

2004 No. 3171

IMMIGRATION

**The Immigration (Exemption from Control) (Amendment)
Order 2004**

Made - - - - - *2nd December 2004*

Laid before Parliament *3rd December 2004*

Coming into force in accordance with article 1

The Secretary of State, in exercise of the powers conferred upon him by section 8(2) of the Immigration Act 1971(a), hereby makes the following Order:

1. This Order may be cited as the Immigration (Exemption from Control) (Amendment) Order 2004 and shall come into force on the date on which the Agreement on the Privileges and Immunities of the International Criminal Court done at New York on 9th September 2002(b) enters into force in respect of the United Kingdom.

2.—(1) The Immigration (Exemption from Control) Order 1972(c) shall be amended in accordance with paragraphs (2) and (3) below.

(2) In article 4 (which exempts certain persons from any provision of the Immigration Act 1971 relating to those who are not British citizens except any provision relating to deportation), after paragraph (n)(d) there shall be inserted the following paragraph:

“(o) any person falling within article 4A below.”

(3) After article 4 there shall be inserted the following article:

“4A.—(1) In relation to the court (“the ICC”) established by the Rome Statute of the International Criminal Court done at Rome on 17th July 1998(e) (“the Rome Statute”);

(a) except in so far as in any particular case the exemption given by this article is waived by the State or intergovernmental organisation they represent,

(i) any representative of a State party to the Rome Statute attending meetings of the Assembly or one of its subsidiary organs,

(ii) any representative of another State attending meetings of the Assembly or one of its subsidiary organs as an observer, and

(iii) any representative of a State or of an intergovernmental organisation invited to a meeting of the Assembly or one of its subsidiary organs,

while exercising their official functions and during their journey to and from the place of the meeting;

(a) 1971 c.77. Section 8(2) was amended by the British Nationality Act 1981 (c.61).

(b) Cm. 5839.

(c) S.I. 1972/1613.

(d) Paragraph (n) was substituted by S.I. 1997/2207.

(e) Cm. 4555.

- (b) except in so far as in any particular case the exemption given by this article is waived by the State they represent, any representative of a State participating in the proceedings of the ICC while exercising their official functions and during their journeys to and from the place of the proceedings of the ICC;
- (c) except in so far as in any particular case the exemption given by this article is waived by an absolute majority of the judges, any judge and the Prosecutor, when engaged on or with respect to the business of the ICC;
- (d) except in so far as in any particular case the exemption given by this article is waived by the Prosecutor, any Deputy Prosecutor, when engaged on or with respect to the business of the ICC;
- (e) except in so far as in any particular case the exemption given by this article is waived by the Presidency, the Registrar, when engaged on or with respect to the business of the ICC;
- (f) except in so far as in any particular case the exemption given by this article is waived by the Registrar, the Deputy Registrar, so far as necessary for the performance of his functions;
- (g) except in so far as in any particular case the exemption given by this article is waived by the Prosecutor, any member of the staff of the office of the Prosecutor, so far as necessary for the performance of their functions;
- (h) except in so far as in any particular case the exemption given by this article is waived by the Registrar, any member of the staff of the Registry, so far as necessary for the performance of their functions;
- (i) except in so far as in any particular case the exemption given by this article is waived by the Presidency and subject to the production of the certificate under seal of the Registrar provided to counsel and persons assisting defence counsel upon appointment, counsel and any person assisting defence counsel, so far as necessary for the performance of their functions;
- (j) except in so far as in any particular case the exemption given by this article is waived by the Presidency and subject to the production of a document provided by the ICC certifying that the person's appearance before the ICC is required by the ICC and specifying a time period during which such appearance is necessary, any witness, to the extent necessary for their appearance before the ICC for the purposes of giving evidence;
- (k) except in so far as in any particular case the exemption given by this article is waived by the Presidency and subject to the production of a document provided by the ICC certifying the participation of the person in the proceedings of the ICC and specifying a time period for that participation, any victim, to the extent necessary for their appearance before the ICC;
- (l) except in so far as in any particular case the exemption given by this article is waived by the head of the organ of the ICC appointing the person and subject to the production of a document provided by the ICC certifying that the person is performing functions for the ICC and specifying a time period during which those functions will last, any expert performing functions for the ICC, to the extent necessary for the exercise of those functions;
- (m) any member of the family of a person exempted under any of paragraphs (c) to (h) above forming part of their household.

(2) In paragraph (1) above:

“the Assembly” means the assembly of State parties to the Rome Statute;

“the Presidency” means the organ of the ICC composed of the president and the first and second vice-presidents of the ICC elected in accordance with article 38, paragraph 1, of the Rome Statute;

“the Prosecutor” and “Deputy Prosecutors” mean the prosecutor and deputy prosecutors respectively elected by the assembly of State parties to the Rome Statute in accordance with article 42, paragraph 4, of the Rome Statute;

“the Registrar” and “the Deputy Registrar” mean the registrar and deputy registrar respectively elected by the ICC in accordance with article 43, paragraph 4, of the Rome Statute.”

Home Office
2nd December 2004

Des Browne
Minister of State

EXPLANATORY NOTE

(This note is not part of the Order)

The Rome Statute of the International Criminal Court done at Rome on 17th July 1998 established the International Criminal Court (“the ICC”). The Agreement on the Privileges and Immunities of the International Criminal Court done at New York on 9th September 2002 (“the Agreement”) requires State parties to, inter alia, exempt from immigration restrictions certain persons engaged on or with respect to the business of the ICC.

This Order amends the Immigration (Exemption from Control) Order 1972 (“the principal Order”), made under section 8(2) of the Immigration Act 1971 (“the Act”). It will enable Her Majesty’s Government to ratify the Agreement and will enter into force on the date on which the Agreement enters into force in respect of the United Kingdom. That date will be notified in the London, Edinburgh and Belfast Gazettes.

Article 4 of the principal Order exempts from any provision of the Act relating to those who are not British citizens except any provision relating to deportation certain specified persons. This Order amends article 4 of the principal Order to provide that certain persons engaged on or with respect to the business of the ICC are to be exempt from any provision of the Act relating to those who are not British citizens except any provision relating to deportation.

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