

STATEMENT OF CHANGES IN IMMIGRATION RULES

*Laid before Parliament on 23 May 1994 under section 3(2) of
the Immigration Act 1971*

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INTRODUCTION

The Home Secretary has made changes in the Rules laid down by him as to the practice to be followed in the administration of the Immigration Acts for regulating entry into and the stay of persons in the United Kingdom and contained in the statement laid before Parliament on 23 March 1990 (HC 251) (as amended). This statement contains the Rules as changed and replaces the provisions of HC 251 (as amended).

2. Immigration Officers, Entry Clearance Officers and all staff of the Home Office Immigration and Nationality Department will carry out their duties without regard to the race, colour or religion of persons seeking to enter or remain in the United Kingdom.

3. In these Rules words importing the masculine gender include the feminine unless the contrary intention appears.

IMPLEMENTATION AND TRANSITIONAL PROVISIONS

4. These Rules come into effect on 1 October 1994 and will apply to all decisions taken on or after that date save that any application made before 1 October 1994 for entry clearance, leave to enter or remain or variation of leave to enter or remain shall be decided under the provisions of HC 251, as amended, as if these Rules had not been made.

APPLICATION

5. Save where expressly indicated, these Rules do not apply to a European Economic Area (EEA) national or the family member of such a national who is entitled to enter or remain in the United Kingdom by virtue of the provisions of the Immigration (European Economic Area) Order 1994. But an EEA national or his family member who is not entitled to rely on the provisions of that Order is covered by these Rules.

INTERPRETATION

6. In these Rules the following interpretations apply:

“the Immigration Acts” mean the Immigration Act 1971 and the Immigration Act 1988.

“the 1993 Act” is the Asylum and Immigration Appeals Act 1993.

“the 1994 EEA Order” is the Immigration (European Economic Area) Order 1994.

“United Kingdom passport” bears the meaning it has in the Immigration Act 1971.

“Immigration Officer” includes a Customs Officer acting as an Immigration Officer.

“public funds” means

- (a) housing under Part III of the Housing Act 1985, Part II of the Housing (Scotland) Act 1987 or Part II of the Housing (Northern Ireland) Order 1988;
- (b) income support, family credit, council tax benefit and housing benefit under Part VII of the Social Security Contributions and Benefits Act 1992; and
- (c) income support, family credit and housing benefit under the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

“Department of Employment” includes, where appropriate, the equivalent Government Department for Northern Ireland.

“settled in the United Kingdom” means that the person concerned:

- (a) is free from any restriction on the period for which he may remain save that a person entitled to an exemption under Section 8 of the Immigration Act 1971 (otherwise than as a member of the home forces) is not to be regarded as settled in the United Kingdom except in so far as Section 8(5A) so provides; and
- (b) is either:
 - (i) ordinarily resident in the United Kingdom without having entered or remained in breach of the immigration laws; or

- (ii) despite having entered or remained in breach of the immigration laws, has subsequently entered lawfully or has been granted leave to remain and is ordinarily resident.

“a parent” includes

- (a) the stepfather of a child whose father is dead;
- (b) the stepmother of a child whose mother is dead;
- (c) the father as well as the mother of an illegitimate child where he is proved to be the father;
- (d) an adoptive parent but only where a child was adopted in accordance with a decision taken by the competent administrative authority or court in a country whose adoption orders are recognised by the United Kingdom (except where an application for leave to enter or remain is made under paragraphs 310–316);
- (e) in the case of a child born in the United Kingdom who is not a British citizen, a person to whom there has been a genuine transfer of parental responsibility on the ground of the original parent(s)’ inability to care for the child.

“visa nationals” are the persons specified in the Appendix to these Rules who need a visa for the United Kingdom.

“employment”, unless the contrary intention appears, includes paid and unpaid employment, self-employment and engaging in business or any professional activity.

“EEA national” means a national of a State which is a Contracting Party to the European Economic Area Agreement other than the United Kingdom, but until the EEA Agreement comes into force in relation to Liechtenstein does not include a national of the State of Liechtenstein.

“family member” in relation to an EEA national has the same meaning as in the 1994 EEA Order.

**PART 1: GENERAL PROVISIONS REGARDING LEAVE TO ENTER OR
REMAIN IN THE UNITED KINGDOM**

Leave to enter the United Kingdom

7. A person who is neither a British citizen nor a Commonwealth citizen with the right of abode nor an EEA national or the family member of such a national who is entitled to enter or remain in the United Kingdom by virtue of the provisions of the Immigration (European Economic Area) Order 1994 requires leave to enter the United Kingdom.

8. Under Sections 3 and 4 of the Immigration Act 1971 an Immigration Officer when admitting to the United Kingdom a person subject to control under that Act may give leave to enter for a limited period and, if he does, may impose conditions restricting or prohibiting employment or occupation in the United Kingdom or requiring the person to register with the police or both. He may also require him to report to the appropriate Medical Officer of Environmental Health. Under Section 24 of the 1971 Act it is an offence knowingly to remain beyond the time limit or to fail to comply with such a condition or requirement.

9. The time limit and any conditions attached will be made known to the person concerned by a written notice which will normally be given to him or be endorsed by the Immigration Officer in his passport or travel document.

Exercise of the power to refuse leave to enter the United Kingdom

10. The power to refuse leave to enter the United Kingdom is not to be exercised by an Immigration Officer acting on his own. The authority of a Chief Immigration Officer or of an Immigration Inspector must always be obtained.

Requirement for persons arriving in the United Kingdom or seeking entry through the Channel Tunnel to produce evidence of identity and nationality

11. A person must, on arrival in the United Kingdom or when seeking entry through the Channel Tunnel, produce on request by the Immigration Officer:

- (i) a valid national passport or other document satisfactorily establishing his identity and nationality; and
- (ii) such information as may be required to establish whether he requires leave to enter the United Kingdom and, if so, whether and on what terms leave to enter should be given.

Requirement for a person not requiring leave to enter the United Kingdom to prove that he has the right of abode

12. A person claiming to be a British citizen must prove that he has the right of abode in the United Kingdom by producing either:

- (i) a United Kingdom passport describing him as a British citizen or as a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom; or
- (ii) a certificate of entitlement duly issued by or on behalf of the Government of the United Kingdom certifying that he has the right of abode.

13. A person claiming to be a Commonwealth citizen with the right of abode in the United Kingdom must prove that he has the right of abode by producing a certificate of entitlement duly issued to him by or on behalf of the Government of the United Kingdom certifying that he has the right of abode.

14. A Commonwealth citizen who has been given limited leave to enter the United Kingdom may later claim to have the right of abode. The time limit on his stay may be removed if he is able to establish a claim to the right of abode, for example by showing that:

- (i) immediately before the commencement of the British Nationality Act 1981 he was a Commonwealth citizen born to or legally adopted by a parent who at the time of the birth had citizenship of the United Kingdom and Colonies by his birth in the United Kingdom or any of the Islands; and
- (ii) he has not ceased to be a Commonwealth citizen in the meanwhile.

Common Travel Area

15. The United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland collectively form a common travel area. A person who has been examined for the purpose of immigration control at the point at which he entered the area does not normally require leave to enter any other part of it. However certain persons subject to the Immigration (Control of Entry through the Republic of Ireland) Order 1972 (as amended) who enter the United Kingdom through the Republic of Ireland do require leave to enter. This includes:

- (i) those who merely passed through the Republic of Ireland;
- (ii) persons requiring visas;
- (iii) persons who entered the Republic of Ireland unlawfully;
- (iv) persons who are subject to directions given by the Secretary of State for their exclusion from the United Kingdom on the ground that their exclusion is conducive to the public good;
- (v) persons who entered the Republic from the United Kingdom and Islands after entering there unlawfully or overstaying their leave.

Admission of certain British passport holders

16. A person in any of the following categories may be admitted freely to the United Kingdom on production of a United Kingdom passport issued in the United Kingdom and Islands or the Republic of Ireland prior to 1 January 1973, unless his passport has been endorsed to show that he was subject to immigration control:

- (i) a British Dependent Territories citizen;
- (ii) a British National (Overseas);
- (iii) a British Overseas citizen;
- (iv) a British protected person;
- (v) a British subject by virtue of Section 30(a) of the British Nationality Act 1981, (who, immediately before the commencement of the 1981 Act, would have been a British subject not possessing citizenship of the United Kingdom and Colonies or the citizenship of any other Commonwealth country or territory).

17. British Overseas citizens who hold United Kingdom passports wherever issued and who satisfy the Immigration Officer that they have, since 1 March 1968, been given indefinite leave to enter or remain in the United Kingdom may be given indefinite leave to enter.

Returning Residents

18. A person seeking leave to enter the United Kingdom as a returning resident may be admitted for settlement provided the Immigration Officer is satisfied that the person concerned:

- (i) had indefinite leave to enter or remain in the United Kingdom when he last left; and
- (ii) has not been away from the United Kingdom for more than 2 years; and
- (iii) did not receive assistance from public funds towards the cost of leaving the United Kingdom; and
- (iv) now seeks admission for the purpose of settlement.

19. A person who does not benefit from the preceding paragraph by reason only of having been away from the United Kingdom too long may nevertheless be admitted as a returning resident if, for example, he has lived here for most of his life.

20. The leave of a person whose stay in the United Kingdom is subject to a time limit lapses on his going to a country or territory outside the common travel area. Such a person who returns after a temporary absence abroad within the period of this earlier leave has no claim to admission as a returning resident. His application to re-enter the United Kingdom should be considered in the light of

all the relevant circumstances. The same time limit and any conditions attached will normally be reimposed if he meets the requirements of these Rules, unless he is seeking admission in a different capacity from the one in which he was last given leave to enter or remain.

Holders of restricted travel documents and passports

21. The leave to enter or remain in the United Kingdom of the holder of a passport or travel document whose permission to enter another country has to be exercised before a given date may be restricted so as to terminate at least 2 months before that date.

22. If his passport or travel document is endorsed with a restriction on the period for which he may remain outside his country of normal residence, his leave to enter or remain in the United Kingdom may be limited so as not to extend beyond the period of authorised absence.

23. The holder of a travel document issued by the Home Office should not be given leave to enter or remain for a period extending beyond the validity of that document. This paragraph and paragraphs 21–22 do not apply to a person who is eligible for admission for settlement or to a spouse who is eligible for admission under paragraph 282 or to a person who qualifies for the removal of the time limit on his stay.

Entry Clearance

24. A visa national and any other person who is seeking entry for a purpose for which prior entry clearance is required under these Rules must produce to the Immigration Officer a valid passport or other identity document endorsed with a United Kingdom entry clearance issued to him for the purpose for which he seeks entry. Such a person will be refused leave to enter if he has no such current entry clearance. Any other person who wishes to ascertain in advance whether he is eligible for admission to the United Kingdom may apply for the issue of an entry clearance.

25. Entry clearance takes the form of a visa (for visa nationals) or an entry certificate (for non-visa nationals). These documents are to be taken as evidence of the holder's eligibility for entry into the United Kingdom, and accordingly accepted as "entry clearances" within the meaning of the Immigration Act 1971.

26. An application for entry clearance will be considered in accordance with the provisions in these Rules governing the grant or refusal of leave to enter. Where appropriate, the term "Entry Clearance Officer" should be substituted for "Immigration Officer".

27. An application for entry clearance is to be decided in the light of the circumstances existing at the time of the decision, except that an applicant will not be refused an entry clearance where entry is sought in one of the categories contained in paragraphs 296–316 solely on account of his attaining the age of 18 years between receipt of his application and the date of the decision on it.

28. An applicant for an entry clearance must be outside the United Kingdom and Islands at the time of the application. An applicant for an entry clearance who is seeking entry as a visitor must apply to a post designated by the Secretary of State to accept applications for entry clearance for that purpose and from that category of applicant. Any other application must be made to the post in the country or territory where the applicant is living which has been designated by the Secretary of State to accept applications for entry clearance for that purpose and from that category of applicant. Where there is no such post the applicant must apply to the appropriate designated post outside the country or territory where he is living.

29. For the purposes of paragraph 28 "post" means a British Diplomatic Mission, British Consular post or the office of any person outside the United Kingdom and Islands who has been authorised by the Secretary of State to accept applications for entry clearance. A list of designated posts is published by the Foreign and Commonwealth Office.

30. An application for an entry clearance is not made until any fee required to be paid under the Consular Fees Act 1980 (including any Regulations or Orders made under that Act) has been paid.

Variation of leave to enter or remain in the United Kingdom

31. Under Section 3(3) of the 1971 Act a limited leave to enter or remain in the United Kingdom may be varied by extending or restricting its duration, by adding, varying or revoking conditions or by removing the time limit (whereupon any condition attached to the leave ceases to apply). When leave to enter or remain is varied an entry is to be made in the applicant's passport or travel document (and his registration certificate where appropriate) or the decision may be made known in writing in some other appropriate way.

32. After admission to the United Kingdom any application for an extension of the time limit on or variation of conditions attached to a person's stay in the United Kingdom must be made to the Home Office before the applicant's current leave to enter or remain expires.

33. Where the application is in respect of employment for which a work permit or a permit for training or work experience is required or is in respect of the spouse or child of a person who is making such an application, the application should be made direct to the Department of Employment Overseas Labour Service.

Withdrawn applications for variation of leave to enter or remain in the United Kingdom

34. Where a person whose application for variation of leave to enter or remain is being considered requests the return of his passport for the purpose of travel outside the common travel area, the application for variation of leave shall, provided it has not already been determined, be treated as withdrawn as soon as the passport is returned in response to that request and the provisions of the Immigration (Variation of Leave) Order 1976 (as amended) will apply.

Undertakings

35. A sponsor of a person seeking leave to enter or variation of leave to enter or remain in the United Kingdom may be asked to give an undertaking in writing to be responsible for that person's maintenance and accommodation for the period of any leave granted, including any further variation. Under the Social Security Administration Act 1992 and the Social Security Administration (Northern Ireland) Act 1992, the Department of Social Security or, as the case may be, the Department of Health and Social Services in Northern Ireland may seek to recover from the person giving such an undertaking any income support paid to meet the needs of the person in respect of whom the undertaking has been given.

Medical

36. A person who intends to remain in the United Kingdom for more than 6 months should normally be referred to the Medical Inspector for examination. If he produces a medical certificate he should be advised to hand it to the Medical Inspector. Any person seeking entry who mentions health or medical treatment as a reason for his visit, or who appears not to be in good mental or physical health, should also be referred to the Medical Inspector; and the Immigration Officer has discretion, which should be exercised sparingly, to refer for examination in any other case.

37. Where the Medical Inspector advises that a person seeking entry is suffering from a specified disease or condition which may interfere with his ability to support himself or his dependants, the Immigration Officer should take account of this, in conjunction with other factors, in deciding whether to admit that person. The Immigration Officer should also take account of the Medical Inspector's assessment of the likely course of treatment in deciding whether a person seeking entry for private medical treatment has sufficient means at his disposal.

38. A returning resident should not be refused leave to enter on medical grounds. But where a person would be refused leave to enter on medical grounds if he were not a returning resident, or in any case where it is decided on compassionate grounds not to exercise the power to refuse leave to enter, or in any other case where the Medical Inspector so recommends, the Immigration Officer should give the person concerned a notice requiring him to report to the Medical Officer of Environmental Health designated by the Medical Inspector with a view to further examination and any necessary treatment.

39. The Entry Clearance Officer has the same discretion as an Immigration Officer to refer applicants for entry clearance for medical examination and the same principles will apply to the decision whether or not to issue an entry clearance.

PART 2: PERSONS SEEKING TO ENTER OR REMAIN IN THE UNITED KINGDOM FOR VISITS

VISITORS

Requirements for leave to enter as a visitor

40. For the purpose of paragraphs 41–46 a visitor includes a person living and working outside the United Kingdom who comes to the United Kingdom to transact business (such as attending meetings and briefings, fact finding, negotiating or making contracts with United Kingdom businesses to buy or sell goods or services). A visitor seeking leave to enter or remain for private medical treatment must meet the requirements of paragraphs 51 or 54.

41. The requirements to be met by a person seeking leave to enter the United Kingdom as a visitor are that he:

- (i) is genuinely seeking entry as a visitor for a limited period as stated by him, not exceeding 6 months; and
- (ii) intends to leave the United Kingdom at the end of the period of the visit as stated by him; and
- (iii) does not intend to take employment in the United Kingdom; and
- (iv) does not intend to produce goods or provide services within the United Kingdom, including the selling of goods or services direct to members of the public; and
- (v) does not intend to study at a maintained school; and
- (vi) will maintain and accommodate himself and any dependants adequately out of resources available to him without recourse to public funds or taking employment; or will, with any dependants, be maintained and accommodated adequately by relatives or friends; and
- (vii) can meet the cost of the return or onward journey.

Leave to enter as a visitor

42. A person seeking leave to enter the United Kingdom as a visitor may be admitted for a period not exceeding 6 months, subject to a condition prohibiting employment, provided the Immigration Officer is satisfied that each of the requirements of paragraph 41 is met.

Refusal of leave to enter as a visitor

43. Leave to enter as a visitor is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 41 is met.

Requirements for an extension of stay as a visitor

44. Six months is the maximum permitted leave which may be granted to a visitor. The requirements for an extension of stay as a visitor are that the applicant:

- (i) meets the requirements of paragraph 41 (ii)–(vii); and
- (ii) has not already spent, or would not as a result of an extension of stay spend, more than 6 months in total in the United Kingdom as a visitor.

Any period spent as a seasonal agricultural worker is to be counted as a period spent as a visitor.

Extension of stay as a visitor

45. An extension of stay as a visitor may be granted, subject to a condition prohibiting employment, provided the Secretary of State is satisfied that each of the requirements of paragraph 44 is met.

Refusal of extension of stay as a visitor

46. An extension of stay as a visitor is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 44 is met.

VISITORS IN TRANSIT

Requirements for admission as a visitor in transit to another country

47. The requirements to be met by a person (not being a member of the crew of a ship, aircraft, hovercraft, hydrofoil or train) seeking leave to enter the United Kingdom as a visitor in transit to another country are that he:

- (i) is in transit to a country outside the common travel area; and
- (ii) has both the means and the intention of proceeding at once to another country; and
- (iii) is assured of entry there; and
- (iv) intends and is able to leave the United Kingdom within 48 hours.

Leave to enter as a visitor in transit

48. A person seeking leave to enter the United Kingdom as a visitor in transit may be admitted for a period not exceeding 48 hours with a prohibition on employment provided the Immigration Officer is satisfied that each of the requirements of paragraph 47 is met.

Refusal of leave to enter as a visitor in transit

49. Leave to enter as a visitor in transit is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 47 is met.

Extension of stay as a visitor in transit

50. The maximum permitted leave which may be granted to a visitor in transit is 48 hours. An application for an extension of stay beyond 48 hours from a person admitted in this category is to be refused.

VISITORS SEEKING TO ENTER OR REMAIN FOR PRIVATE MEDICAL TREATMENT

Requirements for leave to enter as a visitor for private medical treatment

51. The requirements to be met by a person seeking leave to enter the United Kingdom as a visitor for private medical treatment are that he:

- (i) meets the requirements set out in paragraph 41 (iii)-(vii) for entry as a visitor; and
- (ii) in the case of a person suffering from a communicable disease, has satisfied the Medical Inspector that there is no danger to public health; and
- (iii) can show, if required to do so, that any proposed course of treatment is of finite duration; and
- (iv) intends to leave the United Kingdom at the end of his treatment; and
- (v) can produce satisfactory evidence, if required to do so, of:
 - (a) the medical condition requiring consultation or treatment; and
 - (b) satisfactory arrangements for the necessary consultation or treatment at his own expense; and
 - (c) the estimated costs of such consultation or treatment; and
 - (d) the likely duration of his visit; and
 - (e) sufficient funds available to him in the United Kingdom to meet the estimated costs and his undertaking to do so.

Leave to enter as a visitor for private medical treatment

52. A person seeking leave to enter the United Kingdom as a visitor for private medical treatment may be admitted for a period not exceeding 6 months, subject to a condition prohibiting employment, provided the Immigration Officer is satisfied that each of the requirements of paragraph 51 is met.

Refusal of leave to enter as a visitor for private medical treatment

53. Leave to enter as a visitor for private medical treatment is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 51 is met.

Requirements for an extension of stay as a visitor for private medical treatment

54. The requirements for an extension of stay as a visitor to undergo or continue private medical treatment are that the applicant:

- (i) meets the requirements set out in paragraph 41 (iii)–(vii) and paragraph 51 (ii)–(v); and
- (ii) has produced evidence from a registered medical practitioner who holds an NHS consultant post of satisfactory arrangements for private medical consultation or treatment and its likely duration; and, where treatment has already begun, evidence as to its progress; and
- (iii) can show that he has met, out of the resources available to him, any costs and expenses incurred in relation to his treatment in the United Kingdom; and
- (iv) has sufficient funds available to him in the United Kingdom to meet the likely costs of his treatment and intends to meet those costs.

Extension of stay as a visitor for private medical treatment

55. An extension of stay to undergo or continue private medical treatment may be granted, with a prohibition on employment, provided the Secretary of State is satisfied that each of the requirements of paragraph 54 is met.

Refusal of extension of stay as a visitor for private medical treatment

56. An extension of stay as a visitor to undergo or continue private medical treatment is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 54 is met.

PART 3: PERSONS SEEKING TO ENTER OR REMAIN IN THE UNITED KINGDOM FOR STUDIES

STUDENTS

Requirements for leave to enter as a student

57. The requirements to be met by a person seeking leave to enter the United Kingdom as a student are that he:

- (i) has been accepted for a course of study at:
 - (a) a publicly funded institution of further or higher education; or
 - (b) a *bona fide* private education institution which maintains satisfactory records of enrolment and attendance; or
 - (c) an independent fee paying school outside the maintained sector; and
- (ii) is able and intends to follow either:
 - (a) a recognised full-time degree course at a publicly funded institution of further or higher education; or
 - (b) a weekday full-time course involving attendance at a single institution for a minimum of 15 hours organised daytime study per week of a single subject or directly related subjects; or
 - (c) a full-time course of study at an independent fee paying school; and
- (iii) if under the age of 16 years is enrolled at an independent fee paying school on a full-time course of studies which meets the requirements of the Education Act 1944; and
- (iv) intends to leave the United Kingdom at the end of his studies; and
- (v) does not intend to engage in business or to take employment, except part-time or vacation work undertaken with the consent of the Secretary of State for Employment; and
- (vi) is able to meet the costs of his course and accommodation and the maintenance of himself and any dependants without taking employment or engaging in business or having recourse to public funds.

