

STATEMENT OF CHANGES IN IMMIGRATION RULES

*Laid before Parliament on 9 February 2009 under section 3(2) of
the Immigration Act 1971*

*Ordered by The House of Commons to be printed
9 February 2009*

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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 him 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 (HC 329), 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 (HC 523), 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 (HC 645), 21 November 2005 (HC 697), 19 December 2005 (HC 769), 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), 10 July 2008 (HC 951), 15 July 2008 (HC 971) and 4 November 2008 (HC 1113).

The changes in paragraphs 1-2 shall take effect on 3rd March 2009.

1. In Appendix 1 (Visa requirements for the United Kingdom), sub-paragraph 1(a):
 - (a) after “Somalia”, insert “South Africa (except for those referred to in sub-paragraph 2(g) ”; and
 - (b) omit “Taiwan”.
2. In Appendix 1 (Visa requirements for the United Kingdom), paragraph 2 insert:
 - “(g) those nationals or citizens of South Africa who hold a valid passport issued by South Africa and have previously entered the United Kingdom lawfully using that passport.”



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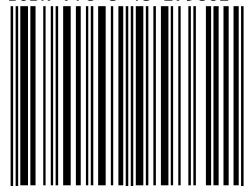
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**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
LAID ON 9 FEBRUARY 2009 (HC 227)**

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

2. Purpose of the Instrument

2.1 This Statement of Changes in the Immigration Rules introduces the following changes: With effect from 3rd March 2009 nationals or citizens of South Africa will require a visa to visit the UK if they can not show that they have previously entered the UK lawfully using their current valid passport. With effect from 3rd March 2009 Taiwan passport-holders will no longer require a visa to travel to the UK.

3. Matters of Special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The Home Secretary is making the stated changes to Appendix 1 (Visa requirements for the United Kingdom) of the Immigration 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. The Home Secretary makes this Statement of Changes under section 3(2) of the Immigration Act 1971.

4.2 This Statement of Changes in Immigration Rules has been incorporated into a consolidated version of the Immigration Rules, which can be found under the 'Laws & 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. Territorial Extent and Application

5.1 This instrument applies to passengers travelling to all parts of the United Kingdom.

6. European Convention on Human Rights

6.1 As this Statement of Changes in the Immigration rules is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background-What is being done and why

7.1 The Visa Waiver Test was the first global review of the UK's existing short-stay visa regimes looking at every country and territory except those in the EEA (and Switzerland). It was announced as part of the 'Securing the Border' Strategy in March 2007 and has been conducted jointly with FCO.

7.2 Stage One involved a quantitative assessment of the risk posed to the UK by each country and territory on issues such as illegal immigration, crime and security. Stage Two looked in more detail at the economic and political consequences of introducing or lifting visa regimes. At the end of Stage Two, it was agreed that the UK should, in principle, introduce visa regimes on eleven countries unless they could address areas of concern identified during a six month mitigation period (or 'Stage Three' of the Test).

7.3 The countries concerned were informed at the beginning of July. Mitigation officially ended on 2 January 2009. The countries involved in Stage Three were: Bolivia, Botswana, Brazil, Lesotho, Malaysia, Mauritius, Namibia, South Africa, Swaziland, Trinidad and Tobago and Venezuela.

- 7.4 South Africa did not mitigate successfully. The introduction of a phased visa requirement for South African passport-holders reflects the findings of the Visa Waiver Test.
- 7.5 Effective from the same date, a separate Order (the Immigration (Passenger Transit Visa) (Amendment) Order 2009) will also amend the Immigration (Passenger Transit Visa) Order 2003 (as amended by S.I. 2003/2628, S.I. 2004/1304, S.I. 2005/492 and S.I. 2006/493), by adding South African passport-holders who can not show that they have previously entered the United Kingdom lawfully using their passport, to the list of persons that will require a transit visa to pass through, without entering, the United Kingdom. The Order which amends the transit visa requirements will minimise any displacement effect arising from passengers attempting to circumvent the new visa requirements by purporting to be transit passengers in order to reach the UK.
- 7.6 The removal of the visa requirement for Taiwan passport-holders reflects the decision that Taiwan passport-holders are generally compliant with the immigration rules and are responsible for minimal levels of immigration and crime risk.
- 7.7 The changes will be of interest in the countries and territories concerned.
- 7.8 These changes reflect a need to effectively manage migration to the United Kingdom, and to reduce immigration, crime and security risks to the UK.

8. Consultation

- 8.1 The government of South Africa and authorities in Taiwan have been involved in the Visa Waiver Test process and are aware of the changes being introduced.

9. Guidance

- 9.1 Information on the changes will be made available to UK Border Agency staff, passengers, and airlines through proactive media engagement, updates to websites, letters and briefing packs for airlines and internal UKBA instructions, both in the UK and in the countries and territories concerned.

10. Impact

- 10.1 An Impact Assessment relating to this instrument has been laid alongside this explanatory memorandum.

11. Regulation small business

- 11.1 The legislation does not apply to small businesses.

12. Monitoring and review

- 12.1 The imposition of the visa requirement on South African nationals and citizens will be continuously monitored as part of the review of progress towards meeting Public Service Announcement 3: 'ensure fair, controlled migration that protects the public and contributes to economic growth.'
- 12.2 Further information on monitoring and implementation review can be found on page 12 of the Impact Assessment.

13. Contact

Queries should be addressed to Michael Tant at the Home Office. Tel: 0208 760 8504 or e-mail: michael.tant3@homeoffice.gsi.gov.uk.