



Statement of changes in Immigration Rules

*Presented to Parliament
by the Secretary of State for the Home Department
by Command of Her Majesty*

July 2013

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Queries should be directed to the Home Office's Immigration Enquiry Bureau on 0870 606 7766 or as per the contact page on the Home Office website at www.ukba.homeoffice.gov.uk/contact/.

Queries specifically regarding tuberculosis screening only should be addressed to: Richard Postill at the Home Office on 020 7035 4057 or Richard.Postill@homeoffice.gsi.gov.uk

Specific written queries relating to Statement of Changes should be directed to StatementofChanges@homeoffice.gsi.gov.uk. Please note that this mailbox is only for Parliamentary use and specific technical queries regarding the drafting of this Statement of Changes. It is not a contact point for general enquiries. Queries to this e-mail address from outside Parliament about other immigration issues, including how these changes affect applicants, will not receive a response.

This publication is also available for download at:
www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/statementsofchanges/

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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 Acts 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 (Cm 2663), 26 October 1995 (HC 797), 4 January 1996 (Cm 3073), 7 March 1996 (HC 274), 2 April 1996 (HC329), 30 August 1996 (Cm 3365), 31 October 1996 (HC 31), 27 February 1997 (HC 338), 29 May 1997 (Cm 3669), 5 June 1997 (HC 26), 30 July 1997 (HC 161), 11 May 1998 (Cm 3953), 8 October 1998 (Cm 4065), 18 November 1999 (HC 22), 28 July 2000 (HC 704), 20 September 2000 (Cm 4851), 27 August 2001 (Cm 5253), 16 April 2002 (HC 735), 27 August 2002 (Cm 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 (Cm 5829), 24 August 2003 (Cm 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 (Cm 6297), 24 September 2004 (Cm 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), 10 July 2008 (HC 951), 15 July 2008 (HC 971), 4 November 2008 (HC 1113), 9 February 2009 (HC 227), 9 March 2009 (HC 314), 24 April 2009 (HC 413), 9 September 2009 (Cm 7701), 23 September 2009 (Cm 7711), 10 December 2009 (HC 120), 10 February 2010 (HC 367), 18 March 2010 (HC 439), 28 June 2010 (HC 59), 15 July 2010 (HC 96), 22 July 2010 (HC 382), 19 August 2010 (Cm 7929), 1 October 2010 (Cm 7944), 21 December 2010 (HC 698), 16 March 2011 (HC 863), 31 March 2011 (HC 908), 13 June 2011 (HC 1148), 19 July 2011 (HC 1436), 10 October 2011 (HC 1511), 7 November 2011 (HC 1622), 8 December 2011 (HC 1693), 20 December 2011 (HC 1719), 19 January 2012 (HC 1733), 15 March 2012 (HC 1888), 4 April 2012 (Cm 8337), 13 June 2012 (HC 194) and 9 July 2012 (HC 514), 19 July 2012 (Cm 8423), 5 September 2012 (HC 565), 22 November 2012 (HC 760), 12 December 2012 (HC 820), 20 December 2012 (HC 847), 30 January 2013 (HC 943), 7 February 2013 (HC 967), 11 March 2013 (HC 1038), 14 March 2013 (HC 1039), 9 April 2013 (Cm 8599) and 10 June 2013 (HC 244).

Implementation

The changes set out in this Statement shall take effect on 1 August 2013. In relation to paragraphs 1 and 2 of the changes set out below only, applications for entry clearance or leave made on or after 1 July 2013 and before 1 August 2013 will be decided in accordance with the rules in force on 1 August 2013.

Review

Before the end of each review period, the Secretary of State undertakes to review all of the relevant Immigration Rules including any Relevant Rule amended or added by these changes.

The Secretary of State will set out the conclusions of the review in a report and publish the report.

The report must in particular:

- a) consider each of the Relevant Rules and whether or not each Relevant Rule achieves its objectives and is still appropriate; and
- b) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

“Review period” means:

- a) the period of five years beginning on 6 April 2012, and
- b) each successive period of five years.

If a report under this provision is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.

“Relevant Rule” means an Immigration Rule which imposes a net burden (or cost) on business or civil society organisations.

Changes

1. At paragraph 319C (i) (ii) (1) delete “longer than 12 months” and substitute “that is 12 months or longer in duration”.
2. At paragraph 319H (i) (ii) (1) delete “longer than 12 months” and substitute “that is 12 months or longer in duration”.
3. In the heading to Appendix T Part 1 after “countries listed below” insert “, and, in the case of China, Hong Kong and Macau, a migrant who is applying in a category which may lead to him being settled in the United Kingdom in accordance with the definition of “settled in the United Kingdom” contained in paragraph 6 of the Immigration Rules, ”.
4. In Appendix T Part 1 – applicable countries after “China” add “(Settlement cases only)”.
5. In Appendix T Part 1 – applicable countries after “Hong Kong or Macau” add “(Settlement cases only)”.
6. In Appendix T Part 1 – applicable countries after “Malaysia” add “Mauritania”.
7. In the heading to Appendix T Part 2 after “countries listed in Part 1 of this Appendix” insert “, and, in the case of China, Hong Kong and Macau, a migrant who is applying in a category which may lead to him being settled in the United Kingdom in accordance with the definition of “settled in the United Kingdom” contained in paragraph 6 of the Immigration Rules, ”.