Leave to enter as a student

58. A person seeking leave to enter the United Kingdom as a student may be admitted for an appropriate period depending on the length of his course of study and his means, and with a condition restricting his freedom to take employment, provided the Immigration Officer is satisfied that each of the requirements of paragraph 57 is met.

Refusal of leave to enter as a student

59. Leave to enter as a student is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 57 is met.

Requirements for an extension of stay as a student

60. The requirements for an extension of stay as a student are that the applicant:

- (i) was admitted to the United Kingdom with a valid student entry clearance if he is a person specified in the Appendix to these Rules; and
- (ii) meets the requirements for admission as a student set out in paragraph 57 (i)–(vi); and
- (iii) has produced evidence of his enrolment on a course which meets the requirements of paragraph 57; and
- (iv) can produce satisfactory evidence of regular attendance during any course which he has already begun; or any other course for which he has been enrolled in the past; and
- (v) can show evidence of satisfactory progress in his course of study including the taking and passing of any relevant examinations; and
- (vi) would not, as a result of an extension of stay, spend more than 4 years on short courses (ie courses of less than 2 years duration, or longer courses broken off before completion); and

- (vii) has not come to the end of a period of government or international scholarship agency sponsorship, or has the written consent of his original sponsor for a further period of study in the United Kingdom and satisfactory evidence that sufficient sponsorship funding is available.

Extension of stay as a student

61. An extension of stay as a student may be granted, subject to a restriction on his freedom to take employment, provided the Secretary of State is satisfied that the applicant meets each of the requirements of paragraph 60.

Refusal of extension of stay as a student

62. An extension of stay as a student is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 60 is met.

STUDENT NURSES

Definition of student nurse

63. For the purposes of these Rules the term student nurse means a person accepted for training as a student nurse or midwife leading to a registered nursing qualification; or an overseas nurse or midwife who has been accepted on an adaptation course leading to registration as a nurse with the United Kingdom Central Council for Nursing, Midwifery and Health Visiting.

Requirements for leave to enter as a student nurse

64. The requirements to be met by a person seeking leave to enter the United Kingdom as a student nurse are that the person:

- (i) comes within the definition set out in paragraph 63 above; and
- (ii) has been accepted for a course of study in a recognised nursing educational establishment offering nursing training which meets the requirements of the United Kingdom Central Council for Nursing, Midwifery and Health Visiting; and
- (iii) did not obtain acceptance by misrepresentation; and
- (iv) is able and intends to follow the course; and
- (v) does not intend to engage in business or take employment except in connection with the training course; and
- (vi) intends to leave the United Kingdom at the end of the course; and
- (vii) has sufficient funds available for accommodation and maintenance for himself and any dependants without engaging in business or taking employment (except in connection with the training course) or having recourse to public funds. The possession of a Department of Health bursary may be taken into account in assessing whether the student meets the maintenance requirement.

Leave to enter the United Kingdom as a student nurse

65. A person seeking leave to enter the United Kingdom as a student nurse may be admitted for the duration of the training course, with a restriction on his freedom to take employment, provided the Immigration Officer is satisfied that each of the requirements of paragraph 64 is met.

Refusal of leave to enter as a student nurse

66. Leave to enter as a student nurse is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 64 is met.

Requirements for an extension of stay as a student nurse

67. The requirements for an extension of stay as a student nurse are that the applicant:

- (i) was admitted to the United Kingdom with a valid student entry clearance if he is a person specified in the Appendix to these Rules; and
- (ii) meets the requirements set out in paragraph 64 (i)–(vii); and
- (iii) has produced evidence of enrolment at a recognised nursing educational establishment; and
- (iv) can provide satisfactory evidence of regular attendance during any course which he has already begun; or any other course for which he has been enrolled in the past; and
- (v) would not, as a result of an extension of stay, spend more than 4 years in obtaining the relevant qualification; and
- (vi) has not come to the end of a period of government or international scholarship agency sponsorship, or has the written consent of his original sponsor for a further period of study in the United Kingdom and evidence that sufficient sponsorship funding is available.

Extension of stay as a student nurse

68. An extension of stay as a student nurse may be granted, subject to a restriction on his freedom to take employment, provided the Secretary of State is satisfied that the applicant meets each of the requirements of paragraph 67.

Refusal of extension of stay as a student nurse

69. An extension of stay as a student nurse is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 67 is met.

POSTGRADUATE DOCTORS AND DENTISTS

Requirements for leave to enter as a postgraduate doctor or dentist

70. The requirements for leave to enter the United Kingdom for the purpose of training as a postgraduate doctor or dentist are that the applicant:

- (i) (a) is a graduate from a United Kingdom medical school intending to undertake Pre-Registration House Officer employment for up to 12 months, as required for full registration with the General Medical Council; and
- (b) has not spent more than 12 months in aggregate in Pre-Registration House Officer employment; or
- (ii) (a) is a doctor or dentist eligible for full or limited registration with the General Medical Council or with the General Dental Council who intends to undertake postgraduate training in a hospital; and
- (b) has not spent more than 4 years in aggregate in the United Kingdom as a postgraduate doctor or dentist, excluding any period spent in Pre-Registration House Officer employment; and
- (iii) intends to leave the United Kingdom on completion of his training period.

Leave to enter as a postgraduate doctor or dentist

71. A person seeking leave to enter the United Kingdom to study as a postgraduate doctor or dentist may be admitted for a period not exceeding 12 months provided the Immigration Officer is satisfied that each of the requirements of paragraph 70 is met.

Refusal of leave to enter as a postgraduate doctor or dentist

72. Leave to enter as a postgraduate doctor or dentist is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 70 is met.

Requirements for extension of stay as a postgraduate doctor or dentist

73. The requirements for an extension of stay as a postgraduate doctor or dentist are that the applicant:

- (i) (a) meets the requirements of paragraph 70 (i)(a); and
 - (b) would not, as a result of an extension of stay, spend more than 12 months in aggregate in Pre-Registration House Officer employment; or
- (ii) (a) is a doctor or dentist who can provide satisfactory evidence of limited or full registration with the General Medical Council or registration with the General Dental Council and intends to undertake postgraduate training in a hospital; and
 - (b) would not, as a result of an extension of stay, spend more than 4 years in aggregate in the United Kingdom as a postgraduate doctor or dentist excluding any period spent in Pre-Registration House Officer employment; and
- (iii) intends to leave the United Kingdom on completion of his training period.

Extension of stay as a postgraduate doctor or dentist

74. An extension of stay as a postgraduate doctor or dentist may be granted for a period not exceeding 12 months provided the Secretary of State is satisfied that each of the requirements of paragraph 73 is met.

Refusal of extension of stay as a postgraduate doctor or dentist

75. An extension of stay as a postgraduate doctor or dentist is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 73 is met.

SPOUSES OF STUDENTS

Requirements for leave to enter or remain as the spouse of a student

76. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the spouse of a student are that:

- (i) the applicant is married to a person admitted to or allowed to remain in the United Kingdom under paragraphs 57–75; and
- (ii) each of the parties intends to live with the other as his or her spouse during the applicant's stay and the marriage is subsisting; and
- (iii) there will be adequate accommodation for the parties and any dependants without recourse to public funds; and
- (iv) the parties will be able to maintain themselves and any dependants adequately without recourse to public funds; and
- (v) the applicant does not intend to take employment except as permitted under paragraph 77 below; and
- (vi) the applicant intends to leave the United Kingdom at the end of any period of leave granted to him.

Leave to enter or remain as the spouse of a student

77. A person seeking leave to enter or remain in the United Kingdom as the spouse of a student may be admitted or allowed to remain for a period not in excess of that granted to the student provided the Immigration Officer or, in the case of an application for limited leave to remain the Secretary of State, is satisfied that each of the requirements of paragraph 76 is met. Employment is to be prohibited except where the period of leave being granted is 12 months or more.

Refusal of leave to enter or remain as the spouse of a student

78. Leave to enter or remain as the spouse of a student is to be refused if the Immigration Officer or, in the case of an application for limited leave to remain, the Secretary of State is not satisfied that each of the requirements of paragraph 76 is met.

CHILDREN OF STUDENTS

Requirements for leave to enter or remain as the child of a student

79. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the child of a student are that he:

- (i) is the child of a parent admitted to or allowed to remain in the United Kingdom as a student under paragraphs 57–75; and
- (ii) is under the age of 18 or has current leave to enter or remain in this capacity; and
- (iii) is unmarried, has not formed an independent family unit and is not leading an independent life; and
- (iv) can, and will, be maintained and accommodated adequately without recourse to public funds; and
- (v) will not stay in the United Kingdom beyond any period of leave granted to his parent.

Leave to enter or remain as the child of a student

80. A person seeking leave to enter or remain in the United Kingdom as the child of a student may be admitted or allowed to remain for a period of leave not in excess of that granted to the student provided the Immigration Officer or, in the case of an application for limited leave to remain, the Secretary of State is satisfied that each of the requirements of paragraph 79 is met. Employment is to be prohibited except where the period of leave being granted is 12 months or more.

Refusal of leave to enter or remain as the child of a student

81. Leave to enter or remain in the United Kingdom as the child of a student is to be refused if the Immigration Officer or, in the case of an application for limited leave to remain, the Secretary of State is not satisfied that each of the requirements of paragraph 79 is met.

PROSPECTIVE STUDENTS

Requirements for leave to enter as a prospective student

82. The requirements to be met by a person seeking leave to enter the United Kingdom as a prospective student are that he:

- (i) can demonstrate a genuine and realistic intention of undertaking, within 6 months of his date of entry, a course of study which would meet the requirements for an extension of stay as a student set out in paragraphs 60 or 67; and
- (ii) intends to leave the United Kingdom on completion of his studies or on the expiry of his leave to enter if he is not able to meet the requirements for an extension of stay as a student set out in paragraphs 60 or 67; and
- (iii) is able without working or recourse to public funds to meet the costs of his intended course and accommodation and the maintenance of himself and any dependants while making arrangements to study and during the course of his studies.

Leave to enter as a prospective student

83. A person seeking leave to enter the United Kingdom as a prospective student may be admitted for a period not exceeding 6 months with a condition prohibiting employment, provided the Immigration Officer is satisfied that each of the requirements of paragraph 82 is met.

Refusal of leave to enter as a prospective student

84. Leave to enter as a prospective student is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 82 is met.

Requirements for extension of stay as a prospective student

85. Six months is the maximum permitted leave which may be granted to a prospective student. The requirements for an extension of stay as a prospective student are that the applicant:

- (i) was admitted to the United Kingdom with a valid prospective student entry clearance if he is a person specified in the Appendix to these Rules; and
- (ii) meets the requirements of paragraph 82; and
- (iii) would not, as a result of an extension of stay, spend more than 6 months in the United Kingdom.

Extension of stay as a prospective student

86. An extension of stay as a prospective student may be granted, with a prohibition on employment, provided the Secretary of State is satisfied that each of the requirements of paragraph 85 is met.

Refusal of extension of stay as a prospective student

87. An extension of stay as a prospective student is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 85 is met.

PART 4: PERSONS SEEKING TO ENTER OR REMAIN IN THE UNITED KINGDOM IN AN “AU PAIR” PLACEMENT, AS A WORKING HOLIDAYMAKER, OR FOR TRAINING OR WORK EXPERIENCE

“AU PAIR” PLACEMENTS

Definition of an “au pair” placement

88. For the purposes of these Rules an “au pair” placement is an arrangement whereby a young person:

- (a) comes to the United Kingdom for the purpose of learning the English language; and
- (b) lives for a time as a member of an English speaking family with appropriate opportunities for study; and
- (c) helps in the home for a maximum of 5 hours per day in return for a reasonable allowance and with two free days per week.

Requirements for leave to enter as an “au pair”

89. The requirements to be met by a person seeking leave to enter the United Kingdom as an “au pair” are that he:

- (i) is seeking entry for the purpose of taking up an arranged placement which can be shown to fall within the definition set out in paragraph 88; and
- (ii) is aged between 17–27 inclusive or was so aged when first given leave to enter in this capacity; and
- (iii) is unmarried; and
- (iv) is without dependants; and
- (v) is a national of one of the following countries: Andorra, Bosnia-Herzegovina, Croatia, Cyprus, Czech Republic, The Faeroes, Greenland, Hungary, Liechtenstein, Macedonia, Malta, Monaco, San Marino, Slovak Republic, Slovenia, Switzerland, or Turkey; and
- (vi) does not intend to stay in the United Kingdom for more than 2 years as an “au pair”; and
- (vii) intends to leave the United Kingdom on completion of his stay as an “au pair”; and
- (viii) if he has previously spent time in the United Kingdom as an “au pair”, is not seeking leave to enter to a date beyond 2 years from the date on which he was first given leave to enter the United Kingdom in this capacity.

Leave to enter as an “au pair”

90. A person seeking leave to enter the United Kingdom as an “au pair” may be admitted for a period not exceeding 2 years with a prohibition on employment except as an “au pair”, provided the Immigration Officer is satisfied that each of the requirements of paragraph 89 is met. (A non-visa national who wishes to ascertain in advance whether a proposed “au pair” placement is likely to meet the requirements of paragraph 89 is advised to obtain an entry clearance before travelling to the United Kingdom).

Refusal of leave to enter as an “au pair”

91. An application for leave to enter as an “au pair” is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 89 is met.

Requirements for an extension of stay as an “au pair”

92. The requirements for an extension of stay as an “au pair” are that the applicant:

- (i) was given leave to enter the United Kingdom as an “au pair” under paragraph 90; and

- (ii) is undertaking an arranged “au pair” placement which can be shown to fall within the definition set out in paragraph 88; and
- (iii) meets the requirements of paragraph 89 (ii)–(vii); and
- (iv) would not, as a result of an extension of stay, remain in the United Kingdom as an “au pair” to a date beyond 2 years from the date on which he was first given leave to enter the United Kingdom in this capacity.

Extension of stay as an “au pair”

93. An extension of stay as an “au pair” may be granted with a prohibition on employment except as an “au pair”, provided the Secretary of State is satisfied that each of the requirements of paragraph 92 is met.

Refusal of extension of stay as an “au pair”

94. An extension of stay as an “au pair” is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 92 is met.

WORKING HOLIDAYMAKERS

Requirements for leave to enter as a working holidaymaker

95. The requirements to be met by a person seeking leave to enter the United Kingdom as a working holidaymaker are that he:

- (i) is a Commonwealth citizen; and
- (ii) is aged 17–27 inclusive or was so aged when first given leave to enter in this capacity; and
- (iii) is unmarried or is married to a person who meets the requirements of this paragraph and the parties to the marriage intend to take a working holiday together; and
- (iv) has the means to pay for his return or onward journey; and
- (v) is able and intends to maintain and accommodate himself without recourse to public funds; and
- (vi) is intending to take employment incidental to a holiday but not to engage in business, provide services as a professional sportsman or entertainer or pursue a career in the United Kingdom; and
- (vii) does not have dependent children any of whom are 5 years of age or over or who will reach 5 years of age before the applicant completes his working holiday; or commitments which would require him to earn a regular income; and
- (viii) intends to leave the United Kingdom at the end of his working holiday; and
- (ix) if he has previously spent time in the United Kingdom as a working holidaymaker, is not seeking leave to enter to a date beyond 2 years from the date he was first given leave to enter in this capacity; and
- (x) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a working holidaymaker

96. A person seeking leave to enter the United Kingdom as a working holidaymaker may be admitted for a period not exceeding 2 years with a condition restricting his freedom to take employment, provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter as a working holidaymaker

97. Leave to enter as a working holidaymaker is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay as a working holidaymaker

98. The requirements for an extension of stay as a working holidaymaker are that the applicant:

- (i) entered the United Kingdom with a valid United Kingdom entry clearance as a working holidaymaker; and
- (ii) meets the requirements of paragraph 95 (i)–(viii); and
- (iii) would not, as a result of an extension of stay, remain in the United Kingdom as a working holidaymaker to a date beyond 2 years from the date on which he was first given leave to enter the United Kingdom in this capacity.

Extension of stay as a working holidaymaker

99. An extension of stay as a working holidaymaker may be granted with a condition restricting his freedom to take employment, provided the Secretary of State is satisfied that the applicant meets each of the requirements of paragraph 98.

Refusal of extension of stay as a working holidaymaker

100. An extension of stay as a working holidaymaker is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 98 is met.

CHILDREN OF WORKING HOLIDAYMAKERS

Requirements for leave to enter or remain as the child of a working holidaymaker

101. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the child of a working holidaymaker are that:

- (i) he is the child of a parent admitted to or allowed to remain in the United Kingdom as a working holidaymaker; and
- (ii) he is under the age of 5 and will leave the United Kingdom before reaching that age; and
- (iii) he can and will be maintained and accommodated adequately without recourse to public funds or without his parent(s) engaging in business or taking employment except as provided by paragraph 95 above; and
- (iv) both parents are being or have been admitted to or allowed to remain in the United Kingdom save where:
 - (a) the parent he is accompanying or joining is his sole surviving parent; or
 - (b) the parent he is accompanying or joining has had sole responsibility for his upbringing; or
 - (c) there are serious and compelling family or other considerations which make exclusion from the United Kingdom undesirable and suitable arrangements have been made for his care; and
- (v) if seeking leave to enter, he holds a valid United Kingdom entry clearance for entry in this capacity or, if seeking leave to remain, was admitted with a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter or remain as the child of a working holidaymaker

102. A person seeking leave to enter or remain in the United Kingdom as the child of a working holidaymaker may be admitted or allowed to remain for the same period of leave as that granted to the working holidaymaker provided that, in relation to an application for leave to enter, a valid United Kingdom entry clearance for entry in this capacity is produced to the Immigration Officer on arrival or, in the case of an application for leave to remain, he was admitted with a valid United Kingdom entry clearance for entry in this capacity and is able to satisfy the Secretary of State that each of the requirements of paragraph 101 (i)–(iv) is met.

Refusal of leave to enter or remain as the child of a working holidaymaker

103. Leave to enter or remain in the United Kingdom as the child of a working holidaymaker is to be refused if, in relation to an application for leave to enter, a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival or, in the case of an application for leave to remain, the applicant was not admitted with a valid United Kingdom entry clearance for entry in this capacity or is unable to satisfy the Secretary of State that each of the requirements of paragraph 101(i)-(iv) is met.

SEASONAL WORKERS AT AGRICULTURAL CAMPS

Requirements for leave to enter as a seasonal worker at an agricultural camp

104. The requirements to be met by a person seeking leave to enter the United Kingdom as a seasonal worker at an agricultural camp are that he:

- (i) is a student in full-time education aged between 18-25 years inclusive, except if returning for another season at the specific invitation of a farmer; and
- (ii) holds a valid Home Office work card issued by the operator of a scheme approved by the Secretary of State; and
- (iii) intends to leave the United Kingdom at the end of his period of leave as a seasonal worker; and
- (iv) does not intend to take employment except in the terms of this paragraph.

Leave to enter as a seasonal worker at an agricultural camp

105. A person seeking leave to enter the United Kingdom as a seasonal worker at an agricultural camp may be admitted with a condition restricting his freedom to take employment for a period not exceeding 3 months or until 30 November of the year in question, whichever is the shorter period, provided the Immigration Officer is satisfied that each of the requirements of paragraph 104 is met.

Refusal of leave to enter as a seasonal worker at an agricultural camp

106. Leave to enter the United Kingdom as a seasonal worker at an agricultural camp is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 104 is met.

Requirements for extension of stay as a seasonal worker at an agricultural camp

107. The requirements for an extension of stay as a seasonal worker at an agricultural camp are that the applicant:

- (i) entered the United Kingdom as a seasonal worker with a valid Home Office work card under paragraph 105; and
- (ii) meets the requirements of paragraph 104 (iii)-(iv); and
- (iii) can show that there is further farm work available under the approved scheme; and
- (iv) would not, as a result of an extension of stay, remain in the United Kingdom as a seasonal worker for longer than 6 months in aggregate or beyond 30 November of the year in question, whichever is the shorter period.

Extension of stay as a seasonal worker at an agricultural camp

108. An extension of stay as a seasonal worker may be granted with a condition restricting his freedom to take employment for a further period not exceeding 3 months or until 30 November of the year in question, whichever is the shorter period, provided the Secretary of State is satisfied that the applicant meets each of the requirements of paragraph 107.

Refusal of extension of stay as a seasonal worker at an agricultural camp

109. An extension of stay as a seasonal worker at an agricultural camp is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 107 is met.

TEACHERS AND LANGUAGE ASSISTANTS COMING TO THE UNITED KINGDOM UNDER APPROVED EXCHANGE SCHEMES

Requirements for leave to enter as a teacher or language assistant under an approved exchange scheme

110. The requirements to be met by a person seeking leave to enter the United Kingdom as a teacher or language assistant on an approved exchange scheme are that he:

- (i) is coming to an educational establishment in the United Kingdom under an exchange scheme approved by the Education Departments or administered by the Central Bureau for Educational Visits and Exchanges or the League for the Exchange of Commonwealth Teachers; and
- (ii) intends to leave the United Kingdom at the end of his exchange period; and
- (iii) does not intend to take employment except in the terms of this paragraph; and
- (iv) is able to maintain and accommodate himself and any dependants without recourse to public funds; and
- (v) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a teacher or language assistant under an exchange scheme

111. A person seeking leave to enter the United Kingdom as a teacher or language assistant under an approved exchange scheme may be given leave to enter for a period not exceeding 12 months provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter as a teacher or language assistant under an approved exchange scheme

112. Leave to enter the United Kingdom as a teacher or language assistant under an approved exchange scheme is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for extension of stay as a teacher or language assistant under an approved exchange scheme

113. The requirements for an extension of stay as a teacher or language assistant under an approved exchange scheme are that the applicant:

- (i) entered the United Kingdom with a valid United Kingdom entry clearance as a teacher or language assistant; and
- (ii) is still engaged in the employment for which his entry clearance was granted; and
- (iii) is still required for the employment in question, as certified by the employer; and
- (iv) meets the requirements of paragraph 110 (ii)–(iv); and
- (v) would not, as a result of an extension of stay, remain in the United Kingdom as an exchange teacher or language assistant for more than 2 years from the date on which he was first given leave to enter the United Kingdom in this capacity.

