

1978 No. 1026

BRITISH NATIONALITY

**The British Protectorates, Protected States and Protected
Persons Order 1978***Made* - - - 25th July 1978*Coming into Operation* 16th August 1978

At the Court at Buckingham Palace, the 25th day of July 1978

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 1978 and shall come into operation on 16th August 1978.

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 by virtue of the Solomon Islands Act 1978(c) 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(d), the British Protectorates, Protected States and Protected Persons Order 1965(e), the British Protectorates, Protected States and Protected Persons Order 1969(f) or the British Protectorates, Protected States and Protected Persons Order 1974(g) (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 or the former Solomon Islands protectorate;

(a) 1948 c. 56.

(b) 1964 c. 54.

(c) 1978 c. 15.

(d) S.I. 1949/140.

(e) S.I. 1965/1864.

(f) S.I. 1969/1832.

(g) S.I. 1974/1895.

“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) 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 section 1(3) of the Act (except, in relation to Article 7, Solomon Islands), or of a foreign country or of the Republic of Ireland.

(4) 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 1974 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 28th 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 28th January 1949 shall be deemed to be the status or description applicable to him at the time of his death.

Brunei

6.—(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 the former Solomon Islands protectorate

7.—(1) 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 is married to a person who at the time of the application is a British protected person by virtue of the Solomon Islands Act 1978 and provided that she is not a citizen of Solomon Islands.

(2) A woman who is registered as a British protected person in accordance with the provisions of paragraph (1) above shall cease to be such—

- (a) on becoming at any time a citizen of Solomon Islands or of the United Kingdom and Colonies;
- (b) on 7th July 1980, if she then has another nationality; or
- (c) after that day, on acquiring another nationality.

(3) A person born after the commencement of this Order shall not become a British protected person by virtue of connection with the former Solomon Islands protectorate unless he does so by virtue of section 4(2) of the Solomon Islands Act 1978 or unless he is registered in accordance with the provisions of Article 10 below.

(4) A woman shall not cease to be a British protected person under paragraph (2) above unless her husband does so.

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

8.—(1) A person who immediately before the commencement of this Order was a British protected person by virtue of Article 9 or Article 10 of the British Protectorates, Protected States and Protected Persons Order 1974 shall continue to be a British protected person on and after the commencement of this Order subject to Article 13 below.

(2) A person born after the commencement of this Order shall not become a British protected person by virtue of connection with a former protectorate, a former trust territory or a former Arabian protectorate unless he is registered in accordance with the provisions of Article 10 below.

Additional grounds for status of British protected person by birth

9.—(1) For the purposes 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 in which the ship or aircraft was registered or, as the case may be, in that country.

(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 a reference to a hovercraft within the meaning of the Hovercraft Act 1968(a).

Registration of stateless persons as British protected persons

10.—(1) A person born after the commencement of this Order shall be entitled, on making application in the prescribed manner, to be registered as a British

(a) 1968 c. 59.

protected person if he satisfies the authority to whom application is made that he is and always has been stateless and—

- (a) that either his father or mother was a British protected person at the time when he was born;
- (b) that he was born at a place in the territory of a state (other than the United Kingdom) which was not at the time of his birth a Contracting State to the Convention on the Reduction of Statelessness, signed at New York on 30th August 1961(a); and
- (c) that he has been ordinarily resident in the United Kingdom or a relevant territory throughout the period of three years ending with the date of his application.

(2) 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.

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

(4) In paragraph (1)(c) above “relevant territory” means any territory which, throughout the period of ordinary residence in that territory, is a colony or an associated state, other than any territory which is not throughout that period a colony for the purposes of the Act as then in force.

Registration of women married to British protected persons

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

12. A person registered under Article 7, 10 or 11 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

13.—(1) 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 who is a British protected person by registration under Article 10 or 11 of this Order, shall cease to be such if at any time he becomes a citizen of the United Kingdom and Colonies or acquires another nationality.

(2) A woman shall not cease to be a British protected person under paragraph (1) above unless her husband does so.

Renunciation of status of British protected person

14.—(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 6, of this Order or by virtue of the Solomon Islands Act 1978, and

- (a) is also a citizen of the United Kingdom and Colonies or has another nationality; 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 will acquire another nationality,

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) 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 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

15. An application for registration as a British protected person under Article 7, 10 or 11 and a declaration of renunciation of the status of British protected person under Article 14 of this Order shall be made or submitted,

- (a) where the application for registration is on grounds of marriage to or descent from a British protected person by virtue of the Solomon Islands Act 1978, to the High Commissioner for Her Majesty's Government in the United Kingdom in Solomon Islands;
- (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

16. 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 1974 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.

Article 2

SCHEDULE

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 Potectorate	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 & 11 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 independence of the former Solomon Islands protectorate, this Order defines who are to be British protected persons for the purposes of the British Nationality Act 1948 by virtue of their connection with the former Solomon Islands protectorate, other than under the Solomon Islands Act 1978, or by virtue of their connection with any other former protectorate, any former Arabian protectorate or any former trust territory, or Brunei. It also provides for the registration as British protected persons of certain categories of persons who are stateless. This Order supersedes the 1974 Order.

SI 1978/1026
ISBN 0-11-084026-7

