STATUTORY INSTRUMENTS

1965 No. 1864

BRITISH NATIONALITY

The British Protectorates, Protected States and Protected Persons Order 1965

Made - - - - 29th October 1965

At the Court at Buckingham Palace, the 29th day of October 1965

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by sections 30 and 32(1) of the British Nationality Act 1948(a), 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.

1. This Order may be cited as the British Protectorates, Protected States and Protected Persons Order 1965.

Revocation.

2. The Orders specified in Schedule 1 to this Order are revoked.

Interpretation.

3.—(1) In this Order, unless the context otherwise requires—

"the Act" means the British Nationality Act 1948 as from time to time amended;

"British protected person" means a British protected person by virtue of any provision of this Order 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(c) as from time to time amended or of any enactment mentioned in the second column of Schedule 4 to this Order;

"former protectorate" means a territory named in the first column of Part I of Schedule 4 to this Order;

"former trust territory" means a territory named in the first column of Part II of Schedule 4 to this Order;

"protectorate" means a territory referred to in article 6(1) of this Order;

"protected state" means a territory referred to in article 6(2) of this Order.

(2) A person shall, for the purposes of this Order, be of full age if he has attained the age of 21 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) The Interpretation Act 1889(d) shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting and otherwise in relation to Acts of Parliament of the United Kingdom.

(a) 11 & 12 Geo. 6. c. 56.
(b) 1964 c. 54.
(c) S.I. 1949/140 (1949 I, p. 522).
(d) 52 & 53 Vict. c. 63.

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 article 10, 11, 12(2) or, where the relevant parent is the father, article 14(1) of 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.

Protectorates and protected states.

6.—(1) The territories named in Schedule 2 to this Order, being territories under the protection of Her Majesty through Her Government in the United Kingdom, are protectorates for the purposes of the Act.

(2) The states or territories named in the first column of Schedule 3 to this Order, being states or territories under the protection of Her Majesty as aforesaid, are protected states for the purposes of the Act.

New Hebrides and Canton Island.

7. The provisions of the Act and of section 1(5) of the British Nationality Act 1964(a) shall apply to the New Hebrides and to Canton Island as if they were protected states.

Extension to protected states of references in British Nationality Acts to protectorates.

8. The references to protectorates contained in sub-paragraphs (*b*) and (*e*) of paragraph 1 of Schedule 2 to the Act and in paragraph 3(6) of the Schedule to the British Nationality (No. 2) Act 1964 shall be construed as including references to all the protected states set out in the first column of Schedule 3 to this Order, to the New Hebrides and to Canton Island; and references in the Act, in the British Nationality Act 1958(b), in section 1(5) of the British Nationality Act 1964 and in this Order to the Governor shall be construed as including references, in relation to the said protected states, to the authorities specified in the second column of Schedule 3 to this Order, and in relation to the New Hebrides and Canton Island to the High Commissioner for the Western Pacific, and to the persons for the time being exercising their functions.

Extension to Brunei, the New Hebrides and Canton Island of references to protectorates in British Nationality Acts and in South Africa Act 1962.

9.—(1) The references to protectorates contained in sections 8(1), 10(2), 22 and 29(3) and in the definition of " person naturalised in the United Kingdom and Colonies " in section 32(1) of the Act, in paragraph 4 of Schedule 2 to the Act, in section 3 of the British Nationality Act 1958 and in paragraph 2 of Schedule 1 to the South Africa Act 1962(c) shall be construed as including references to Brunei.

(a) 1964 c. 22. (b) 6 & 7 Eliz. 2. c. 10. (c) 10 & 11 Eliz. 2. c. 23.

(2) The references to protectorates in section 10(2) and in the definition of " person naturalised in the United Kingdom and Colonies " in section 32(1) of the Act and in paragraph 4 of Schedule 2 to the Act shall be construed as including references to the New Hebrides and to Canton Island.

British protected persons by virtue of connection with a protectorate.

10. Subject to the provisions of article 20 of this Order, a person shall be a British protected person by virtue of his connection with a protectorate—

(*a*) if he was born (whether before or after the commencement of this Order) in that protectorate; or

(*b*) in the case of a person born elsewhere than in a protectorate before 28th January 1949, if his father was born in that protectorate; or

(*c*) in the case of a person born elsewhere than in a protectorate on or after 28th January 1949, if his father was born in that protectorate and was a British protected person at the time of that person's birth.

British protected persons by virtue of connection with Canton Island.

