

1982 No. 1649

IMMIGRATION

**The Immigration (Exemption from Control) (Amendment) Order
1982**

<i>Made - - - -</i>	<i>23rd November 1982</i>
<i>Laid before Parliament</i>	<i>1st December 1982</i>
<i>Coming into Operation</i>	<i>1st January 1983</i>

In exercise of the powers conferred upon me by section 8(2) and (5A) of the Immigration Act 1971(a), I hereby make the following Order:—

1. This Order may be cited as the Immigration (Exemption from Control) (Amendment) Order 1982 and shall come into operation on 1st January 1983.

2. In the Immigration (Exemption from Control) Order 1972(b) in Articles 3(1), 4 and 5(1) for the word “patrial” there shall be substituted in each case the words “British citizens”.

3. In the said Order of 1972, after Article 5 there shall be inserted the following Article:—

“6.—(1) For the purposes of section 1(1) of the British Nationality Act 1981(c) (which relates to acquisition of British citizenship by birth in the United Kingdom), a person to whom a child is born in the United Kingdom on or after 1st January 1983 is to be regarded (notwithstanding the preceding provisions of this Order) as settled in the United Kingdom at the time of the birth if—

- (a) he would fall to be so regarded but for his being at that time entitled to an exemption by virtue of this Order; and
- (b) immediately before he became entitled to that exemption he was settled in the United Kingdom; and
- (c) he was ordinarily resident in the United Kingdom from the time when he became entitled to that exemption to the time of the birth;

(a) 1971 c. 77; section 8(2) was amended by the British Nationality Act 1981 (c. 61), Schedule 4 paragraph 2; and subsection (5A) of section 8 was inserted by section 39(4) of that Act.

(b) S.I. 1972/1613, amended by S.I. 1975/617, 1977/693.

(c) 1981 c. 61.

but this Article shall not apply if at the time of the birth the child's father or mother is a person on whom any immunity from jurisdiction is conferred by or under the Diplomatic Privileges Act 1964(a).

(2) Expressions used in this Article shall be construed in accordance with section 50 of the British Nationality Act 1981.”.

W. S. I. Whitelaw,
One of Her Majesty's Principal
Secretaries of State.

Home Office.
23rd November 1982.

EXPLANATORY NOTE

(This Note is not part of the Order.)

Under section 1(1) of the British Nationality Act 1981 a person born in the United Kingdom after the commencement of that Act on 1st January 1983 (see S.I. 1982/933) will be a British citizen if his father or mother is a British citizen or settled in the United Kingdom. Section 50(3) provides *inter alia* that a person is not to be regarded as settled for the purposes of the Act at any time when he was entitled to an exemption under section 8(2) of the Immigration Act 1971 (which enables the Secretary of State by Order to confer exemption from immigration control) unless the Order conferring the exemption provides otherwise. In section 1(1) of the 1981 Act, by virtue of section 50, “the United Kingdom” includes the Channel Islands and the Isle of Man; and “mother” includes the mother of an illegitimate child.

This Order amends the Immigration (Exemption from Control) Order 1972 so as to provide that a person shall in certain circumstances be regarded as settled in the United Kingdom for the purposes of section 1(1) of the 1981 Act, notwithstanding that he is entitled to an exemption by virtue of that Order. The circumstances in which such a person is to be so regarded correspond to those in which a person entitled to an exemption under section 8(3) of the 1971 Act (which confers exemption on certain persons connected with a diplomatic mission or who otherwise have immunity) is, by virtue of section 50(4) of the 1981 Act, to be so regarded.

References in the 1972 Order to persons who are not patrial are replaced by references to persons who are not British citizens, consequent upon a similar amendment made to section 8(2) of the 1971 Act by paragraph 2 of Schedule 4 to the 1981 Act.

(a) 1964 c. 81.

SI 1982/1649
ISBN 0-11-027649-3