Extension of stay as a teacher or language assistant under an approved exchange scheme

114. An extension of stay as a teacher or language assistant under an approved exchange scheme may be granted for a further period not exceeding 12 months provided the Secretary of State is satisfied that each of the requirements of paragraph 113 is met.

Refusal of extension of stay as a teacher or language assistant under an approved exchange scheme

115. An extension of stay as a teacher or language assistant under an approved exchange scheme is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 113 is met.

DEPARTMENT OF EMPLOYMENT APPROVED TRAINING OR WORK EXPERIENCE

Requirements for leave to enter for Department of Employment approved training or work experience

116. The requirements to be met by a person seeking leave to enter the United Kingdom for Department of Employment approved training or work experience are that he:

- (i) holds a valid work permit from the Department of Employment issued under the Training and Work Experience Scheme; and
- (ii) is not of an age which puts him outside the limits for employment; and
- (iii) is capable of undertaking the training or work experience as specified in his work permit; and
- (iv) intends to leave the United Kingdom on the completion of his training or work experience; and
- (v) does not intend to take employment except as specified in his work permit; and
- (vi) is able to maintain and accommodate himself and any dependants adequately without recourse to public funds.

Leave to enter for Department of Employment approved training or work experience

117. A person seeking leave to enter the United Kingdom for approved training may be admitted to the United Kingdom for a period not exceeding 3 years and a person seeking entry for approved work experience may be admitted for a period not exceeding 12 months, provided the Immigration Officer is satisfied that each of the requirements of paragraph 116 is met. Leave to enter is to be subject to a condition permitting the person to take or change employment only with the permission of the Department of Employment.

Refusal of leave to enter for Department of Employment approved training or work experience

118. Leave to enter the United Kingdom for Department of Employment approved training or work experience is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 116 is met.

Requirements for extension of stay for Department of Employment approved training or work experience

119. The requirements for an extension of stay for Department of Employment approved training or work experience are that the applicant:

- (i) entered the United Kingdom with a valid work permit under paragraph 117 or was admitted or allowed to remain in the United Kingdom as a student; and
- (ii) has written approval from the Department of Employment for an extension of stay in this category; and
- (iii) meets the requirements of paragraph 116 (ii)–(vi); and
- (iv) would not as a result of an extension of stay spend more than 2 years in the United Kingdom for Department of Employment approved work experience.

Extension of stay for Department of Employment approved training or work experience

120. An extension of stay for approved training may be granted for a further period not exceeding 3 years; and an extension of stay for approved work experience may be granted for a further period not exceeding 12 months provided the Secretary of State is satisfied that each of the requirements of paragraph 119 is met. An extension of stay is to be subject to a condition permitting the applicant to take or change employment only with the permission of the Department of Employment.

Refusal of extension of stay for Department of Employment approved training or work experience

121. An extension of stay for Department of Employment approved training or work experience is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 119 is met.

SPOUSES OF PERSONS WITH LIMITED LEAVE TO ENTER OR REMAIN UNDER PARAGRAPHS 110-121

Requirements for leave to enter or remain as the spouse of a person with limited leave to enter or remain in the United Kingdom under paragraphs 110-121

122. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the spouse of a person with limited leave to enter or remain in the United Kingdom under paragraphs 110-121 are that:

- (i) the applicant is married to a person with limited leave to enter or remain in the United Kingdom under paragraphs 110-121; and
- (ii) each of the parties intends to live with the other as his or her spouse during the applicant's stay and the marriage is subsisting; and
- (iii) there will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
- (iv) the parties will be able to maintain themselves and any dependants adequately without recourse to public funds; and
- (v) the applicant does not intend to stay in the United Kingdom beyond any period of leave granted to his spouse; and
- (vi) if seeking leave to enter, the applicant holds a valid United Kingdom entry clearance for entry in this capacity or, if seeking leave to remain, was admitted with a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter or remain as the spouse of a person with limited leave to enter or remain in the United Kingdom under paragraphs 110-121

123. A person seeking leave to enter or remain in the United Kingdom as the spouse of a person with limited leave to enter or remain in the United Kingdom under paragraphs 110-121 may be given leave to enter or remain in the United Kingdom for a period of leave not in excess of that granted to the person with limited leave to enter or remain under paragraphs 110-121 provided that, in relation to an application for leave to enter, he is able, on arrival, to produce to the Immigration Officer a valid United Kingdom entry clearance for entry in this capacity or, in the case of an application for limited leave to remain, was admitted with a valid United Kingdom entry clearance for entry in this capacity and is able to satisfy the Secretary of State that each of the requirements of paragraph 122 (i)-(v) is met.

Refusal of leave to enter or remain as the spouse of a person with limited leave to enter or remain in the United Kingdom under paragraphs 110-121

124. Leave to enter or remain in the United Kingdom as the spouse of a person with limited leave to enter or remain in the United Kingdom under paragraphs 110-121 is to be refused if, in relation to an application for leave to enter, a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival or, in the case of an application for limited leave to remain, if the applicant was not admitted with a valid United Kingdom entry clearance for entry in this capacity or is unable to satisfy the Secretary of State that each of the requirements of paragraph 122 (i)-(v) is met.

CHILDREN OF PERSONS ADMITTED OR ALLOWED TO REMAIN UNDER PARAGRAPHS 110–121

Requirements for leave to enter or remain as the child of a person with limited leave to enter or remain in the United Kingdom under paragraphs 110–121

125. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the child of a person with limited leave to enter or remain in the United Kingdom under paragraphs 110–121 are that:

- (i) he is the child of a parent who has limited leave to enter or remain in the United Kingdom under paragraphs 110–121; and
- (ii) he is under the age of 18 or has current leave to enter or remain in this capacity; and
- (iii) he is unmarried, has not formed an independent family unit and is not leading an independent life; and
- (iv) he can, and will, be maintained and accommodated adequately without recourse to public funds in accommodation which his parent(s) own or occupy exclusively; and
- (v) he will not stay in the United Kingdom beyond any period of leave granted to his parent(s); and
- (vi) both parents are being or have been admitted to or allowed to remain in the United Kingdom save where:
 - (a) the parent he is accompanying or joining is his sole surviving parent; or
 - (b) the parent he is accompanying or joining has had sole responsibility for his upbringing; or
 - (c) there are serious and compelling family or other considerations which make exclusion from the United Kingdom undesirable and suitable arrangements have been made for his care; and
- (vii) if seeking leave to enter, he holds a valid United Kingdom entry clearance for entry in this capacity or, if seeking leave to remain, was admitted with a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter or remain as the child of a person with limited leave to enter or remain in the United Kingdom under paragraphs 110–121

126. A person seeking leave to enter or remain in the United Kingdom as the child of a person with limited leave to enter or remain in the United Kingdom under paragraphs 110–121 may be given leave to enter or remain in the United Kingdom for a period of leave not in excess of that granted to the person with limited leave to enter or remain under paragraphs 110–121 provided that, in relation to an application for leave to enter, he is able, on arrival, to produce to the Immigration Officer a valid United Kingdom entry clearance for entry in this capacity or, in the case of an application for limited leave to remain, he was admitted with a valid United Kingdom entry clearance for entry in this capacity and is able to satisfy the Secretary of State that each of the requirements of paragraph 125 (i)–(vi) is met.

Refusal of leave to enter or remain as the child of a person with limited leave to enter or remain in the United Kingdom under paragraphs 110–121

127. Leave to enter or remain in the United Kingdom as the child of a person with limited leave to enter or remain in the United Kingdom under paragraphs 110–121 is to be refused if, in relation to an application for leave to enter, a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival or, in the case of an application for limited leave to remain, if the applicant was not admitted with a valid United Kingdom entry clearance for entry in this capacity or is unable to satisfy the Secretary of State that each of the requirements of paragraph 125 (i)–(vi) is met.

PART 5: PERSONS SEEKING TO ENTER OR REMAIN IN THE UNITED KINGDOM FOR EMPLOYMENT

WORK PERMIT EMPLOYMENT

Requirements for leave to enter the United Kingdom for work permit employment

128. The requirements to be met by a person coming to the United Kingdom to seek or take employment (unless he is otherwise eligible for admission for employment under these Rules or is eligible for admission as a seaman under contract to join a ship due to leave British waters) are that he:

- (i) holds a valid Department of Employment work permit; and
- (ii) is not of an age which puts him outside the limits for employment; and
- (iii) is capable of undertaking the employment specified in the work permit; and
- (iv) does not intend to take employment except as specified in his work permit; and
- (v) is able to maintain and accommodate himself and any dependants adequately without recourse to public funds; and
- (vi) in the case of a person in possession of a work permit which is valid for a period of 12 months or less, intends to leave the United Kingdom at the end of his approved employment.

Leave to enter for work permit employment

129. A person seeking leave to enter the United Kingdom for the purpose of work permit employment may be admitted for a period not exceeding 4 years (normally as specified in his work permit), subject to a condition restricting him to employment approved by the Department of Employment, provided the Immigration Officer is satisfied that each of the requirements of paragraph 128 is met.

Refusal of leave to enter for employment

130. Leave to enter for the purpose of employment is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 128 is met (unless he is otherwise eligible for admission for employment under these Rules or is eligible for admission as a seaman under contract to join a ship due to leave British waters).

Requirements for an extension of stay for work permit employment

131. The requirements for an extension of stay to seek or take employment (unless the applicant is otherwise eligible for an extension of stay for employment under these Rules) are that the applicant:

- (i) entered the United Kingdom with a valid work permit under paragraph 129; and
- (ii) has written approval from the Department of Employment for the continuation of his employment; and
- (iii) meets the requirements of paragraph 128 (ii)–(v).

Extension of stay for work permit employment

132. An extension of stay for work permit employment may be granted for a period not exceeding the period of approved employment recommended by the Department of Employment provided the Secretary of State is satisfied that each of the requirements of paragraph 131 is met. An extension of stay is to be subject to a condition restricting the applicant to employment approved by the Department of Employment.

Refusal of extension of stay for employment

133. An extension of stay for employment is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 131 is met (unless

the applicant is otherwise eligible for an extension of stay for employment under these Rules).

Indefinite leave to remain for a work permit holder

134. Indefinite leave to remain may be granted, on application, to a person admitted as a work permit holder provided:

- (i) he has spent a continuous period of 4 years in the United Kingdom in this capacity; and
- (ii) he has met the requirements of paragraph 131 throughout the 4 year period; and
- (iii) he is still required for the employment in question, as certified by his employer.

Refusal of indefinite leave to remain for a work permit holder

135. Indefinite leave to remain in the United Kingdom for a work permit holder is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 134 is met.

REPRESENTATIVES OF OVERSEAS NEWSPAPERS, NEWS AGENCIES AND BROADCASTING ORGANISATIONS

Requirements for leave to enter as a representative of an overseas newspaper, news agency or broadcasting organisation

136. The requirements to be met by a person seeking leave to enter the United Kingdom as a representative of an overseas newspaper, news agency or broadcasting organisation are that he:

- (i) has been engaged by that organisation outside the United Kingdom and is being posted to the United Kingdom on a long-term assignment as a representative; and
- (ii) intends to work full-time as a representative of that overseas newspaper, news agency or broadcasting organisation; and
- (iii) does not intend to take employment except within the terms of this paragraph; and
- (iv) can maintain and accommodate himself and any dependants adequately without recourse to public funds; and
- (v) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a representative of an overseas newspaper, news agency or broadcasting organisation

137. A person seeking leave to enter the United Kingdom as a representative of an overseas newspaper, news agency or broadcasting organisation may be admitted for a period not exceeding 12 months provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter as a representative of an overseas newspaper, news agency or broadcasting organisation

138. Leave to enter as a representative of an overseas newspaper, news agency or broadcasting organisation is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay as a representative of an overseas newspaper, news agency or broadcasting organisation

139. The requirements for an extension of stay as a representative of an overseas newspaper, news agency or broadcasting organisation are that the applicant:

- (i) entered the United Kingdom with a valid United Kingdom entry clearance as a representative of an overseas newspaper, news agency or broadcasting organisation; and
- (ii) is still engaged in the employment for which his entry clearance was granted; and
- (iii) is still required for the employment in question, as certified by his employer; and
- (iv) meets the requirements of paragraph 136 (ii)–(iv).

Extension of stay as a representative of an overseas newspaper, news agency or broadcasting organisation

140. An extension of stay as a representative of an overseas newspaper, news agency or broadcasting organisation may be granted for a period not exceeding 3 years provided the Secretary of State is satisfied that each of the requirements of paragraph 139 is met.

Refusal of extension of stay as a representative of an overseas newspaper, news agency or broadcasting organisation

141. An extension of stay as a representative of an overseas newspaper, news agency or broadcasting organisation is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 139 is met.

Indefinite leave to remain for a representative of an overseas newspaper, news agency or broadcasting organisation

142. Indefinite leave to remain may be granted, on application, to a representative of an overseas newspaper, news agency or broadcasting organisation provided:

- (i) he has spent a continuous period of 4 years in the United Kingdom in this capacity; and
- (ii) he has met the requirements of paragraph 139 throughout the 4 year period; and
- (iii) he is still required for the employment in question, as certified by his employer.

Refusal of indefinite leave to remain for a representative of an overseas newspaper, news agency or broadcasting organisation

143. Indefinite leave to remain in the United Kingdom for a representative of an overseas newspaper, news agency or broadcasting organisation is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 142 is met.

REPRESENTATIVES OF OVERSEAS FIRMS WHICH HAVE NO BRANCH, SUBSIDIARY OR OTHER REPRESENTATIVE IN THE UNITED KINGDOM (SOLE REPRESENTATIVES)

Requirements for leave to enter as a sole representative

144. The requirements to be met by a person seeking leave to enter the United Kingdom as a sole representative are that he:

- (i) has been recruited and taken on as an employee outside the United Kingdom as a representative of a firm which has its headquarters and principal place of business outside the United Kingdom and which has no branch, subsidiary or other representative in the United Kingdom; and

- (ii) seeks entry to the United Kingdom as a senior employee with full authority to take operational decisions on behalf of the overseas firm for the purpose of representing it in the United Kingdom by establishing and operating a registered branch or wholly-owned subsidiary of that overseas firm; and
- (iii) intends to be employed full-time as a representative of that overseas firm; and
- (iv) is not a majority shareholder in that overseas firm; and
- (v) does not intend to take employment except within the terms of this paragraph; and
- (vi) can maintain and accommodate himself and any dependants adequately without recourse to public funds; and
- (vii) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a sole representative

145. A person seeking leave to enter the United Kingdom as a sole representative may be admitted for a period not exceeding 12 months provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter as a sole representative

146. Leave to enter as a sole representative is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay as a sole representative

147. The requirements for an extension of stay as a sole representative are that the applicant:

- (i) entered the United Kingdom with a valid United Kingdom entry clearance as a sole representative of an overseas firm; and
- (ii) can show that the overseas firm still has its headquarters and principal place of business outside the United Kingdom; and
- (iii) is employed full-time as a representative of that overseas firm and has established and is in charge of its registered branch or wholly-owned subsidiary; and
- (iv) is still required for the employment in question, as certified by his employer; and
- (v) meets the requirements of paragraph 144 (iii)–(vi).

Extension of stay as a sole representative

148. An extension of stay not exceeding 3 years as a sole representative may be granted provided the Secretary of State is satisfied that each of the requirements of paragraph 147 is met.

Refusal of extension of stay as a sole representative

149. An extension of stay as a sole representative is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 147 is met.

Indefinite leave to remain for a sole representative

150. Indefinite leave to remain may be granted, on application, to a sole representative provided:

- (i) he has spent a continuous period of 4 years in the United Kingdom in this capacity; and
- (ii) he has met the requirements of paragraph 147 throughout the 4 year period; and
- (iii) he is still required for the employment in question, as certified by his employer.

Refusal of indefinite leave to remain for a sole representative

151. Indefinite leave to remain in the United Kingdom for a sole representative is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 150 is met.

PRIVATE SERVANTS IN DIPLOMATIC HOUSEHOLDS

Requirements for leave to enter as a private servant in a diplomatic household

152. The requirements to be met by a person seeking leave to enter the United Kingdom as a private servant in a diplomatic household are that he:

- (i) is aged 18 or over; and
- (ii) is employed as a private servant in the household of a member of staff of a diplomatic or consular mission who enjoys diplomatic privileges and immunity within the meaning of the Vienna Convention on Diplomatic and Consular Relations or a member of the family forming part of the household of such a person; and
- (iii) intends to work full-time as a private servant within the terms of this paragraph; and
- (iv) does not intend to take employment except within the terms of this paragraph; and
- (v) can maintain and accommodate himself and any dependants adequately without recourse to public funds; and
- (vi) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a private servant in a diplomatic household

153. A person seeking leave to enter the United Kingdom as a private servant in a diplomatic household may be given leave to enter for a period not exceeding 12 months provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter as a private servant in a diplomatic household

154. Leave to enter as a private servant in a diplomatic household is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay as a private servant in a diplomatic household

155. The requirements for an extension of stay as a private servant in a diplomatic household are that the applicant:

- (i) entered the United Kingdom with a valid United Kingdom entry clearance as a private servant in a diplomatic household; and
- (ii) is still engaged in the employment for which his entry clearance was granted; and
- (iii) is still required for the employment in question, as certified by the employer; and
- (iv) meets the requirements of paragraph 152 (iii)–(v).

Extension of stay as a private servant in a diplomatic household

156. An extension of stay as a private servant in a diplomatic household may be granted for a period not exceeding 12 months provided the Secretary of State is satisfied that each of the requirements of paragraph 155 is met.

Refusal of extension of stay as a private servant in a diplomatic household

157. An extension of stay as a private servant in a diplomatic household is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 155 is met.

Indefinite leave to remain for a servant in a diplomatic household

158. Indefinite leave to remain may be granted, on application, to a private servant in a diplomatic household provided:

- (i) he has spent a continuous period of 4 years in the United Kingdom in this capacity; and
- (ii) he has met the requirements of paragraph 155 throughout the 4 year period; and
- (iii) he is still required for the employment in question, as certified by his employer.

Refusal of indefinite leave to remain for a servant in a diplomatic household

159. Indefinite leave to remain in the United Kingdom for a private servant in a diplomatic household is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 158 is met.

OVERSEAS GOVERNMENT EMPLOYEES

Requirements for leave to enter as an overseas government employee

160. For the purposes of these Rules an overseas government employee means a person coming for employment by an overseas government or employed by the United Nations Organisation or other international organisation of which the United Kingdom is a member.

161. The requirements to be met by a person seeking leave to enter the United Kingdom as an overseas government employee are that he:

- (i) is able to produce either a valid United Kingdom entry clearance for entry in this capacity or satisfactory documentary evidence of his status as an overseas government employee; and
- (ii) intends to work full time for the government or organisation concerned; and
- (iii) does not intend to take employment except within the terms of this paragraph; and
- (iv) can maintain and accommodate himself and any dependants adequately without recourse to public funds.

Leave to enter as an overseas government employee

162. A person seeking leave to enter the United Kingdom as an overseas government employee may be given leave to enter for a period not exceeding 12 months, provided he is able, on arrival, to produce to the Immigration Officer a valid United Kingdom entry clearance for entry in this capacity or satisfy the Immigration Officer that each of the requirements of paragraph 161 is met.

Refusal of leave to enter as an overseas government employee

163. Leave to enter as an overseas government employee is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival or if the Immigration Officer is not satisfied that each of the requirements of paragraph 161 is met.

Requirements for an extension of stay as an overseas government employee

164. The requirements to be met by a person seeking an extension of stay as an overseas government employee are that the applicant:

- (i) was given leave to enter the United Kingdom under paragraph 162 as an overseas government employee; and
- (ii) is still engaged in the employment in question; and
- (iii) is still required for the employment in question, as certified by the employer; and
- (iv) meets the requirements of paragraph 161 (ii)—(iv).

Extension of stay as an overseas government employee

165. An extension of stay as an overseas government employee may be granted for a period not exceeding 3 years provided the Secretary of State is satisfied that each of the requirements of paragraph 164 is met.

Refusal of extension of stay as an overseas government employee

166. An extension of stay as an overseas government employee is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 164 is met.

Indefinite leave to remain for an overseas government employee

167. Indefinite leave to remain may be granted, on application, to an overseas government employee provided:

- (i) he has spent a continuous period of 4 years in the United Kingdom in this capacity; and
- (ii) he has met the requirements of paragraph 164 throughout the 4 year period; and
- (iii) he is still required for the employment in question, as certified by his employer.

Refusal of indefinite leave to remain for an overseas government employee

168. Indefinite leave to remain in the United Kingdom for an overseas government employee is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 167 is met.

MINISTERS OF RELIGION, MISSIONARIES AND MEMBERS OF RELIGIOUS ORDERS

169. For the purposes of these Rules:

- (i) a minister of religion means a religious functionary whose main regular duties comprise the leading of a congregation in performing the rites and rituals of the faith and in preaching the essentials of the creed;
- (ii) a missionary means a person who is directly engaged in spreading a religious doctrine and whose work is not in essence administrative or clerical;
- (iii) a member of a religious order means a person who is coming to live in a community run by that order.

