

STATEMENT OF CHANGES IN IMMIGRATION RULES

*Laid before Parliament on 15 July 2008 under section 3(2) of
the Immigration Act 1971*

*Ordered by The House of Commons to be printed
15 July 2008*

(This document is accompanied by an Explanatory Memorandum)

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STATEMENT OF CHANGES IN IMMIGRATION RULES

The Home Secretary has made the changes hereinafter stated in the Rules laid down by her as to the practice to be followed in the administration of the Immigration Act 1971 for regulating entry into and the stay of persons in the United Kingdom and contained in the Statement laid before Parliament on 23 May 1994 (HC 395) as amended. The amending statements were laid before, or presented to, Parliament on 20 September 1994 (Cmnd 2663), 26 October 1995 (HC 797), 4 January 1996 (Cmnd 3073), 7 March 1996 (HC 274), 2 April 1996 (HC329), 30 August 1996 (Cmnd 3365), 31 October 1996 (HC 31), 27 February 1997 (HC 338), 29 May 1997(Cmnd 3669), 5 June 1997 (HC 26), 30 July 1997 (HC 161), 11 May 1998 (Cmnd 3953), 8 October 1998 (Cmnd 4065), 18 November 1999 (HC 22), 28 July 2000 (HC 704), 20 September 2000 (Cmnd 4851), 27 August 2001 (Cmnd 5253), 16 April 2002 (HC 735), 27 August 2002 (Cmnd 5597), 7 November 2002 (HC 1301), 26 November 2002 (HC 104), 8 January 2003 (HC 180), 10 February 2003 (HC 389), 31 March 2003 (HC 538), 30 May 2003 (Cmnd 5829), 24 August 2003 (Cmnd 5949), 12 November 2003 (HC 1224), 17 December 2003 (HC 95), 12 January 2004 (HC 176), 26 February 2004 (HC 370), 31 March 2004 (HC 464), 29 April 2004 (HC523), 3 August 2004 (Cmnd 6297), 24 September 2004 (Cmnd 6339), 18 October 2004 (HC 1112), 20 December 2004 (HC 164), 11 January 2005 (HC 194), 7 February 2005 (HC 302), 22 February 2005 (HC 346), 24 March 2005 (HC 486), 15 June 2005 (HC 104), 12 July 2005 (HC 299), 24 October 2005 (HC 582), 9 November 2005 (HC 645), 21 November 2005 (HC 697), 19 December 2005 (HC 769), 23 January 2006 (HC 819), 1 March 2006 (HC 949), 30 March 2006 (HC 1016), 20 April 2006 (HC 1053), 19 July 2006 (HC 1337), 18 September 2006 (Cm 6918), 7 November 2006 (HC 1702), 11 December 2006 (HC 130), 19 March 2007 (HC 398), 3 April 2007 (Cm 7074), 4 April 2007 (Cm 7075), 7 November 2007 (HC 28), 13 November 2007 (HC 40), 19 November 2007 (HC 82), 6 February 2008 (HC 321), 17 March 2008 (HC 420), 9 June 2008 (HC 607) and 10 July 2008 (HC 951).

These changes shall take effect on 22nd July 2008.

1. Paragraph 282 is amended as follows:

In (a), for “2 years”, substitute “27 months”; and

In (c), for “2 years”, substitute “27 months”.

2. In paragraph 284, sub-paragraph (v), after “Immigration Act 1971” insert “or been given directions for his removal under section 10 of the Immigration and Asylum Act 1999”.

3. Paragraph 287 is amended as follows:

(a) for sub-paragraph (a)(i)(a), substitute:

“(i)(a) the applicant was admitted to the United Kingdom for a period not exceeding 27 months or given an extension of stay for a period of 2 years in accordance with paragraphs 281 to 286 of these Rules and has completed a period of 2 years as the spouse or civil partner of a person present and settled in the United Kingdom; or”;

(b) for sub-paragraph (a)(i)(b), substitute:

“(b) the applicant was admitted to the United Kingdom for a period not exceeding 27 months or given an extension of stay for a period of 2 years in accordance with paragraphs 295AA to 295F of these Rules and during that period married or formed a civil partnership with the person whom he or she was admitted or granted an extension of stay to join and has completed a period of 2 years as the unmarried or same-sex partner and then the spouse or civil partner of a person present and settled in the United Kingdom; or”;

(c) for sub-paragraph (b)(i)(a), substitute:

“(i)(a) the applicant was admitted to the United Kingdom for a period not exceeding 27 months or given an extension of stay for a period of 2 years as the spouse or civil partner of a person present and settled in the United Kingdom in accordance with paragraphs 281 to 286 of these Rules; or”;

(d) for sub-paragraph (b)(i)(b), substitute:

“(b) the applicant was admitted to the United Kingdom for a period not exceeding 27 months or given an extension of stay for a period of 2 years as the unmarried or same-sex partner of a person present and settled in the United Kingdom in accordance with paragraphs 295AA to 295F of these Rules and during that period married or formed a civil partnership with the person whom he or she was admitted or granted an extension of stay to join; and”;

(e) in sub-paragraph (b)(ii), delete “2 year”.

