2(1).	9 & 10 Eliz. 2. c. 16.
Uganda Protectorate	... ..	Uganda Independence Act 1962, section 2(1).	10 & 11 Eliz. 2. c. 57.

## PART II

## FORMER TRUST TERRITORIES

Tanganyika ... ..	Tanganyika Independence Act 1961, section 2(1).	10 & 11 Eliz. 2. c. 1.
Cameroons under United Kingdom Trusteeship.	Nigeria Independence Act 1960, section 2(1).	8 & 9 Eliz. 2. c. 55.
Togoland under United Kingdom Trusteeship.	Ghana Independence Act 1957, section 2.	5 & 6 Eliz. 2. c. 6.

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

Following termination of the special treaty relationship with Bahrain, Qatar and the former Trucial States, the attainment of full independence by Tonga and the conclusion of the Amending Agreement of 1971 with Brunei all the states listed in Schedule 2 to the British Protectorates, Protected States and Protected Persons Order 1969 have ceased to be states under the protection of Her Majesty. This Order therefore supersedes the 1969 Order. It specifies the territories which are protectorates or protected states for the purposes of the British Nationality Act 1948, as from time to time amended, or to which provisions of the Act are applied as if they were one or the other, defines who are to be British protected persons for the purposes of the Act by virtue of their connection with the British Solomon Islands Protectorate, Brunei, a former protectorate, Arabian protectorate or trust territory, and provides for the registration as British protected persons of certain categories of persons who are stateless.

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