Requirements for leave to enter as a minister of religion, missionary or member of a religious order

170. The requirements to be met by a person seeking leave to enter the United Kingdom as a minister of religion, missionary or member of a religious order are that he:

- (i) (a) if seeking leave to enter as a minister of religion has either been working for at least one year as a minister of religion or, where ordination is prescribed by a religious faith as the sole means of entering the ministry, has been ordained as a minister of religion following at least one year's full-time or two years' part-time training for the ministry; or
- (b) if seeking leave to enter as a missionary has been trained as a missionary or has worked as a missionary and is being sent to the United Kingdom by an overseas organisation; or
- (c) if seeking leave to enter as a member of a religious order is coming to live in a community maintained by the religious order of which he is a member and, if intending to teach, does not intend to do so save at an establishment maintained by his order; and
- (ii) intends to work full-time as a minister of religion, missionary or for the religious order of which he is a member; and

- (iii) does not intend to take employment except within the terms of this paragraph; and
- (iv) can maintain and accommodate himself and any dependants adequately without recourse to public funds; and
- (v) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a minister of religion, missionary or member of a religious order

171. A person seeking leave to enter the United Kingdom as a minister of religion, missionary or member of a religious order may be admitted for a period not exceeding 12 months provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter as a minister of religion, missionary or member of a religious order

172. Leave to enter as a minister of religion, missionary or member of a religious order is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay as a minister of religion, missionary or member of a religious order

173. The requirements for an extension of stay as a minister of religion, missionary or member of a religious order are that the applicant:

- (i) entered the United Kingdom with a valid United Kingdom entry clearance as a minister of religion, missionary or member of a religious order; and
- (ii) is still engaged in the employment for which his entry clearance was granted; and
- (iii) is still required for the employment in question as certified by the leadership of his congregation, his employer or the head of his religious order; and
- (iv) meets the requirements of paragraph 170 (ii)–(iv).

Extension of stay as a minister of religion, missionary or member of a religious order

174. An extension of stay as a minister of religion, missionary or member of a religious order may be granted for a period not exceeding 3 years provided the Secretary of State is satisfied that each of the requirements of paragraph 173 is met.

Refusal of extension of stay as a minister of religion, missionary or member of a religious order

175. An extension of stay as a minister of religion, missionary or member of a religious order is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 173 is met.

Indefinite leave to remain for a minister of religion, missionary or member of a religious order

176. Indefinite leave to remain may be granted, on application, to a person admitted as a minister of religion, missionary or member of a religious order provided:

- (i) he has spent a continuous period of 4 years in the United Kingdom in this capacity; and
- (ii) he has met the requirements of paragraph 173 throughout the 4 year period; and
- (iii) he is still required for the employment in question as certified by the

leadership of his congregation, his employer or the head of the religious order to which he belongs.

Refusal of indefinite leave to remain for a minister of religion, missionary or member of a religious order

177. Indefinite leave to remain in the United Kingdom for a minister of religion, missionary or member of a religious order is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 176 is met.

AIRPORT-BASED OPERATIONAL GROUND STAFF OF OVERSEAS-OWNED AIRLINES

Requirements for leave to enter the United Kingdom as a member of the operational ground staff of an overseas-owned airline

178. The requirements to be met by a person seeking leave to enter the United Kingdom as a member of the operational ground staff of an overseas-owned airline are that he:

- (i) has been transferred to the United Kingdom by an overseas-owned airline operating services to and from the United Kingdom to take up duty at an international airport as station manager, security manager or technical manager; and
- (ii) intends to work full-time for the airline concerned; and
- (iii) does not intend to take employment except within the terms of this paragraph; and
- (iv) can maintain and accommodate himself and any dependants without recourse to public funds; and
- (v) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a member of the operational ground staff of an overseas-owned airline

179. A person seeking leave to enter the United Kingdom as a member of the operational ground staff of an overseas-owned airline may be given leave to enter for a period not exceeding 12 months, provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter as a member of the operational ground staff of an overseas-owned airline

180. Leave to enter as a member of the operational ground staff of an overseas-owned airline is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay as a member of the operational ground staff of an overseas-owned airline

181. The requirements to be met by a person seeking an extension of stay as a member of the operational ground staff of an overseas-owned airline are that the applicant:

- (i) entered the United Kingdom with a valid United Kingdom entry clearance as a member of the operational ground staff of an overseas-owned airline; and
- (ii) is still engaged in the employment for which entry was granted; and
- (iii) is still required for the employment in question, as certified by the employer; and
- (iv) meets the requirements of paragraph 178 (ii)-(iv).

Extension of stay as a member of the operational ground staff of an overseas-owned airline

182. An extension of stay as a member of the operational ground staff of an overseas-owned airline may be granted for a period not exceeding 3 years.

provided the Secretary of State is satisfied that each of the requirements of paragraph 181 is met.

Refusal of extension of stay as a member of the operational ground staff of an overseas-owned airline

183. An extension of stay as a member of the operational ground staff of an overseas-owned airline is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 181 is met.

Indefinite leave to remain for a member of the operational ground staff of an overseas-owned airline

184. Indefinite leave to remain may be granted, on application, to a member of the operational ground staff of an overseas-owned airline provided:

- (i) he has spent a continuous period of 4 years in the United Kingdom in this capacity; and
- (ii) he has met the requirements of paragraph 181 throughout the 4 year period; and
- (iii) he is still required for the employment in question, as certified by the employer.

Refusal of indefinite leave to remain for a member of the operational ground staff of an overseas-owned airline

185. Indefinite leave to remain in the United Kingdom for a member of the operational ground staff of an overseas-owned airline is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 184 is met.

PERSONS WITH UNITED KINGDOM ANCESTRY

Requirements for leave to enter on the grounds of United Kingdom ancestry

186. The requirements to be met by a person seeking leave to enter the United Kingdom on the grounds of his United Kingdom ancestry are that he:

- (i) is a Commonwealth citizen; and
- (ii) is aged 17 or over; and
- (iii) is able to provide proof that one of his grandparents was born in the United Kingdom and Islands; and
- (iv) is able to work and intends to take or seek employment in the United Kingdom; and
- (v) will be able to maintain and accommodate himself and any dependants adequately without recourse to public funds; and
- (vi) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter the United Kingdom on the grounds of United Kingdom ancestry

187. A person seeking leave to enter the United Kingdom on the grounds of his United Kingdom ancestry may be given leave to enter for a period not exceeding 4 years provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter on the grounds of United Kingdom ancestry

188. Leave to enter the United Kingdom on the grounds of United Kingdom ancestry is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay on the grounds of United Kingdom ancestry

189. The requirements to be met by a person seeking an extension of stay on the grounds of United Kingdom ancestry are that he is able to meet each of the requirements of paragraph 186 (i)-(v).

Extension of stay on the grounds of United Kingdom ancestry

190. An extension of stay on the grounds of United Kingdom ancestry may be granted for a period not exceeding 4 years provided the Secretary of State is satisfied that each of the requirements of paragraph 186 (i)–(v) is met.

Refusal of extension of stay on the grounds of United Kingdom ancestry

191. An extension of stay on the grounds of United Kingdom ancestry is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 186 (i)–(v) is met.

Indefinite leave to remain on the grounds of United Kingdom ancestry

192. Indefinite leave to remain may be granted, on application, to a Commonwealth citizen with a United Kingdom born grandparent provided:

- (i) he meets the requirements of paragraph 186 (i)–(v); and
- (ii) he has spent a continuous period of 4 years in the United Kingdom in this capacity.

Refusal of indefinite leave to remain on the grounds of United Kingdom ancestry

193. Indefinite leave to remain in the United Kingdom on the grounds of a United Kingdom born grandparent is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 192 is met.

SPOUSES OF PERSONS WITH LIMITED LEAVE TO ENTER OR REMAIN UNDER PARAGRAPHS 128–193

Requirements for leave to enter or remain as the spouse of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193

194. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the spouse of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193 are that:

- (i) the applicant is married to a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193; and
- (ii) each of the parties intends to live with the other as his or her spouse during the applicant's stay and the marriage is subsisting; and
- (iii) there will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
- (iv) the parties will be able to maintain themselves and any dependants adequately without recourse to public funds; and
- (v) the applicant does not intend to stay in the United Kingdom beyond any period of leave granted to his spouse; and
- (vi) if seeking leave to enter, the applicant holds a valid United Kingdom entry clearance for entry in this capacity or, if seeking leave to remain, was admitted with a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter or remain as the spouse of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193

195. A person seeking leave to enter or remain in the United Kingdom as the spouse of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193 may be given leave to enter or remain in the United Kingdom for a period of leave not in excess of that granted to the person with limited leave to enter or remain under paragraphs 128–193 provided that, in relation to an application for leave to enter, he is able, on arrival, to produce to the Immigration Officer a valid United Kingdom entry clearance for entry in this capacity or, in the case of an application for limited leave to remain, he was admitted with a valid United Kingdom entry clearance for entry in this capacity and is able to satisfy the Secretary of State that each of the requirements of paragraph 194 (i)–(v) is met. An application for indefinite leave to remain in this

category may be granted provided the applicant was admitted with a valid United Kingdom entry clearance for entry in this capacity and is able to satisfy the Secretary of State that each of the requirements of paragraph 194 (i)–(v) is met and provided indefinite leave to remain is, at the same time, being granted to the person with limited leave to enter or remain under paragraphs 128–193.

Refusal of leave to enter or remain as the spouse of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193

196. Leave to enter or remain in the United Kingdom as the spouse of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193 is to be refused if, in relation to an application for leave to enter, a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival or, in the case of an application for limited leave to remain, if the applicant was not admitted with a valid United Kingdom entry clearance for entry in this capacity or is unable to satisfy the Secretary of State that each of the requirements of paragraph 194 (i)–(v) is met. An application for indefinite leave to remain in this category is to be refused if the applicant was not admitted with a valid United Kingdom entry clearance for entry in this capacity or is unable to satisfy the Secretary of State that each of the requirements of paragraph 194 (i)–(v) is met or if indefinite leave to remain is not, at the same time, being granted to the person with limited leave to enter or remain under paragraphs 128–193.

CHILDREN OF PERSONS WITH LIMITED LEAVE TO ENTER OR REMAIN IN THE UNITED KINGDOM UNDER PARAGRAPHS 128–193

Requirements for leave to enter or remain as the child of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193

197. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as a child of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193 are that:

- (i) he is the child of a parent with limited leave to enter or remain in the United Kingdom under paragraphs 128–193; and
- (ii) he is under the age of 18 or has current leave to enter or remain in this capacity; and
- (iii) he is unmarried, has not formed an independent family unit and is not leading an independent life; and
- (iv) he can and will be maintained and accommodated adequately without recourse to public funds in accommodation which his parent(s) own or occupy exclusively; and
- (v) he will not stay in the United Kingdom beyond any period of leave granted to his parent(s); and
- (vi) both parents are being or have been admitted to or allowed to remain in the United Kingdom save where:
 - (a) the parent he is accompanying or joining is his sole surviving parent; or
 - (b) the parent he is accompanying or joining has had sole responsibility for his upbringing; or
 - (c) there are serious and compelling family or other considerations which make exclusion from the United Kingdom undesirable and suitable arrangements have been made for his care; and
- (vii) if seeking leave to enter, he holds a valid United Kingdom entry clearance for entry in this capacity or, if seeking leave to remain, was admitted with a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter or remain as the child of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193

198. A person seeking leave to enter or remain in the United Kingdom as the child of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193 may be given leave to enter or remain in the United

Kingdom for a period of leave not in excess of that granted to the person with limited leave to enter or remain under paragraphs 128–193 provided that, in relation to an application for leave to enter, he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity or, in the case of an application for limited leave to remain, he was admitted with a valid United Kingdom entry clearance for entry in this capacity and is able to satisfy the Secretary of State that each of the requirements of paragraph 197 (i)–(vi) is met. An application for indefinite leave to remain in this category may be granted provided the applicant was admitted with a valid United Kingdom entry clearance for entry in this capacity and is able to satisfy the Secretary of State that each of the requirements of paragraph 197 (i)–(vi) is met and provided indefinite leave to remain is, at the same time, being granted to the person with limited leave to enter or remain under paragraphs 128–193.

Refusal of leave to enter or remain as the child of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193

199. Leave to enter or remain in the United Kingdom as the child of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193 is to be refused if, in relation to an application for leave to enter, a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival or, in the case of an application for limited leave to remain, if the applicant was not admitted with a valid United Kingdom entry clearance for entry in this capacity or is unable to satisfy the Secretary of State that each of the requirements of paragraph 197 (i)–(vi) is met. An application for indefinite leave to remain in this category is to be refused if the applicant was not admitted with a valid United Kingdom entry clearance for entry in this capacity or is unable to satisfy the Secretary of State that each of the requirements of paragraph 197 (i)–(vi) is met or if indefinite leave to remain is not, at the same time, being granted to the person with limited leave to enter or remain under paragraphs 128–193.

PART 6: PERSONS SEEKING TO ENTER OR REMAIN IN THE UNITED KINGDOM AS A BUSINESSMAN, SELF-EMPLOYED PERSON, INVESTOR, WRITER, COMPOSER OR ARTIST

PERSONS INTENDING TO ESTABLISH THEMSELVES IN BUSINESS

Requirements for leave to enter the United Kingdom as a person intending to establish himself in business

200. For the purpose of paragraphs 201–210 a business means an enterprise as:

- a sole trader; or
- a partnership; or
- a company registered in the United Kingdom.

201. The requirements to be met by a person seeking leave to enter the United Kingdom to establish himself in business are:

- (i) that he satisfies the requirements of either paragraph 202 or paragraph 203; and
- (ii) that he has not less than £200,000 of his own money under his control and disposable in the United Kingdom which is held in his own name and not by a trust or other investment vehicle and which he will be investing in the business in the United Kingdom; and
- (iii) that until his business provides him with an income he will have sufficient additional funds to maintain and accommodate himself and any dependants without recourse to employment (other than his work for the business) or to public funds; and
- (iv) that he will be actively involved full-time in trading or providing services on his own account or in partnership, or in the promotion and management of the company as a director; and
- (v) that his level of financial investment will be proportional to his interest in the business; and
- (vi) that he will have either a controlling or equal interest in the business and that any partnership or directorship does not amount to disguised employment; and
- (vii) that he will be able to bear his share of liabilities; and
- (viii) that there is a genuine need for his investment and services in the United Kingdom; and
- (ix) that his share of the profits of the business will be sufficient to maintain and accommodate himself and any dependants without recourse to employment (other than his work for the business) or to public funds; and
- (x) that he does not intend to supplement his business activities by taking or seeking employment in the United Kingdom other than his work for the business; and
- (xi) that he holds a valid United Kingdom entry clearance for entry in this capacity.

202. Where a person intends to take over or join as a partner or director an existing business in the United Kingdom he will need, in addition to meeting the requirements at paragraph 201, to produce:

- (i) a written statement of the terms on which he is to take over or join the business; and
- (ii) audited accounts for the business for previous years; and
- (iii) evidence that his services and investment will result in a net increase in the employment provided by the business to persons settled here to the extent of creating at least 2 new full-time jobs.

203. Where a person intends to establish a new business in the United Kingdom he will need, in addition to meeting the requirements at paragraph 201 above, to produce evidence:

- (i) that he will be bringing into the country sufficient funds of his own to establish a business; and

- (ii) that the business will create full-time paid employment for at least 2 persons already settled in the United Kingdom.

Leave to enter the United Kingdom as a person seeking to establish himself in business

204. A person seeking leave to enter the United Kingdom to establish himself in business may be admitted for a period not exceeding 12 months with a condition restricting his freedom to take employment provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter the United Kingdom as a person seeking to establish himself in business

205. Leave to enter the United Kingdom as a person seeking to establish himself in business is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay in order to remain in business

206. The requirements for an extension of stay in order to remain in business in the United Kingdom are that the applicant can show:

- (i) that he entered the United Kingdom with a valid United Kingdom entry clearance as a businessman; and
- (ii) audited accounts which show the precise financial position of the business and which confirm that he has invested not less than £200,000 of his own money directly into the business in the United Kingdom; and
- (iii) that he is actively involved on a full-time basis in trading or providing services on his own account or in partnership or in the promotion and management of the company as a director; and
- (iv) that his level of financial investment is proportional to his interest in the business; and
- (v) that he has either a controlling or equal interest in the business and that any partnership or directorship does not amount to disguised employment; and
- (vi) that he is able to bear his share of any liability the business may incur; and
- (vii) that there is a genuine need for his investment and services in the United Kingdom; and
- (viii) (a) that where he has established a new business, new full-time paid employment has been created in the business for at least 2 persons settled in the United Kingdom; or
(b) that where he has taken over or joined an existing business, his services and investment have resulted in a net increase in the employment provided by the business to persons settled here to the extent of creating at least 2 new full-time jobs; and
- (ix) that his share of the profits of the business is sufficient to maintain and accommodate him and any dependants without recourse to employment (other than his work for the business) or to public funds; and
- (x) that he does not and will not have to supplement his business activities by taking or seeking employment in the United Kingdom other than his work for the business.

Extension of stay in order to remain in business

207. An extension of stay in order to remain in business with a condition restricting his freedom to take employment may be granted for a period not exceeding 3 years provided the Secretary of State is satisfied that each of the requirements of paragraph 206 is met.

Refusal of extension of stay in order to remain in business

208. An extension of stay in order to remain in business is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 206 is met.

Indefinite leave to remain for a person established in business

209. Indefinite leave to remain may be granted, on application, to a person established in business provided he:

- (i) has spent a continuous period of 4 years in the United Kingdom in this capacity and is still engaged in the business in question; and
- (ii) has met the requirements of paragraph 206 throughout the 4 year period; and
- (iii) submits audited accounts for the first 3 years of trading and management accounts for the 4th year.

Refusal of indefinite leave to remain for a person established in business

210. Indefinite leave to remain in the United Kingdom for a person established in business is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 209 is met.

PERSONS INTENDING TO ESTABLISH THEMSELVES IN BUSINESS UNDER PROVISIONS OF EC ASSOCIATION AGREEMENTS

Requirements for leave to enter the United Kingdom as a person intending to establish himself in business under the provisions of an EC Association Agreement

211. For the purpose of paragraphs 212–223 a business means an enterprise as:

- a sole trader; or
- a partnership; or
- a company registered in the United Kingdom.

212. The requirements to be met by a person seeking leave to enter the United Kingdom to establish himself in business are that:

- (i) he satisfies the requirements of either paragraph 213 or paragraph 214; and
- (ii) the money he is putting into the business is under his control and sufficient to establish himself in business in the United Kingdom; and
- (iii) until his business provides him with an income he will have sufficient additional funds to maintain and accommodate himself and any dependants without recourse to employment (other than his work for the business) or to public funds; and
- (iv) his share of the profits of the business will be sufficient to maintain and accommodate himself and any dependants without recourse to employment (other than his work for the business) or to public funds; and
- (v) he does not intend to supplement his business activities by taking or seeking employment in the United Kingdom other than his work for the business; and
- (vi) he holds a valid United Kingdom entry clearance for entry in this capacity.

213. Where a person intends to establish himself in a company in the United Kingdom which he effectively controls he will need, in addition to meeting the requirements at paragraph 212, to show:

- (i) that he is a national of Hungary or Poland; and
- (ii) that he will have a controlling interest in the company; and
- (iii) that he will be actively involved in the promotion and management of the company; and
- (iv) that the company will be registered in the United Kingdom and be trading or providing services in the United Kingdom; and
- (v) that the company will be the owner of the assets of the business; and
- (vi) where he is taking over an existing company, a written statement of the terms on which he is to take over the business and audited accounts for the business for previous years.

214. Where a person intends to establish himself in self-employment or in partnership in the United Kingdom he will need, in addition to meeting the requirements at 212 above, to show:

- (i) that he is a national of Poland; and
- (ii) that he will be actively involved in trading or providing services on his own account or in partnership in the United Kingdom; and
- (iii) that he, or he together with his partners, will be the owner of the assets of the business; and
- (iv) in the case of a partnership, that his part in the business will not amount to disguised employment; and
- (v) where he is taking over or joining an existing business a written statement of the terms on which he is to take over or join the business and audited accounts for the business for previous years.

Leave to enter the United Kingdom as a person seeking to establish himself in business under the provisions of an EC Association Agreement

215. A person seeking leave to enter the United Kingdom to establish himself in business may be admitted for a period not exceeding 12 months with a condition restricting his freedom to take employment provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter the United Kingdom as a person seeking to establish himself in business under the provisions of an EC Association Agreement

216. Leave to enter the United Kingdom as a person seeking to establish himself in business is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay in order to remain in business under the provisions of an EC Association Agreement

217. The requirements for an extension of stay in order to remain in business in the United Kingdom are that the applicant can show that:

- (i) he has established himself in business in the United Kingdom; and
- (ii) his share of the profits of the business is sufficient to maintain and accommodate himself and any dependants without recourse to employment (other than his work for the business) or to public funds; and
- (iii) he does not and will not supplement his business activities by taking or seeking employment in the United Kingdom other than his work for the business; and
- (iv) in addition he satisfies the requirements of either paragraph 218 or paragraph 219.

218. Where a person has established himself in a company in the United Kingdom which he effectively controls he will need, in addition to meeting the requirements at paragraph 217 above, to show:

- (i) that he is a national of Hungary or Poland; and
- (ii) that he is actively involved in the promotion and management of the company; and
- (iii) that he has a controlling interest in the company; and
- (iv) that the company is registered in the United Kingdom and trading or providing services in the United Kingdom; and
- (v) that the company is the owner of the assets of the business; and
- (vi) the current financial position in the form of audited accounts for the company.

219. Where a person has established himself as a sole trader or in partnership in the United Kingdom he will need, in addition to meeting the requirements at 217 above, to show:

- (i) that he is a national of Poland; and
- (ii) that he is actively involved in trading or providing services on his own account or in partnership in the United Kingdom; and
- (iii) that he, or he together with his partners, is the owner of the assets of the business; and

- (iv) in the case of a partnership, that his part in the business does not amount to disguised employment; and
- (v) the current financial position in the form of audited accounts for the business.

Extension of stay in order to remain in business under the provisions of an EC Association Agreement

220. An extension of stay in order to remain in business with a condition restricting his freedom to take employment may be granted for a period not exceeding 3 years provided the Secretary of State is satisfied that each of the requirements of paragraphs 217 and 218 or 219 is met.

Refusal of extension of stay in order to remain in business under the provisions of an EC Association Agreement

221. An extension of stay in order to remain in business is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraphs 217 and 218 or 219 is met.

