

## STATUTORY INSTRUMENTS

1982 No. 1070

## BRITISH NATIONALITY

The British Protectorates, Protected States and Protected Persons  
Order 1982

*Made* - - - 30th July 1982

*Laid* 9th August 1982

*Coming into Operation* 1st January 1983

At the Court at Buckingham Palace, the 30th day of July 1982

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by section 38(1) of the British Nationality Act 1981(a) and by 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 1982 and shall come into operation on 1st January 1983.

*Interpretation*

2.—(1) In this Order, unless the context otherwise requires—  
“the Act” means the British Nationality Act 1981.

“British protected person” means a British protected person by virtue of any provision of this Order or by virtue of the Solomon Islands Act 1978(b) 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), the British Protectorates, Protected States and Protected Persons Order 1969(e), or the British Protectorates, Protected States and Protected Persons Order 1974(f) (as those Orders were from time to time amended) or the British Protectorates, Protected States and Protected Persons Order 1978(g), or of any enactment mentioned in the second column of the Schedule to this Order;

(a) 1981 c. 61.

(d) S.I. 1965/1864.

(g) S.I. 1978/1026.

(b) 1978 c. 15.

(e) S.I. 1969/1832.

(c) S.I. 1949/140.

(f) S.I. 1974/1895.

“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;

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

“dependent territory” is a dependent territory listed in Schedule 6 to the Act.

(2) A person is, for the purposes of this Order, of full age if he has attained the age of eighteen years and of full capacity if he is not of unsound mind.

(3) References in this Order to a person having or acquiring another nationality are to his being or (as the case may be) becoming a citizen of any country specified in Schedule 3 to the Act, or of a foreign country or of the Republic of Ireland.

#### *Legitimated Children*

3.—(1) A person born out of wedlock and legitimated by the subsequent marriage of his parents shall, as from the date of the marriage, 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 legitimize him, and not otherwise.

#### *Posthumous children*

4. Any reference in this Order to the status or description of the father or mother of a person at the time of that person's birth shall, in relation to a person born after the death of his father or mother be construed as a reference to the status or description of the parent in question at the time of that parent's death; and if that death occurred before 1st January 1983 and the birth occurred on or after that date, the status or description which would have been applicable to the father or mother had he or she died after 1st January 1983 shall be deemed to be the status or description applicable to him or her at the time of his or her death.

#### *Brunei*

5.—(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) above is in force, a certificate of the Secretary of State on the question shall be conclusive.

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

6.—(1) A person who immediately before the commencement of this Order was a British protected person by virtue of the British Protectorates, Protected States and Protected Persons Order 1978, shall continue to be a British protected person on and after the commencement of this Order subject to Article 10 below.

(2) A person shall not become a British protected person by virtue of connection with a former protectorate, a former trust territory, a former Arabian protectorate or the former Solomon Islands protectorate unless he is registered in accordance with the provisions of Article 7 below.

*Provisions for Reducing Statelessness.*

7.—(1) Where a person born after commencement of this Order, would, but for this Article, be born stateless, then, he shall be a British protected person if he is born in the United Kingdom or a dependent territory and either his father or his mother was a British protected person at the time he was born.

(2) A person born outside the United Kingdom and the dependent territories whether before or after the commencement of this Order shall be entitled, on making application in the prescribed manner to the Secretary of State, to be registered as a British protected person if the following requirements are satisfied, namely:—

- (a) that he is and always has been stateless;
- (b) that either his father or mother was a British protected person at the time when he was born; and
- (c) that he was in the United Kingdom or a dependent territory or territories (no matter which) at the beginning of the period of three years ending with the date of his application and that the number of days on which he was absent from both the United Kingdom and the dependent territory or territories in that period does not exceed 270.

(3) An application for the registration under this Article of a person who is not of full age or capacity may be made on his behalf by his parent or guardian or any person who has assumed responsibility for his welfare.

(4) The provisions of paragraphs (1), (2) and (3) above shall apply, if and only if the relevant parent is the mother, to persons born illegitimate as well as to persons born legitimate.

(5) If, in the special circumstances of any particular case, the Secretary of State thinks fit, he may for the purpose of sub-paragraph (2)(c) above treat the person who is the subject of the application as fulfilling the requirement specified in sub-paragraph (2)(c) although the number of days on which he was absent from both the United Kingdom and the dependent territories in that period there mentioned exceeds the number there mentioned.

*Births upon ships or aircraft. Foundlings.*

8.—(1) For the purpose of this Order, 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 where the ship or aircraft was registered or, as the case may be, in that country:

Provided that he shall only be deemed to have been born in the United Kingdom or a dependent territory if he was born stateless.

(2) Where, after the commencement of this Order, a new-born infant is found abandoned, 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) above any reference to a ship shall include reference to a hovercraft within the meaning of the Hovercraft Act 1968(a).

*Effect of registration as a British protected person*

9. A person registered under Article 7 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*

10. A person who is a British protected person by virtue of connection with a former protectorate, a former trust territory or a former Arabian protectorate or by virtue of Article 7 or 10 of the British Protectorates, Protected States and Protected Persons Order 1978 or who is a British protected person by registration under Article 7 of this Order, shall cease to be such if at any time he becomes a British citizen, a British Dependent Territories citizen or a British Overseas citizen or acquires another nationality.

*Renunciation of status of British Protected Person*

11.—(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 5, of this Order and

- (a) is also a British citizen, a British Dependent Territories citizen or a British Overseas citizen or has another nationality; or
- (b) satisfies the Secretary of State, being the authority to whom the declaration of renunciation is submitted, that after registration of the declaration he will become such a citizen or will acquire another nationality,

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

(2) The Secretary of State 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) above and he does not become such a citizen or acquire another nationality 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 Secretary of State may withhold registration thereof if it is made during any war in which Her Majesty may be engaged in right of Her Majesty's Government in the United Kingdom.

*Form and manner of making of applications and declarations*

12. The Secretary of State may prescribe the form and the manner of the making of an application for registration as a British protected person under Article 7 of this Order and of a declaration of renunciation of the status of British protected person under Article 11 of this Order.

*Transition*

**13.** 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 1978 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,*  
Clerk of the Privy Council.

## SCHEDULE

## Article 2

## PART I

## FORMER PROTECTORATES

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

## PART II

## FORMER TRUST TERRITORIES

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

## EXPLANATORY NOTE

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

Following the coming into operation of the British Nationality Act 1981, this Order defines who are to be British protected persons for the purposes of the British Nationality Act 1981 by virtue of their connection with any former protectorate, any former Arabian protectorate, any former trust territory, the former Solomon Islands protectorate, or with Brunei. It also provides for the registration as British protected persons of certain categories of persons who are stateless. This Order supersedes the 1978 Order.

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