



UN CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

REVIEW OF IMMIGRATION RESERVATION

21 March 2011

SECURING OUR BORDER CONTROLLING MIGRATION

1. The UN Convention on the Rights of Persons with Disabilities sets out the duties on those States which have ratified it to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity. It is intended to provide a recognised international standard for securing the human rights of disabled people, and States have to report their progress under it at regular intervals.
2. When the UK ratified the Convention in 2009, it lodged a reservation in relation to immigration functions:

“The United Kingdom reserves the right to apply such legislation, insofar as it relates to the entry into, stay in and departure from the United Kingdom of those who do not have the right under the law of the United Kingdom to enter and remain in the United Kingdom, as it may deem necessary from time to time.”
3. The previous Government had concluded that such a reservation was necessary to retain the right to apply immigration rules, and to retain the right to introduce wider health screening for applicants entering or seeking to remain in the UK. It agreed to review the reservation 12 months after ratification to assess whether there was a continued need for it in practice.
4. As part of this review, the Government wants to hear the views of disabled people and of external partners with an interest in these issues, so that it is able to take these views into account in reaching a decision about whether the reservation should be retained.
5. In undertaking this review, the Government has in mind in particular the following considerations:
 - (i) There are arguments for and against the continued need in law for the reservation, following the implementation of the Equality Act 2010 (including the disability exception for immigration purposes at paragraph 16 of Schedule 3).
 - (ii) The Convention should not affect the Government's ability to apply immigration rules controlling entry to the UK.
 - (iii) The Convention should not remove the scope for the introduction of a wider policy of health screening for those seeking leave to enter or remain in the UK, if the Government were to decide that should be necessary at some future point, including for the protection of public health.
 - (iv) The Optional Protocol to the Convention, which creates a right of individual petition to the UN Committee set up to monitor States' adherence to the Convention, should not create a further avenue of challenge to immigration decisions, including those relating to removal or deportation from the UK.
 - (v) The Government is to conduct a further review of arrangements for access by foreign nationals to NHS services in England (see pages 24-25 of the Department of Health document 'Access to the NHS by foreign nationals – Government response to the consultation', at http://www.dh.gov.uk/en/Consultations/Responsestoconsultations/DH_125271). The Government wishes to ensure that it retains the scope to introduce such measures as may be appropriate in the light of that review.
6. The UK Border Agency invites you to comment on the continuing need for the reservation, in the light of these considerations and any other factors you consider may be relevant.

7. One element of the review process will be the completion of an Equality Impact Assessment, and you are invited in particular to let us have any information which you consider should be taken into account in that assessment.
8. You are invited to respond by 13 June 2011. Please do so to UKBAUNCRPDReservationReview@homeoffice.gsi.gov.uk.