8. In Appendix T Part 2 – list of screening clinics after “**Malaysia** Website: www.pah.com.my” insert:

“**Mauritania**

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**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
PRESENTED TO PARLIAMENT ON 31 JULY 2013 (CM 8690)**

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. The purpose of these changes is to amend the Immigration Rules to:

- incorporate compulsory screening for active pulmonary tuberculosis for migrants coming to the UK for over six months from Mauritania and to clarify the requirement that in China, Hong Kong and Macau, only individuals applying for settlement visas need to undergo screening.
- amend the current Rules for Tier 4 dependants. On 1 July the Rules were changed to make them clearer and easier to use. Those amendments specify that a Tier 4 migrant may bring dependants if they are studying a postgraduate level course at a Higher Education Institution (HEI) for “longer than 12 months”. These changes will amend the Rules so that they properly reflect the policy position, which is that postgraduate students at HEIs may bring dependants if they are studying a course of duration “12 months or longer”.

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

3.1. This Statement amends the previous Statement of Changes (HC 244) in relation to compulsory screening for active pulmonary tuberculosis of migrants coming to the UK for more than six months from specified countries by adding Mauritania and clarifying that in China, Hong Kong and Macau, only those individuals intending to apply for settlement visas must undergo screening.

3.2 These changes reflect a Government commitment to introduce pre-entry screening for tuberculosis in 82 countries. The relevant Written Ministerial Statement (WMS) of the then Minister of State for Immigration, Damian Green, of 21 May 2012 is at <http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2012/may/42-tb-test>.

3.3 The Government regrets that for these changes it has not been possible to comply with the convention that changes should be laid before Parliament no less than 21 days before they will come into force, but invites the Committee to note that the changes will remove any uncertainty amongst applicants, sponsors or caseworkers, and that there is an operational requirement to bring these changes in so far as they relate to China, Hong Kong and Macau into effect quickly to ensure applicant migrants are not disadvantaged by being required to present medical certificates in cases otherwise than of settlement in the UK.

4. Legislative Context

4.1. The Immigration Rules, as laid before Parliament by the Home Secretary, constitute a statement of 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.

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

4.3. The changes effected by this Statement of Changes to the Immigration Rules will take effect on 1 August 2013. In relation to paragraphs 1 and 2 of the Changes set out in the statement of Changes (Tier 4 dependants), if an applicant makes an application for entry clearance or leave on or after 1 July 2013 and before 1 August 2013 the application will be decided in accordance with the rules in force on 1 August 2013.

5. Territorial Extent and Application

5.1. This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy Background

7.1. The UK has had a longstanding policy of screening new entrants from high incidence tuberculosis countries intending to remain for over six months. Screening has been conducted at ports of entry and, since October 2005, pre-entry in some high incidence tuberculosis countries. On 21 May 2012 the Government announced its intention to expand upon the pre-entry screening programme to allow for more extensive screening. Entry clearance applicants intending to come to the UK for over six months from countries where pre-entry screening is available will be required to present a certificate from a designated screening provider confirming that screening has been conducted and that the applicant has been diagnosed as free from active pulmonary tuberculosis. Where tuberculosis is detected, the applicant will be required to undertake treatment and further screening before any entry clearance application can be made. This Statement adds Mauritania to the list of countries in relation to which pre-entry screening is required and clarifies the requirements for those individuals applying in China, Hong Kong and Macau.

7.2 The rules for dependants of Tier 4 (General) Students and students that were restructured on 1 July 2013 to ensure they clearly reflected the established policy and practice contained a minor error, this is being corrected.

8. Consultation

8.1. As the effect of these changes is to better reflect stated policy intentions these changes were not the subject of a formal consultation.

9. Guidance

9.1. Where necessary guidance will be updated and placed on the Home Office website www.ukba.homeoffice.gov.uk and regional Foreign and Commonwealth Office websites.

10. Impact

10.1. These changes covered in this Statement are minor and expected to be of limited impact, such that an impact assessment is unnecessary.

11. Regulating small business

11.1. This Statement of Changes has no impact on small businesses.

12. Monitoring and review

12.1. The review clauses at the beginning of this Statement of Changes require the Secretary of State to review the operation and effect of all of the relevant Immigration Rules, including any Rules amended or added by the changes in this Statement, and lay a report before Parliament within five years of 6 April 2012, and within every five years after that. Following each review the Secretary of State will decide whether the relevant Immigration Rules should remain as they are, be revoked or be amended. A further Statement of Changes would be needed to revoke or amend the relevant Rules.

13. Contact

13.1. Queries specifically regarding tuberculosis screening only should be addressed to Richard Postill at the Home Office on 020 7035 4057 or Richard.Postill@homeoffice.gsi.gov.uk.

13.2 Other specific written queries relating to this Statement of Changes should be directed to StatementofChanges@homeoffice.gsi.gov.uk. Please note that this mailbox is only for Parliamentary use and specific technical queries regarding the drafting of this Statement of Changes. It is not a contact point for general enquiries. Queries to this e-mail address from outside Parliament about other immigration issues, including how these changes affect applications, will not receive a response.

13.3 A copy of this Statement of Changes can be found on the Home Office website at www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/statementsofchanges/