

2002 No. 3025

IMMIGRATION

**The Immigration and Asylum Act 1999 (Part V Exemption:
Relevant Employers) Order 2002**

Made - - - - - *5th December 2002*

Laid before Parliament *9th December 2002*

Coming into force - - *1st January 2003*

The Secretary of State, in exercise of the powers conferred on him by sections 84(4)(d) and 166 of the Immigration and Asylum Act 1999(a) hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Immigration and Asylum Act 1999 (Part V Exemption: Relevant Employers) Order 2002 and shall come into force on 1st January 2003 and shall continue in force until the end of 31st December 2003, when it shall expire.

Interpretation

2. In this Order—
- “the Act” means the Immigration and Asylum Act 1999;
 - “immigration advice” and “immigration services” have the same meanings as in section 82 of the Act;
 - “work permit” has the same meaning as in section 33(1) of the Immigration Act 1971(b);
 - “immediate family” means a person’s spouse, and children below eighteen years of age;
 - “EEA national” means a person to whom the Immigration (European Economic Area) Regulations 2000(c) apply.
 - “family member of an EEA national” has the same meaning as in the Immigration (European Economic Area) Regulations 2000.

Exemption of relevant employers

3.—(1) Subject to paragraph (2), section 84(1) of the Act (provision of immigration services) shall not apply to a person who provides immigration advice or immigration services free of charge to an employee or prospective employee who—

- (a) is the subject of an application for a work permit submitted by the prospective employer;
- (b) has been granted a work permit entitling him to work with the employer; or

(a) 1999 c. 33.

(b) 1971 c. 77; as amended by Schedule 4 to the British Nationality Act 1981 (c. 61).

(c) S.I. 2000/2326; as amended by S.I. 2001/865: The Immigration (Swiss Free Movement of Persons) (No. 3) Regulations 2002 (S.I. 2002/1241) apply S.I. 2000/2326 to Swiss nationals and persons related to Swiss nationals and to posted workers as they apply to EEA nationals.

(c) is an EEA national or the family member of an EEA national, where the immigration advice or immigration services are restricted to matters which concern that employee or prospective employee or his immediate family.

(2) For the purposes of paragraph (1), the person providing the immigration advice or immigration services must be the employer or prospective employer of the person receiving the advice or services, or an employee of that employer acting as such.

Home Office
5th December 2002

Beverley Hughes
Parliamentary Under-Secretary of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order temporarily exempts relevant employers from the prohibition imposed under section 84(1) of the Act and the related criminal offence of providing immigration advice or immigration services in breach of section 84. The exemption applies to employers or their staff in cases where the advice or services are provided only to employees or prospective employees who are the subject of an application for, or have been granted a valid work permit for that employment, or, who do not require a work permit by virtue of their EEA status, where the advice or services are provided in connection with that employee or their immediate family only.

There was previously a temporary exemption for employers created by S.I. 2002/9. That Order expires on 31st December 2002. This Order will expire on 31st December 2003.

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