11. Subject to the provisions of article 20 of this Order, a person shall be a British protected person by virtue of his connection with Canton Island—

(*a*) if he was born there before 28th January 1949 and at the time of his birth the territory in which his father was born was a protectorate, protected state, trust territory or mandated territory; or

(*b*) if he was born there on or after 28th January 1949 and his father was a British subject or a British protected person at the time of that person's birth.

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

12.—(1) A person shall be a British protected person by virtue of his connection with a former protectorate or trust territory if he was a British protected person immediately before the commencement of this Order by virtue of any enactment mentioned in the second column of Schedule 4 to this Order.

(2) Subject to the provisions of paragraph (3) of this article, a person shall be a British protected person by virtue of his connection with a former protectorate or trust territory if his father was born there and, at the time of that person's birth, was (or would but for his death have been) such a British protected person by virtue of the enactment relating to that former Protectorate or trust territory mentioned in the second column of Schedule 4 to this Order or of paragraph (1) of this article.

(3) A person shall not be a British protected person under paragraph (2) of this article by virtue of his connection with a former protectorate or trust territory if he is, or has at any time been, 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.

Additional grounds for status of British protected person by birth.

13.—(1) For the purposes of this Order, a person born aboard a ship or aircraft which is registered in a protectorate, or aboard an unregistered ship or aircraft of the government of a protectorate, shall be deemed to have been born in that protectorate.

(2) Where after the commencement of this Order a new-born infant is found abandoned in a protectorate or in Canton Island, 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.

Registration of stateless persons as British protected persons by virtue of connection with a protectorate or a former protectorate or trust territory.

14.—(1) A person shall be entitled, on making application in the prescribed manner, to be registered as a British protected person if he satisfies the authority to whom application is made that he is and always has been stateless and that he has the following connection with a protectorate or a former protectorate or trust territory, that is to say—

(*a*) if he was born before 28th January 1949, that his father or mother became (or would but for his or her death have become) a British protected person on 28th January 1949 by virtue of his or her connection with that protectorate or that former protectorate or trust territory;

(*b*) if he was born on or after 28th January 1949, that his father or mother was (or would but for his or her death have been) a British protected person at the time of his birth by virtue of his or her connection with that protectorate or that former protectorate or trust territory.

(2) An application for the registration under this article of a minor may be made by his parent or guardian or, if he has attained the age of sixteen years, by the minor himself or by his parent or guardian.

(3) The provisions of paragraph (1) of this article shall apply, where the relevant parent is the mother, to persons born illegitimate as well as to persons born legitimate.

Registration of women married to British protected persons.

15.—(1) Subject to the provisions of paragraph (2) of this article, 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 has been married to a person who, at the time of the application, is, or but for his death would be, a British protected person by virtue of his connection with a protectorate or Canton Island or with a former protectorate or trust territory.

(2) A woman shall not be registered under this article, where the connection is with a former protectorate or 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.

Effect of registration as a British protected person.

16. A person registered under article 14 or 15 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.

17. A person who, by virtue of his connection with a former protectorate or trust territory, is a British protected person by or under any provision of article 12, 14 or 15 of this Order shall cease to be such if he becomes 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.

British protected persons by virtue of connection with a protected state.

18.—(1) A person who, under any law providing for citizenship or nationality in force in any protected state, is a citizen or national of that state shall be a British protected person by virtue of his connection with that state.

(2) If in any protected state no law providing for citizenship or nationality of that state is in force, the provisions of articles 10, 13, 14

and 15 of this Order shall have effect in relation to that state as if it were a protectorate.

(3) If any question arises whether any such law as is mentioned in paragraphs (1) and (2) of this article is in force, a certificate of the Secretary of State on the question shall be conclusive.

Renunciation of status of British protected person.

19.—(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 18(1), of this Order and—

(*a*) is also a citizen of any country mentioned in section 1(3) of the Act or of the Republic of Ireland or a national of a foreign country as defined in section 32(1) of the Act; 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 national,

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*) of this article and he does not become such a citizen or national 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.

Enemy aliens.

20. A person who was an enemy alien on 28th January 1949 shall not be a British protected person under article 10 or 11 of this Order unless the authority specified in article 21 of this Order, on application made to him by that person, so orders.

Authority to whom applications or declarations are to be made or submitted.

21. An application for registration as a British protected person under article 14 or 15, a declaration of renunciation of the status of British protected person under article 19, and an application for an order under article 20, of this Order, shall be made or submitted,

(*a*) where a connection is claimed with a protectorate or Canton Island, to the Governor thereof;

(*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, to the High Commissioner for Her Majesty's Government in the United Kingdom 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.

Transitional.