Indefinite leave to remain for a person established in business under the provisions of an EC Association Agreement

222. Indefinite leave to remain may be granted, on application, to a person established in business provided he:

- (i) has spent a continuous period of 4 years in the United Kingdom in this capacity and is still so engaged; and
- (ii) has met the requirements of paragraphs 217 and 218 or 219 throughout the 4 years; and
- (iii) submits audited accounts for the first 3 years of trading and management accounts for the 4th year.

Refusal of indefinite leave to remain for a person established in business under the provisions of an EC Association Agreement

223. Indefinite leave to remain in the United Kingdom for a person established in business is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 222 is met.

INVESTORS

Requirements for leave to enter the United Kingdom as an investor

224. The requirements to be met by a person seeking leave to enter the United Kingdom as an investor are that he:

- (i) has money of his own under his control and disposable in the United Kingdom amounting to no less than £1 million; and
- (ii) intends to invest not less than £750,000 of his capital in the United Kingdom by way of United Kingdom Government bonds, share capital or loan capital in active and trading United Kingdom registered companies (other than those principally engaged in property investment and excluding investment by the applicant by way of deposits with a bank, building society or other enterprise whose normal course of business includes the acceptance of deposits); and
- (iii) intends to make the United Kingdom his main home; and
- (iv) is able to maintain and accommodate himself and any dependants without taking employment (other than self-employment or business) or recourse to public funds; and
- (v) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as an investor

225. A person seeking leave to enter the United Kingdom as an investor may be admitted for a period not exceeding 12 months with a restriction on his right

to take employment, provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter as an investor

226. Leave to enter as an investor is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay as an investor

227. The requirements for an extension of stay as an investor are that the applicant:

- (i) entered the United Kingdom with a valid United Kingdom entry clearance as an investor; and
- (ii) has no less than £1 million of his own money under his control in the United Kingdom; and
- (iii) has invested not less than £750,000 of his capital in the United Kingdom on the terms set out in paragraph 224 (ii) above and intends to maintain that investment on the terms set out in paragraph 224 (ii); and
- (iv) has made the United Kingdom his main home; and
- (v) is able to maintain and accommodate himself and any dependants without taking employment (other than his self-employment or business) or recourse to public funds.

Extension of stay as an investor

228. An extension of stay as an investor, with a restriction on the taking of employment, may be granted for a maximum period of 3 years, provided the Secretary of State is satisfied that each of the requirements of paragraph 227 is met.

Refusal of extension of stay as an investor

229. An extension of stay as an investor is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 227 is met.

Indefinite leave to remain for an investor

230. Indefinite leave to remain may be granted, on application, to a person admitted as an investor provided he:

- (i) has spent a continuous period of 4 years in the United Kingdom in this capacity; and
- (ii) has met the requirements of paragraph 227 throughout the 4 year period including the requirement as to the investment of £750,000 and continues to do so.

Refusal of indefinite leave to remain for an investor

231. Indefinite leave to remain in the United Kingdom for an investor is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 230 is met.

WRITERS, COMPOSERS AND ARTISTS

Requirements for leave to enter the United Kingdom as a writer, composer or artist

232. The requirements to be met by a person seeking leave to enter the United Kingdom as a writer, composer or artist are that he:

- (i) has established himself outside the United Kingdom as a writer, composer or artist primarily engaged in producing original work which has been

published (other than exclusively in newspapers or magazines), performed or exhibited for its literary, musical or artistic merit; and

- (ii) does not intend to work except as related to his self-employment as a writer, composer or artist; and
- (iii) has for the preceding year been able to maintain and accommodate himself and any dependants from his own resources without working except as a writer, composer or artist; and
- (iv) will be able to maintain and accommodate himself and any dependants from his own resources without working except as a writer, composer or artist and without recourse to public funds; and
- (v) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a writer, composer or artist

233. A person seeking leave to enter the United Kingdom as a writer, composer or artist may be admitted for a period not exceeding 12 months, subject to a condition restricting his freedom to take employment, provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter as a writer, composer or artist

234. Leave to enter as a writer, composer or artist is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay as a writer, composer or artist

235. The requirements for an extension of stay as a writer, composer or artist are that the applicant:

- (i) entered the United Kingdom with a valid United Kingdom entry clearance as a writer, composer or artist; and
- (ii) meets the requirements of paragraph 232 (ii)–(iv).

Extension of stay as a writer, composer or artist

236. An extension of stay as a writer, composer or artist may be granted for a period not exceeding 3 years with a restriction on his freedom to take employment, provided the Secretary of State is satisfied that each of the requirements of paragraph 235 is met.

Refusal of extension of stay as a writer, composer or artist

237. An extension of stay as a writer, composer or artist is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 235 is met.

Indefinite leave to remain for a writer, composer or artist

238. Indefinite leave to remain may be granted, on application, to a person admitted as a writer, composer or artist provided he:

- (i) has spent a continuous period of 4 years in the United Kingdom in this capacity; and
- (ii) has met the requirements of paragraph 235 throughout the 4 year period.

Refusal of indefinite leave to remain for a writer, composer or artist

239. Indefinite leave to remain for a writer, composer or artist is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 238 is met.

SPOUSES OF PERSONS WITH LIMITED LEAVE TO ENTER OR REMAIN UNDER PARAGRAPHS 200–239

Requirements for leave to enter or remain as the spouse of a person with limited leave to enter or remain under paragraphs 200–239

240. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the spouse of a person with limited leave to enter or remain in the United Kingdom under paragraphs 200–239 are that:

- (i) the applicant is married to a person with limited leave to enter or remain in the United Kingdom under paragraphs 200–239; and
- (ii) each of the parties intends to live with the other as his or her spouse during the applicant's stay and the marriage is subsisting; and
- (iii) there will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
- (iv) the parties will be able to maintain themselves and any dependants adequately without recourse to public funds; and
- (v) the applicant does not intend to stay in the United Kingdom beyond any period of leave granted to his spouse; and
- (vi) if seeking leave to enter, the applicant holds a valid United Kingdom entry clearance for entry in this capacity or, if seeking leave to remain, was admitted with a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter or remain as the spouse of a person with limited leave to enter or remain in the United Kingdom under paragraphs 200–239

241. A person seeking leave to enter or remain in the United Kingdom as the spouse of a person with limited leave to enter or remain in the United Kingdom under paragraphs 200–239 may be given leave to enter or remain in the United Kingdom for a period of leave not in excess of that granted to the person with limited leave to enter or remain under paragraphs 200–239 provided that, in relation to an application for leave to enter, he is able, on arrival, to produce to the Immigration Officer a valid United Kingdom entry clearance for entry in this capacity or, in the case of an application for limited leave to remain, he was admitted with a valid United Kingdom entry clearance for entry in this capacity and is able to satisfy the Secretary of State that each of the requirements of paragraph 240 (i)–(v) is met. An application for indefinite leave to remain in this category may be granted provided the applicant was admitted with a valid United Kingdom entry clearance for entry in this capacity and is able to satisfy the Secretary of State that each of the requirements of paragraph 240 (i)–(v) is met and provided indefinite leave to remain is, at the same time, being granted to the person with limited leave to remain under paragraphs 200–239.

Refusal of leave to enter or remain as the spouse of a person with limited leave to enter or remain in the United Kingdom under paragraphs 200–239

242. Leave to enter or remain in the United Kingdom as the spouse of a person with limited leave to enter or remain in the United Kingdom under paragraphs 200–239 is to be refused if, in relation to an application for leave to enter, a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival or, in the case of an application for limited leave to remain, if the applicant was not admitted with a valid United Kingdom entry clearance for entry in this capacity or is unable to satisfy the Secretary of State that each of the requirements of paragraph 240 (i)–(v) is met. An application for indefinite leave to remain in this category is to be refused if the applicant was not admitted with a valid United Kingdom entry clearance for entry in this capacity or is unable to satisfy the Secretary of State that each of the requirements of paragraph 240 (i)–(v) is met or if indefinite leave to remain is not, at the same time, being granted to the person with limited leave to remain under paragraphs 200–239.

CHILDREN OF PERSONS WITH LIMITED LEAVE TO ENTER OR REMAIN UNDER PARAGRAPHS 200–239

Requirements for leave to enter or remain as the child of a person with limited leave to enter or remain in the United Kingdom under paragraphs 200–239

243. The requirements to be met by a person seeking leave to enter or remain

in the United Kingdom as a child of a person with limited leave to enter or remain in the United Kingdom under paragraphs 200–239 are that:

- (i) he is the child of a parent who has leave to enter or remain in the United Kingdom under paragraphs 200–239; and
- (ii) he is under the age of 18 or has current leave to enter or remain in this capacity; and
- (iii) he is unmarried, has not formed an independent family unit and is not leading an independent life; and
- (iv) he can and will be maintained and accommodated adequately without recourse to public funds in accommodation which his parent(s) own or occupy exclusively; and
- (v) he will not stay in the United Kingdom beyond any period of leave granted to his parent(s); and
- (vi) both parents are being or have been admitted to or allowed to remain in the United Kingdom save where:
 - (a) the parent he is accompanying or joining is his sole surviving parent; or
 - (b) the parent he is accompanying or joining has had sole responsibility for his upbringing; or
 - (c) there are serious and compelling family or other considerations which make exclusion from the United Kingdom undesirable and suitable arrangements have been made for his care; and
- (vii) if seeking leave to enter, he holds a valid United Kingdom entry clearance for entry in this capacity or, if seeking leave to remain, was admitted with a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter or remain as the child of a person with limited leave to enter or remain in the United Kingdom under paragraphs 200–239

244. A person seeking leave to enter or remain in the United Kingdom as the child of a person with limited leave to enter or remain in the United Kingdom under paragraphs 200–239 may be admitted to or allowed to remain in the United Kingdom for the same period of leave as that granted to the person given limited leave to enter or remain under paragraphs 200–239 provided that, in relation to an application for leave to enter, he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity or, in the case of an application for limited leave to remain, he was admitted with a valid United Kingdom entry clearance for entry in this capacity and is able to satisfy the Secretary of State that each of the requirements of paragraph 243 (i)–(vi) is met. An application for indefinite leave to remain in this category may be granted provided the applicant was admitted with a valid United Kingdom entry clearance for entry in this capacity and is able to satisfy the Secretary of State that each of the requirements of paragraph 243 (i)–(vi) is met and provided indefinite leave to remain is, at the same time, being granted to the person with limited leave to remain under paragraphs 200–239.

Refusal of leave to enter or remain as the child of a person with limited leave to enter or remain in the United Kingdom under paragraphs 200–239

245. Leave to enter or remain in the United Kingdom as the child of a person with limited leave to enter or remain in the United Kingdom under paragraphs 200–239 is to be refused if, in relation to an application for leave to enter, a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival or, in the case of an application for limited leave to remain, if the applicant was not admitted with a valid United Kingdom entry clearance for entry in this capacity or is unable to satisfy the Secretary of State that each of the requirements of paragraph 243 (i)–(vi) is met. An application for indefinite leave to remain in this capacity is to be refused if the applicant was not admitted with a valid United Kingdom entry clearance for entry in this capacity or is unable to satisfy the Secretary of State that each of the requirements of paragraph 243 (i)–(vi) is met or if indefinite leave to remain is not, at the same time, being granted to the person with limited leave to remain under paragraphs 200–239.

PART 7: OTHER CATEGORIES

PERSONS EXERCISING RIGHTS OF ACCESS TO A CHILD RESIDENT IN THE UNITED KINGDOM

Requirements for leave to enter the United Kingdom as a person exercising rights of access to a child resident in the United Kingdom

246. The requirements to be met by a person seeking leave to enter the United Kingdom to exercise access rights to a child resident in the United Kingdom are that he:

- (i) produces evidence that a court in the United Kingdom has granted him access rights to his child; and
- (ii) is seeking leave to enter for the purpose of exercising access rights to his child; and
- (iii) is either divorced or legally separated from the other parent of the child; and
- (iv) intends to leave the United Kingdom at the expiry of his leave to enter; and
- (v) does not intend to take employment in the United Kingdom; and
- (vi) does not intend to produce goods or provide services within the United Kingdom, including the selling of goods or services direct to members of the public; and
- (vii) will maintain and accommodate himself and any dependants adequately out of resources available to him without recourse to public funds or taking employment; or will, with any dependants, be maintained and accommodated adequately by relatives or friends; and
- (viii) can meet the cost of the onward or return journey; and
- (ix) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a person exercising rights of access to a child resident in the United Kingdom

247. A person seeking leave to enter the United Kingdom to exercise rights of access to a child resident in the United Kingdom may be granted leave to enter for a period which will enable him to exercise his access rights but in any case for no longer than 12 months provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity. Leave to enter is to be subject to a condition prohibiting employment.

Refusal of leave to enter as a person exercising rights of access to a child resident in the United Kingdom

248. Leave to enter as a person exercising rights of access to a child resident in the United Kingdom is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

HOLDERS OF SPECIAL VOUCHERS

Requirements for indefinite leave to enter as the holder of a special voucher

249. The requirements for indefinite leave to enter as the holder of a special voucher are that the person concerned:

- (i) is a British Overseas citizen; and
- (ii) is in possession of a special voucher issued to him by a British Government representative overseas or a valid United Kingdom entry clearance for settlement in the United Kingdom in this capacity.

Indefinite leave to enter as the holder of a special voucher

250. A British Overseas citizen may be granted indefinite leave to enter the United Kingdom provided he is able to produce to the Immigration Officer, on arrival, either a special voucher issued to him by a British Government representative or a valid United Kingdom entry clearance for settlement in this capacity.

Refusal of indefinite leave to enter as the holder of a special voucher

251. Indefinite leave to enter as the holder of a special voucher is to be refused if neither a special voucher issued by a British Government representative nor a valid United Kingdom entry clearance for settlement in this capacity is produced to the Immigration Officer on arrival.

Requirements for indefinite leave to enter as the spouse or child of a special voucher holder

252. The requirements for indefinite leave to enter the United Kingdom as the spouse or child of a special voucher holder are that the person concerned:

- (i) is in possession of a valid United Kingdom entry clearance for settlement in the United Kingdom in this capacity; and
- (ii) can and will be maintained and accommodated adequately by the special voucher holder without recourse to public funds.

Indefinite leave to enter as the spouse or child of a special voucher holder

253. Indefinite leave to enter as the spouse or child of a special voucher holder may be granted provided a valid United Kingdom entry clearance for settlement is produced to the Immigration Officer on arrival.

Refusal of indefinite leave to enter as the spouse or child of a special voucher holder

254. Indefinite leave to enter as the spouse or child of a special voucher holder is to be refused if a valid United Kingdom entry clearance for settlement is not produced to the Immigration Officer on arrival.

EEA NATIONALS AND THEIR FAMILIES

Settlement

255. An EEA national (other than a student) and the family member of such a person, who has been issued with a residence permit or residence document valid for 5 years, and who has remained in the United Kingdom in accordance with the provisions of the 1994 EEA Order for 4 years and continues to do so may, on application, have his residence permit or residence document (as the case may be) endorsed to show permission to remain in the United Kingdom indefinitely.

256. A self-employed EEA national who has a right to reside in the United Kingdom by virtue of having ceased such activity in the United Kingdom within the meaning of the 1994 EEA Order, and the family member of such a person, will be permitted to remain in the United Kingdom indefinitely.

257. In addition, the following persons will be permitted to remain in the United Kingdom indefinitely:

- (i) an EEA national who has been continuously resident in the United Kingdom for at least 3 years, has been in employment in the United Kingdom or any other Member State of the EEA for the preceding 12 months, and has reached the age of entitlement to a state retirement pension;
- (ii) an EEA national who has ceased to be employed owing to a permanent incapacity for work arising out of an accident at work or an occupational disease entitling him to a state disability pension;
- (iii) an EEA national who has been continuously resident in the United Kingdom for at least 2 years, and who has ceased to be employed owing to a permanent incapacity for work;
- (iv) a member of the family of an EEA national as (defined in the 1994 EEA Order) to whom (i), (ii) or (iii) above applies;
- (v) a member of the family of an EEA national (as defined in the 1994 EEA Order) who dies during his working life after having resided continuously in the United Kingdom for at least 2 years, or whose death results from an accident at work or an occupational disease.

The EEA family permit

258. An “EEA family permit” means an entry clearance issued, free of charge, to a family member (as defined in the 1994 EEA Order) who is not an EEA national and who is a visa national or a person who wishes to install himself in the United Kingdom with an EEA national who is a qualified person in the terms of the 1994 EEA Order.

Requirements for the issue of an EEA family permit

259. The requirements for the issue of an EEA family permit are that:

- (i) the applicant is the family member (as defined the 1994 EEA Order) of an EEA national who is a qualified person in the terms of the 1994 EEA Order; and
- (ii) the applicant is coming to the United Kingdom for a purpose provided for in the 1994 EEA Order; and
- (iii) the applicant is not a person who falls to be excluded on grounds of public policy, public security or public health.

Issue of an EEA family permit

260. An application for an EEA family permit shall be granted provided the Entry Clearance Officer is satisfied that each of the requirements of paragraph 259 is met.

Refusal of an application for an EEA family permit

261. An application for an EEA family permit is to be refused if the Entry Clearance Officer is not satisfied that each of the requirements of paragraph 259 is met.

Registration with the police for family members of EEA nationals

262. The requirements relating to registration with the police are set out in Part 10.

RETIRED PERSONS OF INDEPENDENT MEANS

Requirements for leave to enter the United Kingdom as a retired person of independent means

263. The requirements to be met by a person seeking leave to enter the United Kingdom as a retired person of independent means are that he:

- (i) is at least 60 years old; and
- (ii) has under his control and disposable in the United Kingdom an income of his own of not less than £25,000 per annum; and
- (iii) is able and willing to maintain and accommodate himself and any dependants indefinitely in the United Kingdom from his own resources with no assistance from any other person and without taking employment or having recourse to public funds; and
- (iv) can demonstrate a close connection with the United Kingdom; and
- (v) intends to make the United Kingdom his main home; and
- (vi) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a retired person of independent means

264. A person seeking leave to enter the United Kingdom as a retired person of independent means may be admitted subject to a condition prohibiting employment for a period not exceeding 4 years, provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter as a retired person of independent means

265. Leave to enter as a retired person of independent means is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay as a retired person of independent means

266. The requirements for an extension of stay as a retired person of independent means are that the applicant:

- (i) entered the United Kingdom with a valid United Kingdom entry clearance as a retired person of independent means; and
- (ii) meets the requirements of paragraph 263 (ii)—(iv); and
- (iii) has made the United Kingdom his main home.

Extension of stay as a retired person of independent means

267. An extension of stay as a retired person of independent means, with a prohibition on the taking of employment, may be granted so as to bring the person's stay in this category up to a maximum of 4 years in aggregate, provided the Secretary of State is satisfied that each of the requirements of paragraph 266 is met.

Refusal of extension of stay as a retired person of independent means

268. An extension of stay as a retired person of independent means is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 266 is met.

Indefinite leave to remain for a retired person of independent means

269. Indefinite leave to remain may be granted, on application, to a person admitted as a retired person of independent means provided he:

- (i) has spent a continuous period of 4 years in the United Kingdom in this capacity; and
- (ii) has met the requirements of paragraph 266 throughout the 4 year period and continues to do so.

Refusal of indefinite leave to remain for a retired person of independent means

270. Indefinite leave to remain in the United Kingdom for a retired person of independent means is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 266 is met.

SPOUSES OF PERSONS WITH LIMITED LEAVE TO ENTER OR REMAIN IN THE UNITED KINGDOM AS RETIRED PERSONS OF INDEPENDENT MEANS

Requirements for leave to enter or remain as the spouse of a person with limited leave to enter or remain in the United Kingdom as a retired person of independent means

271. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the spouse of a person with limited leave to enter or remain in the United Kingdom as a retired person of independent means are that:

- (i) the applicant is married to a person with limited leave to enter or remain in the United Kingdom as a retired person of independent means; and
- (ii) each of the parties intends to live with the other as his or her spouse during the applicant's stay and the marriage is subsisting; and
- (iii) there will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
- (iv) the parties will be able to maintain themselves and any dependants adequately without recourse to public funds; and
- (v) the applicant does not intend to stay in the United Kingdom beyond any period of leave granted to his spouse; and
- (vi) if seeking leave to enter, the applicant holds a valid United Kingdom entry clearance for entry in this capacity or, if seeking leave to remain,

was admitted with a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter or remain as the spouse of a person with limited leave to enter or remain in the United Kingdom as a retired person of independent means

272. A person seeking leave to enter or remain in the United Kingdom as the spouse of a person with limited leave to enter or remain in the United Kingdom as a retired person of independent means may be given leave to enter or remain in the United Kingdom for a period not in excess of that granted to the person given limited leave to enter or remain as a retired person of independent means provided that, in relation to an application for leave to enter, he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity, or, in the case of an application for limited leave to remain, he was admitted with a valid United Kingdom entry clearance for entry in this capacity and is able to satisfy the Secretary of State that each of the requirements of paragraph 271(i)-(v) is met. An application for indefinite leave to remain in this category may be granted provided the applicant was admitted with a valid United Kingdom entry clearance for entry in this capacity and is able to satisfy the Secretary of State that each of the requirements of paragraph 271(i)-(v) is met and provided indefinite leave to remain is, at the same time, being granted to the person with limited leave to enter or remain as a retired person of independent means. Leave to enter or remain is to be subject to a condition prohibiting employment except in relation to the grant of indefinite leave to remain.

Refusal of leave to enter or remain as the spouse of a person with limited leave to enter or remain in the United Kingdom as a retired person of independent means

273. Leave to enter or remain in the United Kingdom as the spouse of a person with limited leave to enter or remain in the United Kingdom as a retired person of independent means is to be refused if, in relation to an application for leave to enter, a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival or, in the case of an application for limited leave to remain, if the applicant was not admitted with a valid United Kingdom entry clearance for entry in this capacity or is unable to satisfy the Secretary of State that each of the requirements of paragraph 271(i)-(v) is met. An application for indefinite leave to remain in this category is to be refused if the applicant was not admitted with a valid United Kingdom entry clearance for entry in this capacity or is unable to satisfy the Secretary of State that each of the requirements of paragraph 271(i)-(v) is met or if indefinite leave to remain is not, at the same time, being granted to the person with limited leave to enter or remain as a retired person of independent means.

