

**CHAPTER 14
SECTION 1****PERSON EXEMPT FROM CONTROL****PERSONS WHO CEASE TO BE EXEMPT FROM CONTROL ON OR AFTER 1 MARCH 2000
(SECTION 8(2) AND 8(3) OF THE 1971 ACT).****1. INTRODUCTION**

Under Section 8A of the 1971 Act (as inserted by Section 7 of the 1999 Act), a person who is entitled to exemption from control under Section 8(2) or (3) of the 1971 Act and who subsequently loses that claim to exemption (e.g. a diplomat leaving his employment) would be deemed to have been given leave to remain in the United Kingdom for a period of 90 days, without a prohibition on employment, beginning on the day on which he ceased to be exempt.

If such an individual has continuing limited leave which was granted prior to exemption and which expires before the 90 days deemed leave, then his limited leave and any condition attached to it, is to be treated as expiring at the end of the deemed leave.

Occasionally the person may still have more than 90 days *continuing* limited leave which was granted prior to exemption. In such a case no action under this instruction is needed. The person can be dealt with under normal immigration procedures for those who have limited leave.

2. PERSONS WHO APPLY FOR LEAVE ON CESSATION OF EXEMPT STATUS

An application for leave to remain from a person who has ceased to be exempt should be considered in the normal way under the current Immigration Rules.

2.1. Procedure when granting leave to remain

If, once the application has been duly considered, it is decided to grant a period of limited leave the following procedures will apply:

- If the applicant had a unique arrival number immediately before being treated as exempt from control then that number should be used when notifying INDECS of the application/decision. If there is no existing computer record it will be necessary to set one up by creating personal details using the INDECS "on line working system";
- An INDECS entry should be made with result code 2 "Extension or change of condition granted".

2.2. Procedure when granting indefinite leave to remain

If it is decided to grant indefinite leave to remain, then normal procedures for settlement cases should be followed. An existing computer record should be updated in the normal way. Where no computer record exists it will be necessary to set one up - see **paragraph 2.1**, above.

2.3. Procedure when refusing leave

If it is decided to refuse an in-time application, (made within the 90 days deemed leave), the applicant should be given a right of appeal under Section 61 of the 1999 Act where he satisfies the conditions of Section 61 and 62.

The same procedure as that noted in **paragraph 2.1**, above will then apply and INDECS notified of the decision using result code 3.

3. PERSONS WHO DO NOT APPLY FOR LEAVE ON CESSATION OF EXEMPT STATUS

If the person ceased to be exempt **more** than 90 days before he came to notice, then the procedures in **paragraph 4**, below, should take precedence.

4. OVERSTAYERS AND DEPORTATION/ADMINISTRATIVE REMOVAL

For those overstayers who come to light after 2 October 2000, administrative removal has replaced deportation action, however deportation action will continue in those cases where a notice of liability of intention to deport was served before 2 October 2000. (see **Chapter 13, Deportation and Administrative Removal**). The power to deport or remove under Section 10 of the 1999 Act does not apply to any person who is exempt from control by virtue of Section 8(3) of the 1971 Act (**Diplomats**) or exempt from any provision of the Act relating to deportation or administrative removal by virtue of an order under Section 8(2) (see also **Section 1 paragraph 2.2, "Consular officers and employees"** to this chapter).

A person who leaves his employment which conveys exemption, or who otherwise loses his entitlement to exemption more than 90 days before he comes to notice, may be liable to administrative removal action as an overstayer without the necessity of imposing or re-imposing conditions.