4. Paragraph 289A is amended as follows:

(a) for sub-paragraph (i), substitute:

“(i) was admitted to the United Kingdom for a period not exceeding 27 months or given an extension of stay for a period of 2 years as the spouse or civil partner of a person present and settled here; or”;

- (b) for sub-paragraph (ii), substitute:
- “(ii) was admitted to the United Kingdom for a period not exceeding 27 months or given an extension of stay for a period of 2 years as the unmarried or same-sex partner of a person present and settled here; and”.
5. Paragraph 295B is amended as follows:
- In (a), for “2 years”, substitute “27 months”
- In (c), for “2 years”, substitute “27 months”.
6. In paragraph 295G(i)(a), after “admitted to the United Kingdom” insert “for a period not exceeding 27 months”.
7. Paragraph 295M is amended as follows:
- (a) in sub-paragraph (i), after “admitted to the United Kingdom” insert “for a period not exceeding 27 months”; and
- (b) in sub-paragraph (ii), for “2 year period”, substitute “period of leave”.
8. Paragraph 302 is amended by deleting “24 months” in the two places in which it is cited, and substituting “27 months” in those two places.



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**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
LAID ON 15 JULY 2008 (HC 971)**

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Statement of Changes in Immigration Rules contains the following three changes:

- Amendments to the rules relating to the spouses, civil partners, unmarried and same-sex partners of persons present and settled in the UK in order that they may be admitted to the UK for a period not exceeding 27 months.
- Consequential amendments to the rules relating to victims of domestic violence and to children of parents who are given limited leave to enter/remain with a view to settlement.
- Correction of an omission in paragraph 284(v) of the Immigration Rules, relating to the requirements for an extension of stay as the spouse or civil partner of a person present and settled in the UK.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 This change to the Immigration Rules is being made in order to mitigate the negative impact on an applicant of not being able to make travel arrangements until entry clearance has been granted and the difficulties this can cause if their leave expires and they need to seek and pay for an extension of leave. This must come into force on 22 July 2008 so that this negative impact is remedied and that from this date entry clearance may be issued for 27 months. Administrative delays associated with the production of the Statement of Changes in Immigration Rules has resulted in the 21 day rule being breached. The Department regrets this breach.

4. Legislative Background

4.1 The Immigration Rules are made under section 3(2) of the Immigration Act 1971. The Immigration Rules constitute a statement of the rules laid down by the Secretary of State as to the practice to be followed in the administration of the Immigration Act 1971 for regulating the entry into and stay in the UK of persons required by the Act to have leave to enter. Section 3(2) imposes upon the Secretary of State a duty “from time to time (and as soon as may be) to lay before Parliament statements of the rules, or of any changes in the rules, laid down by him as to the practice to be followed in the administration of this Act...”.

4.2 This Statement of Changes in Immigration Rules will be laid on 15 July 2008 and shall take effect on 22 July 2008.

4.3 This Statement of Changes in Immigration Rules will be incorporated into a consolidated version of the Immigration Rules which can be accessed under the “Law and Policy” page at www.bia.homeoffice.gov.uk, where there are also copies of all the Statements of Changes in Immigration Rules issued since May 2003.

5. Extent

5.1 This Statement of Changes in Immigration Rules applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 Not applicable.

7. Policy background

- 7.1 A summary of the policy changes contained in this Statement of Changes in Immigration Rules follows:

Leave to enter for spouses, civil partners, unmarried and same sex partners of persons present and settled here

Entry clearance issued to spouses, civil partners, unmarried and same sex partners of persons present and settled in the UK is currently valid for two years (normally commencing on the date of issue of entry clearance). If the holder delays travel to the UK after the issue of entry clearance (which functions as leave to enter), he or she will subsequently have spent less than the two years probationary period in the UK by the time his/her leave to enter is about to expire. He or she will therefore not be eligible for the grant of indefinite leave to remain, and may be required to apply, and pay, for a short extension in order to make up the full two years in the UK. The amendments to the rules remedy this by increasing the validity of such entry clearance to 27 months, although the spouse etc. will be required to complete only a period of two years before being eligible (subject to the other requirements of the rules) for indefinite leave to remain.

Requirements for an extension of stay as the spouse or civil partner of a person present and settled in the UK

An amendment is made to paragraph 284(v). This corrects the omission whereby an applicant whose marriage or civil partnership had taken place after he/she had been given directions for removal under section 10 of the Immigration and Asylum Act 1999 was not debarred from qualifying under the paragraph. The amendment brings the requirements into line with those for extensions of stay for unmarried and same sex partners (paragraph 295D(vii)).

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this Statement as the change has no impact on business, charities or voluntary bodies.
- 8.2 There is no identifiable impact on the public sector.
- 8.3 The policy has been screened for impact on equalities. No full equality impact assessment has been required.

9. Contact

- 9.1 The Home Office's Immigration Enquiry Bureau on telephone 0870 606 7766 or by email ukbapublicenquiries@ind.homeoffice.gsi.gov.uk can answer any enquiries regarding this instrument.