CHILDREN OF PERSONS WITH LIMITED LEAVE TO ENTER OR REMAIN IN THE UNITED KINGDOM AS RETIRED PERSONS OF INDEPENDENT MEANS

Requirements for leave to enter or remain as the child of a person with limited leave to enter or remain in the United Kingdom as a retired person of independent means

274. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the child of a person with limited leave to enter or remain in the United Kingdom as a retired person of independent means are that:

- (i) he is the child of a parent who has been admitted to or allowed to remain in the United Kingdom as a retired person of independent means; and
- (ii) he is under the age of 18 or has current leave to enter or remain in this capacity; and
- (iii) he is unmarried, has not formed an independent family unit and is not leading an independent life; and
- (iv) he can, and will, be maintained and accommodated adequately without recourse to public funds in accommodation which his parent(s) own or occupy exclusively; and

- (v) he will not stay in the United Kingdom beyond any period of leave granted to his parent(s); and
- (vi) both parents are being or have been admitted to or allowed to remain in the United Kingdom save where:
 - (a) the parent he is accompanying or joining is his sole surviving parent; or
 - (b) the parent he is accompanying or joining has had sole responsibility for his upbringing; or
 - (c) there are serious and compelling family or other considerations which make exclusion from the United Kingdom undesirable and suitable arrangements have been made for his care; and
- (vii) if seeking leave to enter, he holds a valid United Kingdom entry clearance for entry in this capacity or, if seeking leave to remain, was admitted with a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter or remain as the child of a person with limited leave to enter or remain in the United Kingdom as a retired person of independent means

275. A person seeking leave to enter or remain in the United Kingdom as the child of a person with limited leave to enter or remain in the United Kingdom as a retired person of independent means may be given leave to enter or remain in the United Kingdom for a period of leave not in excess of that granted to the person with limited leave to enter or remain as a retired person of independent means provided that, in relation to an application for leave to enter, he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity or, in the case of an application for limited leave to remain, he was admitted with a valid United Kingdom entry clearance for entry in this capacity and is able to satisfy the Secretary of State that each of the requirements of paragraph 274 (i)–(vi) is met. An application for indefinite leave to remain in this category may be granted provided the applicant was admitted to the United Kingdom with a valid United Kingdom entry clearance for entry in this capacity and is able to satisfy the Secretary of State that each of the requirements of paragraph 274 (i)–(vi) is met and provided indefinite leave to remain is, at the same time, being granted to the person with limited leave to enter or remain as a retired person of independent means. Leave to enter or remain is to be subject to a condition prohibiting employment except in relation to the grant of indefinite leave to remain.

Refusal of leave to enter or remain as the child of a person with limited leave to enter or remain in the United Kingdom as a retired person of independent means

276. Leave to enter or remain in the United Kingdom as the child of a person with limited leave to enter or remain in the United Kingdom as a retired person of independent means is to be refused if, in relation to an application for leave to enter, a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival, or in the case of an application for limited leave to remain, if the applicant was not admitted with a valid United Kingdom entry clearance for entry in this capacity or is unable to satisfy the Secretary of State that each of the requirements of paragraph 274 (i)–(vi) is met. An application for indefinite leave to remain in this category is to be refused if the applicant was not admitted with a valid United Kingdom entry clearance for entry in this capacity or is unable to satisfy the Secretary of State that each of the requirements of paragraph 274 (i)–(vi) is met or if indefinite leave to remain is not, at the same time, being granted to the person with limited leave to enter or remain as a retired person of independent means.

PART 8: FAMILY MEMBERS

SPOUSES

277. Nothing in these Rules shall be construed as permitting a person to be granted entry clearance, leave to enter, leave to remain or variation of leave as a spouse of another if either party to the marriage will be aged under 16 on the date of arrival in the United Kingdom or (as the case may be) on the date on which the leave to remain or variation of leave would be granted.

278. Nothing in these Rules shall be construed as allowing a woman to be granted entry clearance, leave to enter, leave to remain or variation of leave as the wife of a man ("the husband") if:

- (i) her marriage to the husband is polygamous; and
- (ii) there is another woman living who is the wife of the husband and who:
 - (a) is, or at any time since her marriage to the husband has been, in the United Kingdom; or
 - (b) has been granted a certificate of entitlement in respect of the right of abode mentioned in Section 2 (1)(a) of the Immigration Act 1988 or an entry clearance to enter the United Kingdom as the wife of the husband.

For the purpose of this paragraph a marriage may be polygamous although at its inception neither party had any other spouse.

279. Paragraph 278 does not apply to any woman who seeks entry clearance, leave to enter, leave to remain or variation of leave where:

- (i) she has been in the United Kingdom before 1 August 1988 having been admitted for the purpose of settlement as the wife of the husband; or
- (ii) she has, since her marriage to the husband, been in the United Kingdom at any time when there was no such other woman living as is mentioned in paragraph 278 (ii),

but where a woman claims that paragraph 278 does not apply to her because she has been in the United Kingdom in circumstances which cause her to fall within sub-paragraphs (i) or (ii) of that paragraph it shall be for her to prove that fact.

280. For the purposes of paragraphs 278 and 279 the presence of any wife in the United Kingdom in any of the following circumstances shall be disregarded:

- (i) as a visitor; or
- (ii) an illegal entrant; or
- (iii) in circumstances whereby a person is deemed by Section 11 (1) of the Immigration Act 1971 not to have entered the United Kingdom.

SPOUSES OF PERSONS PRESENT AND SETTLED IN THE UNITED KINGDOM OR BEING ADMITTED ON THE SAME OCCASION FOR SETTLEMENT

Requirements for leave to enter the United Kingdom with a view to settlement as the spouse of a person present and settled in the United Kingdom or being admitted on the same occasion for settlement

281. The requirements to be met by a person seeking leave to enter the United Kingdom with a view to settlement as the spouse of a person present and settled in the United Kingdom or who is on the same occasion being admitted for settlement are that:

- (i) the applicant is married to a person present and settled in the United Kingdom or who is on the same occasion being admitted for settlement; and
- (ii) the marriage was not entered into primarily to obtain admission to the United Kingdom; and
- (iii) the parties to the marriage have met; and
- (iv) each of the parties intends to live permanently with the other as his or her spouse and the marriage is subsisting; and

- (v) there will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
- (vi) the parties will be able to maintain themselves and any dependants adequately without recourse to public funds; and
- (vii) the applicant holds a valid United Kingdom entry clearance for entry in this capacity.

For the purposes of this paragraph, a member of HM Forces based in the United Kingdom but serving overseas is to be regarded as present and settled in the United Kingdom.

Leave to enter as the spouse of a person present and settled in the United Kingdom or being admitted for settlement on the same occasion

282. A person seeking leave to enter the United Kingdom as the spouse of a person present and settled in the United Kingdom or who is on the same occasion being admitted for settlement may be admitted for an initial period not exceeding 12 months provided a valid United Kingdom entry clearance for entry in this capacity is produced to the Immigration Officer on arrival.

Refusal of leave to enter as the spouse of a person present and settled in the United Kingdom or being admitted on the same occasion for settlement

283. Leave to enter the United Kingdom as the spouse of a person present and settled in the United Kingdom or who is on the same occasion being admitted for settlement is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay as the spouse of a person present and settled in the United Kingdom

284. The requirements for an extension of stay as the spouse of a person present and settled in the United Kingdom are that:

- (i) the applicant has limited leave to remain in the United Kingdom; and
- (ii) is married to a person present and settled in the United Kingdom; and
- (iii) the marriage was not entered into primarily to obtain settlement here; and
- (iv) the parties to the marriage have met; and
- (v) the applicant has not remained in breach of the immigration laws; and
- (vi) the marriage has not taken place after a decision has been made to deport the applicant or he has been recommended for deportation or been given notice under Section 6 (2) of the Immigration Act 1971; and
- (vii) each of the parties intends to live permanently with the other as his or her spouse and the marriage is subsisting; and
- (viii) there will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
- (ix) the parties will be able to maintain themselves and any dependants adequately without recourse to public funds.

Extension of stay as the spouse of a person present and settled in the United Kingdom

285. An extension of stay as the spouse of a person present and settled in the United Kingdom may be granted for a period of 12 months in the first instance, provided the Secretary of State is satisfied that each of the requirements of paragraph 284 is met.

Refusal of extension of stay as the spouse of a person present and settled in the United Kingdom

286. An extension of stay as the spouse of a person present and settled in the United Kingdom is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 284 is met.

Requirements for indefinite leave to remain for the spouse of a person present and settled in the United Kingdom

287. The requirements for indefinite leave to remain for the spouse of a person present and settled in the United Kingdom are that:

- (i) the applicant was admitted to the United Kingdom or given an extension of stay for a period of 12 months and has completed a period of 12 months as the spouse of a person present and settled here; and
- (ii) the applicant is still the spouse of the person he or she was admitted or granted an extension of stay to join and the marriage is subsisting; and
- (iii) each of the parties intends to live permanently with the other as his or her spouse.

Indefinite leave to remain for the spouse of a person present and settled in the United Kingdom

288. Indefinite leave to remain for the spouse of a person present and settled in the United Kingdom may be granted provided the Secretary of State is satisfied that each of the requirements of paragraph 287 is met.

Refusal of indefinite leave to remain for the spouse of a person present and settled in the United Kingdom

289. Indefinite leave to remain for the spouse of a person present and settled in the United Kingdom is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 287 is met.

FIANCE(E)S

Requirements for leave to enter the United Kingdom as a fiance(e) (ie with a view to marriage and permanent settlement in the United Kingdom)

290. The requirements to be met by a person seeking leave to enter the United Kingdom as a fiance(e) are that:

- (i) the applicant is seeking leave to enter the United Kingdom for marriage to a person present and settled in the United Kingdom or who is on the same occasion being admitted for settlement; and
- (ii) it is not the primary purpose of the intended marriage to obtain admission to the United Kingdom; and
- (iii) the parties to the proposed marriage have met; and
- (iv) each of the parties intends to live permanently with the other as his or her spouse after the marriage; and
- (v) adequate maintenance and accommodation without recourse to public funds will be available for the applicant until the date of the marriage; and
- (vi) there will, after the marriage, be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
- (vii) the parties will be able after the marriage to maintain themselves and any dependants adequately without recourse to public funds; and
- (viii) the applicant holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a fiance(e)

291. A person seeking leave to enter the United Kingdom as a fiance(e) may be admitted, with a prohibition on employment, for a period not exceeding 6 months to enable the marriage to take place provided a valid United Kingdom entry clearance for entry in this capacity is produced to the Immigration Officer on arrival.

Refusal of leave to enter as a fiance(e)

292. Leave to enter the United Kingdom as a fiance(e) is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay as a fiance(e)

293. The requirements for an extension of stay as a fiance(e) are that:

- (i) the applicant was admitted to the United Kingdom with a valid United Kingdom entry clearance as a fiance(e); and
- (ii) good cause is shown why the marriage did not take place within the initial period of leave granted under paragraph 291; and
- (iii) there is satisfactory evidence that the marriage will take place at an early date; and
- (iv) the requirements of paragraph 290 (ii)-(vii) are met.

Extension of stay as a fiance(e)

294. An extension of stay as a fiance(e) may be granted for an appropriate period with a prohibition on employment to enable the marriage to take place provided the Secretary of State is satisfied that each of the requirements of paragraph 293 is met.

Refusal of extension of stay as a fiance(e)

295. An extension of stay is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 293 is met.

CHILDREN

296. Nothing in these Rules shall be construed as permitting a child to be granted entry clearance, leave to enter or remain, or variation of leave where his mother is party to a polygamous marriage and any application by her for admission or leave to remain for settlement or with a view to settlement would be refused pursuant to paragraph 278.

LEAVE TO ENTER OR REMAIN IN THE UNITED KINGDOM AS THE CHILD OF A PARENT, PARENTS OR A RELATIVE PRESENT AND SETTLED OR BEING ADMITTED FOR SETTLEMENT IN THE UNITED KINGDOM

Requirements for indefinite leave to enter the United Kingdom as the child of a parent, parents or a relative present and settled or being admitted for settlement in the United Kingdom

297. The requirements to be met by a person seeking indefinite leave to enter the United Kingdom as the child of a parent, parents or a relative present and settled or being admitted for settlement in the United Kingdom are that he:

- (i) is seeking leave to enter to accompany or join a parent, parents or a relative in one of the following circumstances:
 - (a) both parents are present and settled in the United Kingdom; or
 - (b) both parents are being admitted on the same occasion for settlement; or
 - (c) one parent is present and settled in the United Kingdom and the other is being admitted on the same occasion for settlement; or
 - (d) one parent is present and settled in the United Kingdom or being admitted on the same occasion for settlement and the other parent is dead; or
 - (e) one parent is present and settled in the United Kingdom or being admitted on the same occasion for settlement and has had sole responsibility for the child's upbringing; or
 - (f) one parent or a relative is present and settled in the United Kingdom or being admitted on the same occasion for settlement and there are serious and compelling family or other considerations which make exclusion of the child undesirable and suitable arrangements have been made for the child's care; and
- (ii) is under the age of 18; and

- (iii) is not leading an independent life, is unmarried, and has not formed an independent family unit; and
- (iv) can, and will, be maintained and accommodated adequately without recourse to public funds in accommodation which the parent, parents or relative own or occupy exclusively; and
- (v) holds a valid United Kingdom entry clearance for entry in this capacity.

Requirements for indefinite leave to remain in the United Kingdom as the child of a parent, parents or a relative present and settled or being admitted for settlement in the United Kingdom

298. The requirements to be met by a person seeking indefinite leave to remain in the United Kingdom as the child of a parent, parents or a relative present and settled in the United Kingdom are that he:

- (i) is seeking to remain with a parent, parents or a relative in one of the following circumstances:
 - (a) both parents are present and settled in the United Kingdom; or
 - (b) one parent is present and settled in the United Kingdom and the other parent is dead; or
 - (c) one parent is present and settled in the United Kingdom and has had sole responsibility for the child's upbringing; or
 - (d) one parent or a relative is present and settled in the United Kingdom and there are serious and compelling family or other considerations which make exclusion of the child undesirable and suitable arrangements have been made for the child's care; and
- (ii) has limited leave to enter or remain in the United Kingdom, and
 - (a) is under the age of 18; or
 - (b) was given leave to enter or remain with a view to settlement under paragraph 302; and
- (iii) is not leading an independent life, is unmarried, and has not formed an independent family unit; and
- (iv) can, and will, be maintained and accommodated adequately without recourse to public funds in accommodation which the parent, parents or relative own or occupy exclusively.

Indefinite leave to enter or remain in the United Kingdom as the child of a parent, parents or a relative present and settled or being admitted for settlement in the United Kingdom

299. Indefinite leave to enter the United Kingdom as the child of a parent, parents or a relative present and settled or being admitted for settlement in the United Kingdom may be granted provided a valid United Kingdom entry clearance for entry in this capacity is produced to the Immigration Officer on arrival. Indefinite leave to remain in the United Kingdom as the child of a parent, parents or a relative present and settled in the United Kingdom may be granted provided the Secretary of State is satisfied that each of the requirements of paragraph 298 is met.

Refusal of indefinite leave to enter or remain in the United Kingdom as the child of a parent, parents or a relative present and settled or being admitted for settlement in the United Kingdom

300. Indefinite leave to enter the United Kingdom as the child of a parent, parents or a relative present and settled or being admitted for settlement in the United Kingdom is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival. Indefinite leave to remain in the United Kingdom as the child of a parent, parents or a relative present and settled in the United Kingdom is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 298 is met.

Requirements for limited leave to enter or remain in the United Kingdom with a view to settlement as the child of a parent or parents given limited leave to enter or remain in the United Kingdom with a view to settlement

301. The requirements to be met by a person seeking limited leave to enter or remain in the United Kingdom with a view to settlement as the child of a parent or parents given limited leave to enter or remain in the United Kingdom with a view to settlement are that he:

- (i) is seeking leave to enter to accompany or join or remain with a parent or parents in one of the following circumstances:
 - (a) one parent is present and settled in the United Kingdom or being admitted on the same occasion for settlement and the other parent is being or has been given limited leave to enter or remain in the United Kingdom with a view to settlement; or
 - (b) one parent is being or has been given limited leave to enter or remain in the United Kingdom with a view to settlement and has had sole responsibility for the child's upbringing; or
 - (c) one parent is being or has been given limited leave to enter or remain in the United Kingdom with a view to settlement and there are serious and compelling family or other considerations which make exclusion of the child undesirable and suitable arrangements have been made for the child's care; and
- (ii) is under the age of 18; and
- (iii) is not leading an independent life, is unmarried, and has not formed an independent family unit; and
- (iv) can, and will, be maintained and accommodated adequately without recourse to public funds in accommodation which the parent or parents own or occupy exclusively; and
- (v) (where an application is made for limited leave to remain with a view to settlement) has limited leave to enter or remain in the United Kingdom; and
- (vi) if seeking leave to enter, holds a valid United Kingdom entry clearance for entry in this capacity or, if seeking leave to remain, was admitted with a valid United Kingdom entry clearance for entry in this capacity.

Limited leave to enter or remain in the United Kingdom with a view to settlement as the child of a parent or parents given limited leave to enter or remain in the United Kingdom with a view to settlement

302. A person seeking limited leave to enter the United Kingdom with a view to settlement as the child of a parent or parents given limited leave to enter or remain in the United Kingdom with a view to settlement may be admitted for a period not exceeding 12 months provided he is able, on arrival, to produce to the Immigration Officer a valid United Kingdom entry clearance for entry in this capacity. A person seeking limited leave to remain in the United Kingdom with a view to settlement as the child of a parent or parents given limited leave to enter or remain in the United Kingdom with a view to settlement may be given limited leave to remain for a period not exceeding 12 months provided the Secretary of State is satisfied that each of the requirements of paragraph 301(i)-(v) is met.

Refusal of limited leave to enter or remain in the United Kingdom with a view to settlement as the child of a parent or parents given limited leave to enter or remain in the United Kingdom with a view to settlement

303. Limited leave to enter the United Kingdom with a view to settlement as the child of a parent or parents given limited leave to enter or remain in the United Kingdom with a view to settlement is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival. Limited leave to remain in the United Kingdom with a view to settlement as the child of a parent or parents given limited leave to enter or remain in the United Kingdom with a view to settlement is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 301(i)-(v) is met.

CHILDREN BORN IN THE UNITED KINGDOM WHO ARE NOT BRITISH CITIZENS

304. This paragraph and paragraphs 305—309 apply only to unmarried dependent children under 18 years of age who were born in the United Kingdom on or after 1 January 1983 (when the British Nationality Act 1981 came into force) but who, because neither of their parents was a British citizen or settled in the United Kingdom at the time of their birth, are not British citizens and are therefore subject to immigration control. Such a child requires leave to enter where admission to the United Kingdom is sought, and leave to remain where permission is sought for the child to be allowed to stay in the United Kingdom. If he qualifies for entry clearance, leave to enter or leave to remain under any other part of these Rules, a child who was born in the United Kingdom but is not a British citizen may be granted entry clearance, leave to enter or leave to remain in accordance with the provisions of that other part.

Requirements for leave to enter or remain in the United Kingdom as the child of a parent or parents given leave to enter or remain in the United Kingdom

305. The requirements to be met by a child born in the United Kingdom who is not a British citizen who seeks leave to enter or remain in the United Kingdom as the child of a parent or parents given leave to enter or remain in the United Kingdom are that he:

- (i) (a) is accompanying or seeking to join or remain with a parent or parents who have, or are given, leave to enter or remain in the United Kingdom; or
- (b) is accompanying or seeking to join or remain with a parent or parents one of whom is a British citizen or has the right of abode in the United Kingdom; or
- (c) is a child in respect of whom the parental rights and duties are vested solely in a local authority; and
- (ii) is under the age of 18; and
- (iii) was born in the United Kingdom; and
- (iv) is not leading an independent life, is unmarried, and has not formed an independent family unit; and
- (v) (where an application is made for leave to enter) has not been away from the United Kingdom for more than 2 years.

Leave to enter or remain in the United Kingdom

306. A child born in the United Kingdom who is not a British citizen and who requires leave to enter or remain in the circumstances set out in paragraph 304 may be given leave to enter for the same period as his parent or parents where paragraph 305 (i)(a) applies, provided the Immigration Officer is satisfied that each of the requirements of paragraph 305 (ii)–(v) is met. Where leave to remain is sought, the child may be granted leave to remain for the same period as his parent or parents where paragraph 305 (i)(a) applies, provided the Secretary of State is satisfied that each of the requirements of paragraph 305 (ii)–(iv) is met. Where the parent or parents have or are given periods of leave of different duration, the child may be given leave to whichever period is longer except that if the parents are living apart the child should be given leave for the same period as the parent who has day to day responsibility for him.

307. If a child does not qualify for leave to enter or remain because neither of his parents has a current leave (and neither of them is a British citizen or has the right of abode), he will normally be refused leave to enter or remain, even if each of the requirements of paragraph 305 (ii)–(v) has been satisfied. However, he may be granted leave to enter or remain for a period not exceeding 3 months if both of his parents are in the United Kingdom and it appears unlikely that they will be removed in the immediate future, and there is no other person outside the United Kingdom who could reasonably be expected to care for him.

308. A child born in the United Kingdom who is not a British citizen and who requires leave to enter or remain in the United Kingdom in the circumstances set out in paragraph 304 may be given indefinite leave to enter where paragraph 305

(i)(b) or (i)(c) applies provided the Immigration Officer is satisfied that each of the requirements of paragraph 305 (ii)–(v) is met. Where an application is for leave to remain, such a child may be granted indefinite leave to remain where paragraph 305 (i)(b) or (i)(c) applies, provided the Secretary of State is satisfied that each of the requirements of paragraph 305 (ii)–(iv) is met.

Refusal of leave to enter or remain in the United Kingdom

309. Leave to enter the United Kingdom where the circumstances set out in paragraph 304 apply is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 305 is met. Leave to remain for such a child is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 305 (i)–(iv) is met.

