STATUTORY INSTRUMENTS

2016 No. 755

IMMIGRATION

The Immigration (Isle of Man) (Amendment) (No. 2) Order 2016

Made - - - - 13th July 2016

Coming into force in accordance with article 1(2)

At the Court at Buckingham Palace, the 13th day of July 2016

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 36 of the Immigration Act 1971(**1**) and section 95(5) to (7) of the Immigration Act 2016(**2**), is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation and commencement

1.—(1) This Order may be cited as the Immigration (Isle of Man) (Amendment) (No. 2) Order 2016.

(2) This Order shall come into force on the day after the day on which it is made.

Interpretation

2. In this Order "the principal Order" means the Immigration (Isle of Man) Order 2008(**3**).

Amendment of the principal Order

3. The principal Order is amended in accordance with articles 4 and 5.

Amendment of Schedule 3

4.—(1) Schedule 3 (the Immigration Act 1971) is amended as follows.

(2) In paragraph 13, after sub-paragraph (4) insert—

(**1**) 1971 c. 77.
(**2**) 2016 c. 19.
(**3**) S.I. 2008/680, which was amended by S.I. 2011/1158, S.I. 2011/1408, S.I. 2015/1765 and S.I. 2016/156.

"(4A) In subsection (5) after "expired" insert "or otherwise ceased to be in force".".

(3) In paragraph 14, after sub-paragraph (2) insert—

"(3) After subsection (3) insert—

"(4) References in this section to a person who ceases to be exempt do not include a person who ceases to be exempt by virtue of section 8B(3).".".

(4) In paragraph 15—

(a) in sub-paragraph (2) for "subsections (1), (2) and (5)" substitute "subsections (1) and (2)";

(b) after sub-paragraph (2) insert—

"(2A) In subsection (1) after paragraph (b) insert—

"(and any leave given to a person who is an excluded person is invalid)".

(2B) For subsection (3) substitute—

"(3) Any exemption of a person from the provisions of this Act under section 8(1), (2) or (3) does not apply while the person is an excluded person.".

(2C) In subsection (4) for "a designated instrument" substitute "an instrument falling within subsection (5)".";

(c) for sub-paragraph (3) substitute—

"(3) In subsection (5) for "The Secretary of State may by order designate an instrument" substitute "An instrument falls within this subsection".";

(d) after sub-paragraph (3) insert—

"(3A) After subsection (5) insert—

"(5A) Subsection (1), (2) or (3) does not apply to a person if—

(a) the application of that subsection to that person would be contrary to the Isle of Man's obligations under—

(i) the Human Rights Convention (within the meaning given by section 167(1) of the Immigration and Asylum Act 1999), or

(ii) the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 and the Protocol to the Convention as it has effect for the time being in relation to the Isle of Man, or

(b) the person has been exempted from the application of that subsection under a process applying by virtue of the instrument falling within subsection (5).

(e) in sub-paragraph (4) after "subsections" insert "(6),".

Amendment of Schedule 10

5.—(1) Schedule 10 (the text of immigration legislation as extended to the Isle of Man) is amended as follows.

(2) In Part 1 (the Immigration Act 1971) sections 8, 8A and 8B are substituted as follows—

"**Exceptions for seamen, aircrews and other special cases**

8.—(1) Where a person arrives at a place in the Isle of Man as a member of the crew of a ship or aircraft under an engagement requiring him to leave on that ship as a member of the crew, or to leave within seven days on that or another aircraft as a member of its crew, then unless either—

(a) there is in force a deportation order made against him; or

(b) he has at any time been refused leave to enter the Isle of Man and has not since then been given leave to enter or remain in the Isle of Man; or

(c) an immigration officer requires him to submit to examination in accordance with Schedule 2 to this Act;

he may without leave enter the Isle of Man at that place and remain until the departure of the ship or aircraft on which he is required by his engagement to leave.

(2) The Governor may by order exempt any person or class of persons, either unconditionally or subject to such conditions as may be imposed by or under the order, from all or any of the provisions of this Act relating to those who are not British citizens.

Section 166(4) of the Immigration and Asylum Act 1999 (Tynwald procedure) does not apply to an order under this subsection, except one made with respect to a class of persons.

(3) Subject to subsection (3A) below, the provisions of this Act relating to those who are not British citizens shall not apply to any person so long as he is a member of a mission (within the meaning of the Diplomatic Privileges Act 1964), a person who is a member of the family and forms part of the household of such a member, or a person otherwise entitled within the United Kingdom to the like immunity from jurisdiction as is conferred by that Act on a diplomatic agent.

(3A) For the purposes of subsection (3), a member of a mission other than a diplomatic agent (as defined by the 1964 Act) is not to count as a member of a mission unless—

(a) he was resident outside the Isle of Man, and was not in the Isle of Man, when he was offered a post as such a member; and

(b) he has not ceased to be such a member after having taken up the post.

(4) The provisions of this Act relating to those who are not British citizens, other than the provisions relating to deportation, shall also not apply to any person so long as either—

(a) he is subject, as a member of the home forces, to service law; or

(b) being a member of a Commonwealth force or of a force raised under the law of any colony, protectorate or protected state, is undergoing or about to undergo training in the Isle of Man with any body, contingent or detachment of the home forces; or

(c) he is serving or posted for service in the Isle of Man as a member of a visiting force or of any force raised as aforesaid or as a member of an international headquarters or defence organisation designated for the time being by an Order in Council under section 1 of the International Headquarters and Defence Organisations Act 1964.

(5) Where a person having a limited leave to enter or remain in the Isle of Man becomes entitled to an exemption under this section, that leave shall continue to apply after he ceases to be entitled to the exemption, unless it has by then expired or otherwise ceased to be in force; and a person is not to be regarded for purposes of this Act as having been settled in the Isle of Man at any time when he was entitled under the former immigration laws to any exemption corresponding to any of those afforded by subsection (3) or (4)(b) or (c) above or by any order under subsection (2) above.

(5A) An order under subsection (2) above may, as regards any person or class of persons to whom it applies, provide for that person or class to be in specified circumstances regarded (notwithstanding the order) as settled in the Isle of Man for the purposes of section 1(1) of the British Nationality Act 1981.

(6) In this section "the home forces" means any of Her Majesty's forces other than a Commonwealth force or a force raised under the law of any associated state, colony, protectorate or protected state; "Commonwealth force" means a force of any country to which