22. Any application, declaration, order or registration made, given or effected before the commencement of this Order in accordance with any of the provisions of the British Protectorates, Protected States and Protected Persons Order in Council 1949 shall continue to have effect as if made, given or effected in accordance with the corresponding provision of this Order.

W. G. Agnew.

Article 2

SCHEDULE 1

ORDERS REVOKED

Title	Number
The British Protectorates, Protected States and Protected Persons Order in Council 1949.	S.I. 1949/140 (1949 I, p. 522).
The British Protectorates, Protected States and Protected Persons (Amendment) Order in Council 1952.	S.I. 1952/457 (1952 I, p. 437).
The British Protected States (Fujairah and Kalba) Order 1952.	S.I. 1952/1417 (1952 I, p. 436).
The British Protectorates, Protected States and Protected Persons (Amendment) Order in Council 1953.	S.I. 1953/1773 (1953 I, p. 188).
The British Protectorates, Protected States and Protected Persons (Amendment) Order in Council 1958.	S.I. 1958/259 (1958 I, p. 245).
The British Protectorates, Protected States and Protected Persons (Amendment No. 2) Order in Council 1958.	S.I. 1958/590 (1958 I, p. 246).
The British Protectorates, Protected States and Protected Persons (Amendment) Order in Council 1960.	S.I. 1960/1366 (1960 I, p. 429).
The British Protectorates, Protected States and Protected Persons (Amendment) Order in Council 1961.	S.I. 1961/2325 (1961 III, p. 4311).
The British Protectorates, Protected States and Protected Persons (Amendment) Order in Council 1962.	S.I. 1962/1333 (1962 II, p. 1435).

SCHEDULE 2

Article 6

Protectorates

Bechuanaland Protectorate.
British Solomon Islands Protectorate.
Kamaran.
The Protectorate of South Arabia.
Swaziland.

SCHEDULE 3

Article 6

Protected States	*Authority*
Brunei	The High Commissioner for Brunei.
Tonga	The British Commissioner and Consul in Tonga.
The Persian Gulf States, viz.:	The Political Resident in the Persian Gulf.
Bahrain.	
Qatar.	
The Trucial States, viz.:	
Abu Dhabi.	
Ajman.	
Dubai.	
Fujairah.	
Ras al Khaimah.	
Sharjah.	
Umm al Qaiwain.	

SCHEDULE 4

Article 3

PART I

Former Protectorates

Gambia Protectorate ...	Gambia Independence Act 1964, section 2(2)	1964 c. 93.
Kenya Protectorate ...	Kenya Independence Act 1963, section 2(1)	1963 c. 54.
Nigeria Protectorate ...	Nigeria Independence Act 1960, section 2(1)	8 & 9 Eliz. 2. c. 55.
Northern Rhodesia ...	Zambia Independence Act 1964, section 3(2)	1964 c. 65.
Northern Territories of the Gold Coast	Ghana Independence Act 1957, section 2	5 & 6 Eliz. 2. c. 6.
Nyasaland Protectorate ...	Malawi Independence Act 1964, section 2(2)	1964 c. 46.
Sierra Leone Protectorate	Sierra Leone Independence Act 1961, section 2(1)	9 & 10 Eliz. 2. c. 16.
Uganda Protectorate ...	Uganda Independence Act 1962, section 2(1)	10 & 11 Eliz. 2. c. 57.

PART II

Former Trust Territories

Tanganyika	Tanganyika Independence Act 1961, section 2(1)	10 & 11 Eliz. 2. c. 1.
Cameroons under United Kingdom Trusteeship	Nigeria Independence Act 1960, section 2(1)	8 & 9 Eliz. 2. c. 55.
Togoland under United Kingdom Trusteeship	Ghana Independence Act 1957, section 2	5 & 6 Eliz. 2. c. 6.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, made under the British Nationality Act 1948 and the British Nationality (No. 2) Act 1964, specifies the territories which are protectorates and protected states for the purposes of the British Nationality Acts 1948 to 1964, applies the provisions of the Acts to the New Hebrides and Canton Island as if they were protected states, provides for the application to protected states of certain references to protectorates contained in the Acts, and defines who are to be British protected persons for the purposes of the Acts by virtue of their connection with a protectorate, Canton Island or a protected state or with a former protectorate or trust territory.

In order to implement certain provisions of the United Nations Convention on the Reduction of Statelessness (Cmnd. 1825), the Order also makes provision for the registration as British protected persons of certain categories of persons who are and have always been stateless and have a specified connection with a protectorate or a former protectorate or trust territory.

The Order supersedes the British Protectorates, Protected States and Protected Persons Orders in Council 1949 to 1962.