ADOPTED CHILDREN

Requirements for indefinite leave to enter the United Kingdom as the adopted child of a parent or parents present and settled or being admitted for settlement in the United Kingdom

310. The requirements to be met in the case of a child seeking indefinite leave to enter the United Kingdom as the adopted child of a parent or parents present and settled or being admitted for settlement in the United Kingdom are that he:

- (i) is seeking leave to enter to accompany or join an adoptive parent or parents in one of the following circumstances;
 - (a) both parents are present and settled in the United Kingdom; or
 - (b) both parents are being admitted on the same occasion for settlement; or
 - (c) one parent is present and settled in the United Kingdom and the other is being admitted on the same occasion for settlement; or
 - (d) one parent is present and settled in the United Kingdom or being admitted on the same occasion for settlement and the other parent is dead; or
 - (e) one parent is present and settled in the United Kingdom or being admitted on the same occasion for settlement and has had sole responsibility for the child's upbringing; or
 - (f) one parent is present and settled in the United Kingdom or being admitted on the same occasion for settlement and there are serious and compelling family or other considerations which make exclusion of the child undesirable and suitable arrangements have been made for the child's care; and
- (ii) is under the age of 18; and
- (iii) is not leading an independent life, is unmarried, and has not formed an independent family unit; and
- (iv) can, and will, be maintained and accommodated adequately without recourse to public funds in accommodation which the adoptive parent or parents own or occupy exclusively; and
- (v) was adopted in accordance with a decision taken by the competent administrative authority or court in his country of origin or the country in which he is resident; and
- (vi) was adopted at a time when:
 - (a) both adoptive parents were resident together abroad; or
 - (b) either or both adoptive parents were settled in the United Kingdom; and
- (vii) has the same rights and obligations as any other child of the marriage; and
- (viii) was adopted due to the inability of the original parent(s) or current carer(s) to care for him and there has been a genuine transfer of parental responsibility to the adoptive parents; and
- (ix) has lost or broken his ties with his family of origin; and
- (x) was adopted, but the adoption is not one of convenience arranged to facilitate his admission to or remaining in the United Kingdom; and
- (xi) holds a valid United Kingdom entry clearance for entry in this capacity.

Requirements for indefinite leave to remain in the United Kingdom as the adopted child of a parent or parents present and settled in the United Kingdom

311. The requirements to be met in the case of a child seeking indefinite leave to remain in the United Kingdom as the adopted child of a parent or parents present and settled in the United Kingdom are that he:

- (i) is seeking to remain with an adoptive parent or parents in one of the following circumstances:
 - (a) both parents are present and settled in the United Kingdom; or
 - (b) one parent is present and settled in the United Kingdom and the other parent is dead; or
 - (c) one parent is present and settled in the United Kingdom and has had sole responsibility for the child's upbringing; or
 - (d) one parent is present and settled in the United Kingdom and there are serious and compelling family or other considerations which make exclusion of the child undesirable and suitable arrangements have been made for the child's care; and
- (ii) has limited leave to enter or remain in the United Kingdom, and
 - (a) is under the age of 18; or
 - (b) was given leave to enter or remain with a view to settlement under paragraph 315; and
- (iii) is not leading an independent life, is unmarried, and has not formed an independent family unit; and
- (iv) can, and will, be maintained and accommodated adequately without recourse to public funds in accommodation which the adoptive parent or parents own or occupy exclusively; and
- (v) was adopted in accordance with a decision taken by the competent administrative authority or court in his country of origin or the country in which he is resident; and
- (vi) was adopted at a time when:
 - (a) both adoptive parents were resident together abroad; or
 - (b) either or both adoptive parents were settled in the United Kingdom; and
- (vii) has the same rights and obligations as any other child of the marriage; and
- (viii) was adopted due to the inability of the original parent(s) or current carer(s) to care for him and there has been a genuine transfer of parental responsibility to the adoptive parents; and
- (ix) has lost or broken his ties with his family of origin; and
- (x) was adopted, but the adoption is not one of convenience arranged to facilitate his admission to or remaining in the United Kingdom.

Indefinite leave to enter or remain in the United Kingdom as the adopted child of a parent or parents present and settled or being admitted for settlement in the United Kingdom

312. Indefinite leave to enter the United Kingdom as the adopted child of a parent or parents present and settled or being admitted for settlement in the United Kingdom may be granted provided a valid United Kingdom entry clearance for entry in this capacity is produced to the Immigration Officer on arrival. Indefinite leave to remain in the United Kingdom as the adopted child of a parent or parents present and settled in the United Kingdom may be granted provided the Secretary of State is satisfied that each of the requirements of paragraph 311 is met.

Refusal of indefinite leave to enter or remain in the United Kingdom as the adopted child of a parent or parents present and settled or being admitted for settlement in the United Kingdom

313. Indefinite leave to enter the United Kingdom as the adopted child of a parent or parents present and settled or being admitted for settlement in the United Kingdom is to be refused if a valid United Kingdom entry clearance for

entry in this capacity is not produced to the Immigration Officer on arrival. Indefinite leave to remain in the United Kingdom as the adopted child of a parent or parents present and settled in the United Kingdom is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 311 is met.

Requirements for limited leave to enter or remain in the United Kingdom with a view to settlement as the adopted child of a parent or parents given limited leave to enter or remain in the United Kingdom with a view to settlement

314. The requirements to be met in the case of a child seeking limited leave to enter or remain in the United Kingdom with a view to settlement as the adopted child of a parent or parents given limited leave to enter or remain in the United Kingdom with a view to settlement are that he:

- (i) is seeking leave to enter to accompany or join or remain with a parent or parents in one of the following circumstances:
 - (a) one parent is present and settled in the United Kingdom or being admitted on the same occasion for settlement and the other parent is being or has been given limited leave to enter or remain in the United Kingdom with a view to settlement; or
 - (b) one parent is being or has been given limited leave to enter or remain in the United Kingdom with a view to settlement and has had sole responsibility for the child's upbringing; or
 - (c) one parent is being or has been given limited leave to enter or remain in the United Kingdom with a view to settlement and there are serious and compelling family or other considerations which make exclusion of the child undesirable and suitable arrangements have been made for the child's care; and
- (ii) is under the age of 18; and
- (iii) is not leading an independent life, is unmarried, and has not formed an independent family unit; and
- (iv) can, and will, be maintained and accommodated adequately without recourse to public funds in accommodation which the adoptive parent or parents own or occupy exclusively; and
- (v) was adopted in accordance with a decision taken by the competent administrative authority or court in his country of origin or the country in which he is resident; and
- (vi) was adopted at a time when:
 - (a) both adoptive parents were resident together abroad; or
 - (b) either or both adoptive parents were settled in the United Kingdom; and
- (vii) has the same rights and obligations as any other child of the marriage; and
- (viii) was adopted due to the inability of the original parent(s) or current carer(s) to care for him and there has been a genuine transfer of parental responsibility to the adoptive parents; and
- (ix) has lost or broken his ties with his family of origin; and
- (x) was adopted, but the adoption is not one of convenience arranged to facilitate his admission to the United Kingdom; and
- (xi) (where an application is made for limited leave to remain with a view to settlement) has limited leave to enter or remain in the United Kingdom; and
- (xii) if seeking leave to enter, holds a valid United Kingdom entry clearance for entry in this capacity.

Limited leave to enter or remain in the United Kingdom with a view to settlement as the adopted child of a parent or parents given limited leave to enter or remain in the United Kingdom with a view to settlement

315. A person seeking limited leave to enter the United Kingdom with a view to settlement as the adopted child of a parent or parents given limited leave to enter or remain in the United Kingdom with a view to settlement may be

admitted for a period not exceeding 12 months provided he is able, on arrival, to produce to the Immigration Officer a valid United Kingdom entry clearance for entry in this capacity. A person seeking limited leave to remain in the United Kingdom with a view to settlement as the adopted child of a parent or parents given limited leave to enter or remain in the United Kingdom with a view to settlement may be granted limited leave for a period not exceeding 12 months provided the Secretary of State is satisfied that each of the requirements of paragraph 314 (i)–(xi) is met.

Refusal of limited leave to enter or remain in the United Kingdom with a view to settlement as the adopted child of a parent or parents given limited leave to enter or remain in the United Kingdom with a view to settlement

316. Limited leave to enter the United Kingdom with a view to settlement as the adopted child of a parent or parents given limited leave to enter or remain in the United Kingdom with a view to settlement is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival. Limited leave to remain in the United Kingdom with a view to settlement as the adopted child of a parent or parents given limited leave to enter or remain in the United Kingdom with a view to settlement is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 314 (i)–(xi) is met.

PARENTS, GRANDPARENTS AND OTHER DEPENDENT RELATIVES OF PERSONS PRESENT AND SETTLED IN THE UNITED KINGDOM

Requirements for indefinite leave to enter or remain in the United Kingdom as the parent, grandparent or other dependent relative of a person present and settled in the United Kingdom

317. The requirements to be met by a person seeking indefinite leave to enter or remain in the United Kingdom as the parent, grandparent or other dependent relative of a person present and settled in the United Kingdom are that the person:

- (i) is related to a person present and settled in the United Kingdom in one of the following ways:
 - (a) mother or grandmother who is a widow aged 65 years or over; or
 - (b) father or grandfather who is a widower aged 65 years or over; or
 - (c) parent or grandparents travelling together of whom at least one is aged 65 or over; or
 - (d) a parent or grandparent aged 65 or over who has remarried but cannot look to the spouse or children of the second marriage for financial support; and where the person settled in the United Kingdom is able and willing to maintain the parent or grandparent and any spouse or child of the second marriage who would be admissible as a dependant; or
 - (e) a parent or grandparent under the age of 65 if living alone outside the United Kingdom in the most exceptional compassionate circumstances and mainly dependent financially on relatives settled in the United Kingdom; or
 - (f) the son, daughter, sister, brother, uncle or aunt over the age of 18 if living alone outside the United Kingdom in the most exceptional compassionate circumstances and mainly dependent financially on relatives settled in the United Kingdom; and
- (ii) is joining or accompanying a person who is present and settled in the United Kingdom or who is on the same occasion being admitted for settlement; and
- (iii) is financially wholly or mainly dependent on the relative present and settled in the United Kingdom; and
- (iv) can, and will, be maintained and accommodated adequately, together with any dependants, without recourse to public funds in accommodation which the sponsor owns or occupies exclusively; and
- (v) has no other close relatives in his own country to whom he could turn for financial support; and
- (vi) if seeking leave to enter, holds a valid United Kingdom entry clearance for entry in this capacity.

Indefinite leave to enter or remain as the parent, grandparent or other dependent relative of a person present and settled in the United Kingdom

318. Indefinite leave to enter the United Kingdom as the parent, grandparent or other dependent relative of a person present and settled in the United Kingdom may be granted provided a valid United Kingdom entry clearance for entry in this capacity is produced to the Immigration Officer on arrival. Indefinite leave to remain in the United Kingdom as the parent, grandparent or other dependent relative of a person present and settled in the United Kingdom may be granted provided the Secretary of State is satisfied that each of the requirements of paragraph 317 (i)–(v) is met.

Refusal of indefinite leave to enter or remain in the United Kingdom as the parent, grandparent or other dependent relative of a person present and settled in the United Kingdom

319. Indefinite leave to enter the United Kingdom as the parent, grandparent or other dependent relative of a person settled in the United Kingdom is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival. Indefinite leave to remain in the United Kingdom as the parent, grandparent or other dependent relative of a person present and settled in the United Kingdom is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 317 (i)–(v) is met.

PART 9: GENERAL GROUNDS FOR THE REFUSAL OF ENTRY CLEARANCE, LEAVE TO ENTER OR VARIATION OF LEAVE TO ENTER OR REMAIN IN THE UNITED KINGDOM

REFUSAL OF ENTRY CLEARANCE OR LEAVE TO ENTER THE UNITED KINGDOM

320. In addition to the grounds for refusal of entry clearance or leave to enter set out in Parts 2–8 of these Rules, and subject to paragraph 321 below, the following grounds for the refusal of entry clearance or leave to enter apply:

Grounds on which entry clearance or leave to enter the United Kingdom is to be refused

- (1) the fact that entry is being sought for a purpose not covered by these Rules;
- (2) the fact that the person seeking entry to the United Kingdom is currently the subject of a deportation order;
- (3) failure by the person seeking entry to the United Kingdom to produce to the Immigration Officer a valid national passport or other document satisfactorily establishing his identity and nationality;
- (4) failure to satisfy the Immigration Officer, in the case of a person arriving in the United Kingdom or seeking entry through the Channel Tunnel with the intention of entering any other part of the common travel area, that he is acceptable to the immigration authorities there;
- (5) failure, in the case of a visa national, to produce to the Immigration Officer a passport or other identity document endorsed with a valid and current United Kingdom entry clearance issued for the purpose for which entry is sought;
- (6) where the Secretary of State has personally directed that the exclusion of a person from the United Kingdom is conducive to the public good;
- (7) save in relation to a person settled in the United Kingdom or where the Immigration Officer is satisfied that there are strong compassionate reasons justifying admission, confirmation from the Medical Inspector that, for medical reasons, it is undesirable to admit a person seeking leave to enter the United Kingdom.

Grounds on which entry clearance or leave to enter the United Kingdom should normally be refused

- (8) failure by a person arriving in the United Kingdom to furnish the Immigration Officer with such information as may be required for the purpose of deciding whether he requires leave to enter and, if so, whether and on what terms leave should be given;
- (9) failure by a person seeking leave to enter as a returning resident to satisfy the Immigration Officer that he meets the requirements of paragraph 18 of these Rules;
- (10) production by the person seeking leave to enter the United Kingdom of a national passport or travel document issued by a territorial entity or authority which is not recognised by Her Majesty's Government as a state or is not dealt with as a government by them, or which does not accept valid United Kingdom passports for the purpose of its own immigration control; or a passport or travel document which does not comply with international passport practice;
- (11) failure to observe the time limit or conditions attached to any grant of leave to enter or remain in the United Kingdom;
- (12) the obtaining of a previous leave to enter or remain by deception;
- (13) failure, except by a person eligible for admission to the United Kingdom for settlement or a spouse eligible for admission under paragraph 282, to satisfy the Immigration Officer that he will be admitted to another country after a stay in the United Kingdom;
- (14) refusal by a sponsor of a person seeking leave to enter the United Kingdom to give, if requested to do so, an undertaking in writing to be responsible for that person's maintenance and accommodation for the period of any leave granted;

- (15) whether or not to the holder's knowledge, the making of false representations or the failure to disclose any material fact for the purpose of obtaining a work permit;
- (16) failure, in the case of a child under the age of 18 years seeking leave to enter the United Kingdom otherwise than in conjunction with an application made by his parent(s) or legal guardian, to provide the Immigration Officer, if required to do so, with written consent to the application from his parent(s) or legal guardian; save that the requirement as to written consent does not apply in the case of a child seeking admission to the United Kingdom as an asylum seeker;
- (17) save in relation to a person settled in the United Kingdom, refusal to undergo a medical examination when required to do so by the Immigration Officer;
- (18) save where the Immigration Officer is satisfied that admission would be justified for strong compassionate reasons, conviction in any country including the United Kingdom of an offence which, if committed in the United Kingdom, is punishable with imprisonment for a term of 12 months or any greater punishment or, if committed outside the United Kingdom, would be so punishable if the conduct constituting the offence had occurred in the United Kingdom;
- (19) where, from information available to the Immigration Officer, it seems right to refuse leave to enter on the ground that exclusion from the United Kingdom is conducive to the public good; if, for example, in the light of the character, conduct or associations of the person seeking leave to enter it is undesirable to give him leave to enter.

Refusal of leave to enter in relation to a person in possession of an entry clearance

321. A person seeking leave to enter the United Kingdom who holds an entry clearance which was duly issued to him and is still current may be refused leave to enter only where the Immigration Officer is satisfied that:

- (i) whether or not to the holder's knowledge, false representations were employed or material facts were not disclosed, either in writing or orally, for the purpose of obtaining the entry clearance; or
- (ii) a change of circumstances since it was issued has removed the basis of the holder's claim to admission, except where the change of circumstances amounts solely to the person becoming over age for entry in one of the categories contained in paragraphs 296-316 of these Rules since the issue of the entry clearance; or
- (iii) refusal is justified on grounds of restricted returnability; on medical grounds; on grounds of criminal record; because the person seeking leave to enter is the subject of a deportation order or because exclusion would be conducive to the public good.

REFUSAL OF VARIATION OF LEAVE TO ENTER OR REMAIN OR CURTAILMENT OF LEAVE

322. In addition to the grounds for refusal of extension of stay set out in Parts 2-8 of these Rules, the following provisions apply in relation to the refusal of an application for variation of leave to enter or remain or, where appropriate, the curtailment of leave:

Grounds on which an application to vary leave to enter or remain in the United Kingdom is to be refused

- (1) the fact that variation of leave to enter or remain is being sought for a purpose not covered by these Rules.

Grounds on which an application to vary leave to enter or remain in the United Kingdom should normally be refused

- (2) the making of false representations or the failure to disclose any material fact for the purpose of obtaining leave to enter or a previous variation of leave;

- (3) failure to comply with any conditions attached to the grant of leave to enter or remain;
- (4) failure by the person concerned to maintain or accommodate himself and any dependants without recourse to public funds;
- (5) the undesirability of permitting the person concerned to remain in the United Kingdom in the light of his character, conduct or associations or the fact that he represents a threat to national security;
- (6) refusal by a sponsor of the person concerned to give, if requested to do so, an undertaking in writing to be responsible for his maintenance and accommodation in the United Kingdom or failure to honour such an undertaking once given;
- (7) failure by the person concerned to honour any declaration or undertaking given orally or in writing as to the intended duration and/or purpose of his stay;
- (8) failure, except by a person who qualifies for settlement in the United Kingdom or by the spouse of a person settled in the United Kingdom, to satisfy the Secretary of State that he will be returnable to another country if allowed to remain in the United Kingdom for a further period;
- (9) failure by an applicant to produce within a reasonable time documents or other evidence required by the Secretary of State to establish his claim to remain under these Rules;
- (10) failure, without providing a reasonable explanation, to comply with a request made on behalf of the Secretary of State to attend for interview;
- (11) failure, in the case of a child under the age of 18 years seeking a variation of his leave to enter or remain in the United Kingdom otherwise than in conjunction with an application by his parent(s) or legal guardian, to provide the Secretary of State, if required to do so, with written consent to the application from his parent(s) or legal guardian; save that the requirement as to written consent does not apply in the case of a child who has been admitted to the United Kingdom as an asylum seeker.

Grounds on which leave to enter or remain may be curtailed

323. A person's leave to enter or remain may be curtailed on any of the grounds set out in paragraph 322 (2)–(5) above or if he ceases to meet the requirements of the Rules under which his leave to enter or remain was granted.

Crew members

324. A person who has been given leave to enter to join a ship, aircraft, hovercraft, hydrofoil or international train service as a member of its crew, or a crew member who has been given leave to enter for hospital treatment, repatriation or transfer to another ship, aircraft, hovercraft, hydrofoil or international train service in the United Kingdom, is to be refused leave to remain unless an extension of stay is necessary to fulfil the purpose for which he was given leave to enter or unless he meets the requirements for an extension of stay as a spouse in paragraph 284.

PART 10: REGISTRATION WITH THE POLICE

325. A condition requiring registration with the police should normally be imposed on any foreign national aged 16 years or over who is given limited leave to enter the United Kingdom:

- (i) for employment for longer than 3 months unless he has been admitted for permit free employment as a private servant in a diplomatic household or as a minister of religion; or
- (ii) for longer than 6 months under the following categories of these Rules:
 - (a) students;
 - (b) "au pair";
 - (c) businessmen and self-employed persons;
 - (d) investors or persons of independent means;
 - (e) creative artists;
 - (f) family members of European Economic Area nationals who are not themselves European Economic Area nationals; or
- (iii) as the spouse or child of a person required to register with the police; or
- (iv) exceptionally, in any other case where the Immigration Officer considers it necessary to ensure that a foreign national complies with the terms of a limited leave to enter.

326. A condition requiring registration with the police should also be imposed when a foreign national on whom a registration requirement was not imposed on arrival is granted an extension of stay which has the effect of allowing him to remain in the United Kingdom for employment for longer than 3 months, or otherwise for longer than 6 months, reckoned from the date of his arrival, save where:

- (i) the person concerned is under the age of 16; or
- (ii) the extension of stay was granted as a minister of religion or private servant in a diplomatic household; or
- (iii) the extension of stay was granted on the basis of marriage to a person settled in the United Kingdom.

PART 11: ASYLUM

Definition of asylum applicant

327. Under these Rules an asylum applicant is a person who claims that it would be contrary to the United Kingdom's obligations under the United Nations Convention and Protocol relating to the Status of Refugees for him to be removed from or required to leave the United Kingdom. All such cases are referred to in these Rules as asylum applications.

Applications for asylum

328. All asylum applications will be determined by the Secretary of State in accordance with the United Kingdom's obligations under the United Nations Convention and Protocol relating to the Status of Refugees. Every asylum application made by a person at a port or airport in the United Kingdom will be referred by the Immigration Officer for determination by the Secretary of State in accordance with these Rules.

329. Until an asylum application has been determined by the Secretary of State, no action will be taken to require the departure of the asylum applicant or his dependants from the United Kingdom.

330. If the Secretary of State decides to grant asylum and the person has not yet been given leave to enter, the Immigration Officer will grant limited leave to enter.

331. If a person seeking leave to enter is refused asylum, the Immigration Officer will then resume his examination to determine whether or not to grant him leave to enter under any other provision of these Rules.

332. If a person who has been refused leave to enter applies for asylum and that application is refused, leave to enter will again be refused unless the applicant qualifies for admission under any other provision of these Rules.

333. A person who is refused leave to enter following the refusal of an asylum application will be provided with a notice informing him of the decision and of the reasons for refusal. The notice of refusal will also explain any rights of appeal available to the applicant and will inform him of the means by which he may exercise those rights. The applicant will not be removed from the United Kingdom so long as any appeal which he may bring is pending.

