STATUTORY INSTRUMENTS

# 2003 No. 3214

# IMMIGRATION

# The Immigration and Asylum Act 1999 (Part V Exemption: Relevant Employers) Order 2003

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| *Made* - - - - | *8th December 2003* |
| *Laid before Parliament* | *11th December 2003* |
| *Coming into force* - - | *1st January 2004* |

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(**1**), 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 2003 and shall come into force on 1st January 2004.

> **Commencement Information**
> **I1**  Art. 1 in force at 1.1.2004, see **art. 1**

**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(**2**);

"immediate family" means a person's spouse, and children below eighteen years of age;

**F1** …

**F1** …

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(**1**)  1999 c. 33.

(**2**)  1971 c. 77; as amended by Schedule 4 to the British Nationality Act 1981(c. 61).

> **F1** Words in art. 2 omitted (31.12.2020) by virtue of The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), regs. 1(2), **30(2)**
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> **Commencement Information**
> **I2** Art. 2 in force at 1.1.2004, see **art. 1**

### Exemption of relevant employers

**3.**—(1) Subject to paragraph (2), the following category of person is hereby specified for the purposes of section 84(4)(d) of the Act (provision of immigration services), namely, 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; [F2]...

    [F2](c) · · · · · · · · · · · · · · · · · · · · · · · · · · · · ·

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.

> **F2** Art. 3(1)(c) and word omitted (31.12.2020) by virtue of The Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (Consequential, Saving, Transitional and Transitory Provisions) (EU Exit) Regulations 2020 (S.I. 2020/1309), regs. 1(2), **30(3)**
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> **Commencement Information**
> **I3** Art. 3 in force at 1.1.2004, see **art. 1**

*Beverley Hughes*
Home Office                                    Minister of State

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order 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, initially, by S.I.2002/9 which expired on 31st December 2002, and extended by S.I. 2002/3025 which expires on 31st December 2003. This Order will continue in force indefinitely.