Grant of asylum

334. An asylum applicant will be granted asylum in the United Kingdom if the Secretary of State is satisfied that:

- (i) he is in the United Kingdom or has arrived at a port of entry in the United Kingdom; and
- (ii) he is a refugee, as defined by the Convention and Protocol; and
- (iii) refusing his application would result in his being required to go (whether immediately or after the time limited by an existing leave to enter or remain) in breach of the Convention and Protocol, to a country in which his life or freedom would be threatened on account of his race, religion, nationality, political opinion or membership of a particular social group.

335. If the Secretary of State decides to grant asylum to a person who has been given leave to enter (whether or not the leave has expired) or to a person who has entered without leave, the Secretary of State will vary the existing leave or grant limited leave to remain.

Refusal of asylum

336. An application which does not meet the criteria set out in paragraph 334 will be refused.

337. The Secretary of State may decide not to consider the substance of a person's claim to refugee status if he is satisfied that the person's removal to a

third country does not raise any issue as to the United Kingdom's obligations under the Convention and Protocol. More details are given in paragraphs 345 and 347.

338. When a person in the United Kingdom is notified that asylum has been refused he may, if he is liable to removal as an illegal entrant or to deportation, at the same time be notified of removal directions, served with a notice of intention to make a deportation order, or served with a deportation order, as appropriate.

339. When a person with limited leave is refused asylum the leave may be curtailed if he does not meet the requirements of the Rules under which leave was granted. When a person's leave is curtailed under Section 7 of the Asylum and Immigration Appeals Act 1993, he may at the same time be served with a notice of intention to make a deportation order. Full account will be taken of all the relevant circumstances known to the Secretary of State, including those listed in paragraph 364.

Consideration of cases

340. A failure, without reasonable explanation, to make a prompt and full disclosure of material factors, either orally or in writing, or otherwise to assist the Secretary of State to the full in establishing the facts of the case may lead to refusal of an asylum application. This includes failure to comply with a notice issued by the Secretary of State requiring the applicant to report to a designated place to be fingerprinted, or failure to complete an asylum questionnaire, or failure to comply with a request to attend an interview concerning the application.

341. In determining an asylum application the Secretary of State will have regard to matters which may damage an asylum applicant's credibility if no reasonable explanation is given. Among such matters are:

- (i) that the applicant has failed to apply forthwith upon arrival in the United Kingdom, unless the application is founded on events which have taken place since his arrival in the United Kingdom;
- (ii) that the applicant has made false representations, either orally or in writing;
- (iii) that the applicant has destroyed, damaged or disposed of any passport, other document or ticket relevant to his claim;
- (iv) that the applicant has undertaken any activities in the United Kingdom before or after lodging his application which are inconsistent with his previous beliefs and behaviour and calculated to create or substantially enhance his claim to refugee status;
- (v) that the applicant has lodged concurrent applications for asylum in the United Kingdom or in another country.

If the Secretary of State concludes for these or any other reasons that an asylum applicant's account is not credible, the application will be refused.

342. The actions of anyone acting as an agent of the asylum applicant may also be taken into account in regard to the matters set out in paragraphs 340 and 341.

343. If there is a part of the country from which the applicant claims to be a refugee in which he would not have a well-founded fear of persecution, and to which it would be reasonable to expect him to go, the application may be refused.

344. Cases will normally be considered on an individual basis but if an applicant is part of a group whose claims are clearly not related to the criteria for refugee status in the Convention and Protocol he may be refused without examination of his individual claim. However, the Secretary of State will have regard to any evidence produced by an individual to show that his claim should be distinguished from those of the rest of the group.

Third country cases

345. If the Secretary of State is satisfied that there is a safe country to which an asylum applicant can be sent, his application will normally be refused without substantive consideration of his claim to refugee status. A safe country is one in which the life or freedom of the asylum applicant would not be threatened (within the meaning of Article 33 of the Convention) and the government of which would not send the applicant elsewhere in a manner contrary to the principles of the Convention and Protocol. The Secretary of State shall not remove an asylum applicant without substantive consideration of his claim unless:

- (i) the asylum applicant has not arrived in the United Kingdom directly from the country in which he claims to fear persecution and has had an opportunity at the border or within the territory of a third country to make contact with that country's authorities in order to seek their protection; or
- (ii) there is other clear evidence of his admissibility to a third country.

Provided that he is satisfied that a case meets these criteria, the Secretary of State is under no obligation to consult the authorities of the third country before the removal of an asylum applicant.

Previously rejected applications

346. When an asylum applicant has previously been refused asylum in the United Kingdom and can demonstrate no relevant and substantial change in his circumstances since that date, his application will be refused.

347. When an asylum applicant has come to the United Kingdom from another country which is a party to the United Nations Convention relating to the Status of Refugees or its Protocol and which has considered and rejected an application for asylum from him, his application for asylum in the United Kingdom may be refused without substantive consideration of his claim to refugee status. He may be removed to that country, or another country meeting the criteria of paragraph 345, and invited to raise any new circumstances with the authorities of the country which originally considered his application.

Rights of appeal

348. Special provisions governing appeals in asylum cases are set out in the Asylum and Immigration Appeals Act 1993 and the Asylum Appeals (Procedure) Rules 1993. Where asylum is refused the applicant will be provided with a notice informing him of the decision and of the reasons for refusal. At the same time that asylum is refused the applicant may be notified of removal directions or served with a notice of intention to deport, as appropriate. The notice of refusal of asylum will also explain any rights of appeal available to the applicant and will inform him of the means by which he may exercise those rights.

Dependants

349. A husband or wife or minor children accompanying a principal applicant may be included in an application for asylum. If the principal applicant is granted asylum any such dependants will be granted leave to enter or remain of the same duration. The case of any dependant who claims asylum in his own right and who would otherwise be refused leave to enter or remain will be considered individually in accordance with paragraph 334 above. It will not normally be necessary separately to interview or otherwise investigate the status of children accompanying a parent who is an asylum applicant except insofar as this is necessary to establish the child's identity. (In this paragraph and paragraphs 350-352 a child means a person who is under 18 years of age or who, in the absence of documentary evidence, appears to be under that age).

Unaccompanied children

350. Unaccompanied children may also apply for asylum and, in view of their potential vulnerability, particular priority and care is to be given to the handling of their cases.

351. A person of any age may qualify for refugee status under the Convention and the criteria in paragraph 334 apply to all cases. However, account should be taken of the applicant's maturity and in assessing the claim of a child more weight should be given to objective indications of risk than to the child's state of mind and understanding of his situation. An asylum application made on behalf of a child should not be refused solely because the child is too young to understand his situation or to have formed a well-founded fear of persecution. Close attention should be given to the welfare of the child at all times.

352. A child will not be interviewed about the substance of his claim to refugee status if it is possible to obtain by written enquiries or from other sources sufficient information properly to determine the claim. When an interview is necessary it should be conducted in the presence of a parent, guardian, representative or another adult who for the time being takes responsibility for the child and is not an Immigration Officer, an officer of the Secretary of State or a police officer. The interviewer should have particular regard to the possibility that a child will feel inhibited or alarmed. The child should be allowed to express himself in his own way and at his own speed. If he appears tired or distressed, the interview should be stopped.

PART 12: RIGHTS OF APPEAL

Notice of refusal of leave to enter

353. Where refusal of leave to enter is confirmed, the person concerned should be handed a notice informing him of the decision and of the reasons for refusal. This notice will also inform him whether he has a right of appeal under Section 13 of the 1971 Act and, if so, how the right of appeal might be exercised. If he has difficulty in understanding the notice its meaning should be explained to him.

Rights of appeal in relation to a person claiming to have the right of abode

354. A person who claims to have the right of abode is not entitled to appeal against a decision that he requires leave to enter unless he holds either a United Kingdom passport describing him as a British citizen or as a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom, or a certificate of entitlement duly issued to him by or on behalf of the Government of the United Kingdom certifying that he has such a right of abode.

Rights of appeal in relation to a person who holds an entry clearance or work permit

355. Subject to Section 13 (5) of the Immigration Act 1971, a person in possession of a valid United Kingdom entry clearance or named in a current work permit who is entitled to appeal against refusal of leave to enter the United Kingdom may exercise his right of appeal before removal from the United Kingdom. If such a person sought entry through the Channel Tunnel he may, upon giving notice of appeal, be brought through the tunnel to enable him to pursue his appeal.

Rights of appeal exercisable from abroad

356. Except in cases involving an asylum application to which paragraph 348 applies and cases described in paragraphs 354 and 355 above, a person entitled to appeal against refusal of leave to enter, irrespective of his national status, may exercise that right only after he has left the United Kingdom.

Rights of appeal against a time limit or condition

357. A person aggrieved by the imposition on entry of a time limit or condition may apply to the Home Office for variation of his leave. Subject to paragraph 358 below, he will have a right of appeal if variation is refused.

Rights of appeal against variation of leave to enter or refusal to vary it

358. A person may appeal against any variation of his leave to enter or any refusal to vary it except:

- (i) when a refusal is on one of the grounds specified in Section 14 (2A) of the 1971 Act; or
- (ii) if the case comes within Section 14 (3) of the 1971 Act following a decision taken personally by the Secretary of State and not by a person acting under his authority; or
- (iii) when a variation of leave is made by statutory instrument; or
- (iv) if leave is curtailed under Section 7 (1) of the Asylum and Immigration Appeals Act 1993.

Notice of appeal rights

359. Where an application for variation of leave to enter is refused; or a variation is made otherwise than on the application of the person concerned, or is less favourable than that for which he applied, notice of the decision and, if an appeal lies, of his right of appeal will normally be handed to the person concerned or sent to his last known address. Alternatively it may be so given or sent to a person who has either made the application on behalf of another, or has

subsequently been appointed to act on another's behalf in connection with an application.

Explanatory statement

360. If notice of appeal is given within the period allowed, an explanatory statement summarising the facts of the case on the basis of which the decision was taken will normally be prepared and be sent to the independent appellate authorities, who will notify the appellant of the arrangements for any appeal to be heard.

Rights of appeal in asylum cases

361. Rights of appeal in asylum cases are covered in paragraph 348 above.

PART 13: DEPORTATION

A deportation order

362. A deportation order requires the subject to leave the United Kingdom and authorises his detention until he is removed. It also prohibits him from re-entering the country for as long as it is in force and invalidates any leave to enter or remain in the United Kingdom given him before the order was made or while it is in force.

363. The circumstances in which a person is liable to deportation are set out in the Immigration Act 1971 and include:

- (i) failure to comply with a condition attached to his leave to enter or remain or remaining beyond the time limited by the leave;
- (ii) where the Secretary of State deems the person's deportation to be conducive to the public good;
- (iii) where the person is the wife or child under 18 of a person ordered to be deported; and
- (iv) where a court recommends deportation in the case of a person over the age of 17 who has been convicted of an offence punishable with imprisonment.

364. In considering whether deportation is the right course on the merits, the public interest will be balanced against any compassionate circumstances of the case. While each case will be considered in the light of the particular circumstances, the aim is an exercise of the power of deportation which is consistent and fair as between one person and another, although one case will rarely be identical with another in all material respects. Deportation will normally be the proper course where a person has failed to comply with or has contravened a condition or has remained without authority. Before a decision to deport is reached the Secretary of State will take into account all relevant factors known to him including:

- (i) age;
- (ii) length of residence in the United Kingdom;
- (iii) strength of connections with the United Kingdom;
- (iv) personal history, including character, conduct and employment record;
- (v) domestic circumstances;
- (vi) previous criminal record and the nature of any offence of which the person has been convicted;
- (vii) compassionate circumstances;
- (viii) any representations received on the person's behalf.

Deportation of family members

365. Section 5 of the Immigration Act 1971 gives the Secretary of State power in certain circumstances to make a deportation order against the wife or child of a person against whom a deportation order has been made. The Secretary of State will not normally decide to deport the wife of a deportee where:

- (i) she has qualified for settlement in her own right; or
- (ii) she has been living apart from the deportee.

366. The Secretary of State will not normally decide to deport the child of a deportee where:

- (i) he and his mother are living apart from the deportee; or
- (ii) he has spent some years in the United Kingdom and is nearing the age of 18; or
- (iii) he has left home and established himself on an independent basis; or
- (iv) he married before deportation came into prospect.

367. In considering whether to require a wife or child to leave with the deportee the Secretary of State will take account of the factors listed in paragraph 364 as well as the following:

- (i) the ability of the wife to maintain herself and any children in the United Kingdom, or to be maintained by relatives or friends without charge to public funds, not merely for a short period but for the foreseeable future; and
- (ii) in the case of a child of school age, the effect of removal on his education; and
- (iii) the practicability of any plans for a child's care and maintenance in this country if one or both of his parents were deported; and
- (iv) any representations made by or on behalf of the wife or child.

368. Where the Secretary of State decides that it would be appropriate to deport a member of a family as such, the decision, and the right of appeal, will be notified and it will at the same time be explained that it is open to the member of the family to leave the country voluntarily if he does not wish to appeal or if he appeals and his appeal is dismissed.

Right of appeal against destination

369. In all cases of deportation the person in respect of whom the order has been or is to be made has a right of appeal against the removal directions on the ground that he ought to be removed (if at all) to a country or territory specified by him, other than the one named in the direction (Section 17 of the 1971 Act).

Restricted right of appeal against deportation in cases of breach of limited leave

370. By virtue of Section 5 (1) of the Immigration Act 1988, a person who was last given leave to enter the United Kingdom less than 7 years before the date of the decision to make a deportation order against him:

- (i) by virtue of Section 3 (5)(a) of the Immigration Act 1971 (breach of limited leave); or
- (ii) by virtue of Section 3 (5)(c) of that Act (as belonging to the family of a person who is or has been ordered to be deported by virtue of Section 3 (5)(a))

shall not be entitled to appeal under Section 15 of the 1971 Act against that decision except on the ground that on the facts of his case there is in law no power to make the deportation order for the reasons stated in the notice of the decision.

Exemption to the restricted right of appeal

371. This restriction on the right of appeal does not apply to a person who is exempt by virtue of an order made under Section 5 (2) of the 1988 Act. The Immigration (Restricted Right of Appeal against Deportation) (Exemption) Order 1993 provides that a person is exempt if he would last have been given leave to enter 7 years or more before the date of the decision to deport but for his having obtained a subsequent leave after an absence from the United Kingdom within the period limited for the duration of the earlier leave.

372. The Order also provides that a person is exempt if his limited leave has been curtailed by the Secretary of State under Section 7 of the 1993 Act.

A deportation order made on the recommendation of a Court

373. There is no appeal within the immigration appeal system against the making of a deportation order on the recommendation of a court; but there is a right of appeal to a higher court against the recommendation itself. An order may not be made while it is still open to the person to appeal against the relevant conviction, sentence or recommendation, or while an appeal is pending.

Where deportation is deemed to be conducive to the public good

374. There is no right of appeal except as to the country of destination (see paragraph 369) where a deportation order is made on the ground that the Secretary of State deems the person's deportation to be conducive to the public

good as being in the interests of national security or of the relations between the United Kingdom and any other country or for other reasons of a political nature. Such cases are subject to a non-statutory advisory procedure and the person proposed to be deported on that ground will be informed, so far as possible, of the nature of the allegations against him and will be given the opportunity to appear before the advisers, and to make representations to them, before they tender advice to the Secretary of State.

375. Where it is proposed to deport a person because it is deemed that his expulsion will be conducive to the public good on *other* than security or political grounds there is a right of appeal, under Section 15 of the 1971 Act, direct to the Immigration Appeal Tribunal.

Hearing of appeals

376. An appeal against a decision to make a deportation order against a person lies to the Tribunal.

377. Where the appeal is against a decision to make a deportation order for breach of conditions or for remaining beyond the authorised time it will be heard by an adjudicator in the first instance, unless there is pending an appeal against a decision to make an order against a person as belonging to the family of the person alleged to have broken a condition or remained beyond the authorised time, in which case both appeals will be heard by the Tribunal.

378. An order may not be made while it is still open to the person to appeal against the Secretary of State's decision, or while an appeal is pending.

Persons who have claimed asylum

379. In addition to the rights of appeal mentioned above, except where the ground of the decision to make a deportation order is that it is conducive to the public good and is certified by the Secretary of State as being in the interests of national security, a person who has claimed asylum may also appeal under Section 8 of the Asylum and Immigration Appeals Act 1993 against:

- (i) a decision to make a deportation order against him by virtue of Section 3 (5) of the 1971 Act; or
- (ii) a refusal to revoke a deportation order made against him by virtue of Section 3 (5) or (6) of the 1971 Act; or
- (iii) directions for his removal from the United Kingdom given under Section 16 (1)(a) or (b) of the 1971 Act. In such circumstances the appeal will be before a special adjudicator who will also consider any appeal under Part II of the 1971 Act.

380. A deportation order will not be made against any person if his removal in pursuance of the order would be contrary to the United Kingdom's obligations under the Convention and Protocol relating to the Status of Refugees.

Procedure

381. When a decision to make a deportation order has been taken (otherwise than on the recommendation of a court) a notice will be given to the person concerned informing him of the decision and of his right of appeal, or facility to make representations in the case of the security and political cases subject to the advisory procedure.

382. Following the issue of such a notice the Secretary of State may make a detention order, or any order restricting a person as to residence, employment or occupation and requiring him to report to the police, pending the making of a deportation order.

383. Where a person is detained pending an appeal, he may apply to an adjudicator for release on bail.

384. If a notice of appeal is given within the period allowed, a summary of the facts of the case on the basis of which the decision was taken will be sent to the appellate authorities, who will notify the appellant of the arrangements for the appeal to be heard.

Arrangements for removal

385. A person against whom a deportation order has been made will normally be removed from the United Kingdom. The power is to be exercised so as to secure the person's return to the country of which he is a national, or which has most recently provided him with a travel document, unless he can show that another country will receive him. In considering any departure from the normal arrangements, regard will be had to the public interest generally, and to any additional expense that may fall on public funds.

386. The person will not be removed as the subject of a deportation order while an appeal may be brought against the removal directions or such an appeal is pending.

Supervised departure

387. A person liable to deportation may, in certain circumstances, leave the United Kingdom by means of supervised departure without having a deportation order made against him.

Returned deportees

388. Where a person returns to this country when a deportation order is in force against him, he may be deported under the original order. The Secretary of State will consider every such case in the light of all the relevant circumstances before deciding whether to enforce the order.

Returned family members

389. Persons deported in the circumstances set out in paragraph 365–368 above (deportation of family members) may be able to seek re-admission to the United Kingdom under the Immigration Rules where:

- (i) a child reaches 18 (when he ceases to be subject to the deportation order); or
- (ii) in the case of a wife, the marriage comes to an end.

Revocation of deportation order

390. An application for revocation of a deportation order will be considered in the light of all the circumstances including the following:

- (i) the grounds on which the order was made;
- (ii) any representations made in support of revocation;
- (iii) the interests of the community, including the maintenance of an effective immigration control;
- (iv) the interests of the applicant, including any compassionate circumstances.

391. In the case of an applicant with a serious criminal record continued exclusion for a long term of years will normally be the proper course. In other cases revocation of the order will not normally be authorised unless the situation has been materially altered, either by a change of circumstances since the order was made, or by fresh information coming to light which was not before the court which made the recommendation or the appellate authorities or the Secretary of State. The passage of time since the person was deported may also in itself amount to such a change of circumstances as to warrant revocation of the order. However, save in the most exceptional circumstances, the Secretary of State will not revoke the order unless the person has been absent from the United Kingdom for a period of at least 3 years since it was made.

392. Revocation of a deportation order does not entitle the person concerned to re-enter the United Kingdom; it renders him eligible to apply for admission under the Immigration Rules. Application for revocation of the order may be made to the Entry Clearance Officer or direct to the Home Office.

Rights of appeal in relation to a decision not to revoke a deportation order

393. Where an application for revocation is refused there is a right of appeal, in the first instance to an adjudicator, unless the order was made against a person as belonging to the family of another person in which case it lies to the Tribunal.

394. No appeal lies while the person is in the United Kingdom or where the Secretary of State personally decides that continued exclusion from the United Kingdom is conducive to the public good.

395. Where an appeal does lie the right of appeal will be notified at the same time as the decision to refuse to revoke the order.

APPENDIX

VISA REQUIREMENTS FOR THE UNITED KINGDOM

1. Subject to paragraph 2 below the following persons need a visa for the United Kingdom:

(a) Nationals or citizens of the following countries or territorial entities:

Afghanistan	Gabon	Philippines
Albania	Georgia	Romania
Algeria	Ghana	Russia
Angola	Guinea	Rwanda
Armenia	Guinea-Bissau	Sao Tome e Principe
Azerbaijan	Haiti	Saudi Arabia
Bangladesh	India	Senegal
Belarus	Indonesia	Somalia
Benin	Iran	Sri Lanka
Bhutan	Iraq	Sudan
Bosnia-Herzegovina	Jordan	Syria
Bulgaria	Kazakhstan	Taiwan
Burkina	Kirgizstan	Tajikistan
Burma	Korea (North)	Thailand
Burundi	Laos	Togo
Cambodia	Lebanon	Tunisia
Cameroon	Liberia	Turkey
Cape Verde	Libya	Turkmenistan
Central African Republic	Macedonia	Uganda
Chad	Madagascar	Ukraine
China	Mali	Uzbekistan
Comoros	Mauritania	Vietnam
Congo	Moldova	Yemen
Cuba	Mongolia	Zaire
Djibouti	Morocco	The territories formerly comprising the Socialist Federal Republic of Yugoslavia excluding Croatia and Slovenia.
Egypt	Mozambique	
Equatorial Guinea	Nepal	
Eritrea	Nigeria	
Ethiopia	Oman	
	Pakistan	

(b) Persons who hold passports or travel documents issued by the former Soviet Union or by the former Socialist Federal Republic of Yugoslavia.

(c) Stateless persons.

(d) Persons who hold non-national documents.

2. The following persons do not need a visa for the United Kingdom:

(a) those who qualify for admission to the United Kingdom as returning residents in accordance with paragraph 18;

(b) those who seek leave to enter the United Kingdom within the period of their earlier leave unless that leave:

(i) was for a period of six months or less; or

(ii) was extended by statutory instrument;

(c) those holding refugee travel documents issued under the 1951 Convention relating to the Status of Refugees by countries which are signatories of the Council of Europe Agreement of 1959 on the Abolition of Visas for Refugees if coming on visits of 3 months or less.

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