

# STATEMENT OF CHANGES IN IMMIGRATION RULES

*Presented to Parliament pursuant to section 3(2) of  
the Immigration Act 1971*

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*Ordered by the House of Commons to be printed  
3 November 2016*

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*(This document is accompanied by an Explanatory Memorandum)*

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A copy of this Statement of Changes can be found on the visas and immigration pages of the GOV.UK website at [www.gov.uk/government/collections/immigration-rules-statement-of-changes](http://www.gov.uk/government/collections/immigration-rules-statement-of-changes)

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## <sup>1</sup>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), 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), 10 June 2013 (HC 244), 31 July 2013 (Cm 8690), 6 September 2013 (HC 628), 9 October 2013 (HC 686), 8 November 2013 (HC 803), 9 December 2013 (HC

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<sup>1</sup> This Statement of Changes can be viewed at <https://www.gov.uk/government/collections/immigration-rules-statement-of-changes>

887), 10 December 2013 (HC 901), 18 December 2013 (HC 938), 10 March 2014 (HC 1130), 13 March 2014 (HC 1138), 1 April 2014 (HC 1201), 10 June 2014 (HC 198), 10 July 2014 (HC 532), 16 October 2014 (HC 693), 26 February 2015 (HC 1025), 16 March 2015 (HC1116), 13 July 2015 (HC 297), 17 September 2015 (HC 437), 29 October 2015 (HC535), and 11 March 2016 (HC 877).

## **Implementation**

The changes to Part 7 set out in paragraph 7.12 of this statement, to Part 8 set out in paragraphs 8.1 to 8.5, 8.7 to 8.12 and 8.14 to 8.16, to Appendix FM set out in paragraphs FM3, FM4, FM6 to FM12, FM16 to FM19, FM22 to FM28, FM30, FM32, FM34, FM36, FM40, FM41, FM44 and FM46, to Appendix FM-SE set out in paragraphs FM-SE1 to FM-SE13, FM-SE15, FM-SE19, FM-SE21 and FM-SE22, and to Appendix O set out in paragraph O1, shall take effect from 24 November 2016 and apply to all applications decided on or after that date.

The changes to Part 1 set out in paragraph 1.11 of this statement, to Part 3 set out in paragraphs 3.1 and 3.2, to Part 4 set out in paragraphs 4.1 and 4.2, to Part 5 set out in paragraphs 5.1 to 5.8, 5.10, 5.13, 5.14 and 5.21 to 5.29, to Part 6A set out in paragraphs 6A.1 and 6A.2, 6A.4 to 6A.10, 6A.12, 6A.17, 6A.18, 6A.23, 6A.26, 6A.27, 6A.29, 6A.33, 6A.35, 6A.37 and 6A.38, to Part 7 set out in paragraphs 7.1 to 7.8, 7.11 and 7.13 to 7.17, to Part 8 set out in paragraphs 8.6, 8.13, 8.17, 8.18 and 8.21 to 8.25, to Part 14 set out in paragraphs 14.1 and 14.2, to Appendix Armed Forces set out in AF4 to AF11, to Appendix FM set out in paragraphs FM5, FM14, FM15, FM29, FM31, FM33, FM35, FM37, FM39, FM45, FM47 and FM48, to Appendix FM-SE set out in paragraph FM-SE23, and to Appendix V set in paragraph V.8, shall take effect from 24 November 2016, but will only apply to applications made on or after 24 November 2016.

The changes to Part 11 shall take effect from 24 November 2016. The changes set out in paragraphs 11.122 and 11.123 shall apply to all asylum claims made on or after 24 November 2016. All other changes to Part 11 shall apply to all decisions made on or after 24 November 2016.

The changes to Part 6A set out in paragraphs 6A.13 to 6A.16, 6A.19 to 6A.22 and 6A.25 of this statement, to Appendix A set out in paragraphs A32 to A53, to Appendix J set out in paragraphs J1 to J6, and to Appendix K set out in paragraphs K1 and K2, shall take effect from 24 November 2016. However, if an applicant has made an application for entry clearance or leave to remain using a Certificate of Sponsorship that was assigned to him by his Sponsor before 24 November 2016, the application will be decided in accordance with the Immigration Rules in force on 23 November 2016.

The changes to Appendix A set out in paragraphs A54 to A61 of this statement shall take effect for applications for Certificates of Sponsorship under the Tier 2 (General) limit decided on or after 12 December 2016.

The changes to Part 6A set out in paragraphs 6A.30 and 6A.31 and to Appendix G set out in paragraph G1 of this statement shall take effect from 1 January 2017.

The changes to Appendix C set out in paragraph C4 and to Appendix E set out in paragraphs E1 to E3 of this statement shall take effect from 2 January 2017.

The changes to Appendix FM set out in paragraphs FM1, FM20, FM21, FM42 and FM43 of this statement, and to Appendix FM-SE set out in paragraphs FM-SE14, FM-SE16 to FM-SE18 and FM-SE20, shall take effect from 1 May 2017. However, if the expiry date of the applicant's leave pre-dates 1 May 2017, the application will be decided in accordance with the Immigration Rules in force on 30 April 2017.

The changes to Part 7 set out in paragraphs 7.9 and 7.10 of this statement, and to Appendix FM set out in paragraphs FM2, FM13 and FM38, shall take effect on the commencement of Schedule 10 to the Immigration Act 2016.

The other changes set out in this statement shall take effect from 24 November 2016. However, in relation to those changes, if an application has been made for entry clearance or leave to enter or remain or administrative review before 24 November 2016, the application will be decided in accordance with the Immigration Rules in force on 23 November 2016.

## **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) subject to the paragraph below, 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:

- (a) imposes requirements, restrictions or conditions, or sets standards, in relation to any activity carried on by a business or voluntary or community body; or
- (b) relates to the securing of compliance with, or the enforcement of, requirements, restrictions, conditions or standards which relate to any activity carried on by a business or voluntary or community body.

### **Changes to the Introduction**

Intro1. In paragraph 6 in the definition of "UK recognised body" for “the Foundation Programme Office, Health Education South London and the Health Education Yorkshire and Humber” substitute “Health Education South London and Health Education England”.

Intro2. In paragraph 6 after the definition of “application for asylum” insert:

““Refugee Convention” means the 1951 United Nations Convention and its 1967 Protocol relating to the Status of Refugees.”.

### **Changes to Part 1**

1.1. In paragraph 24 for sub-paragraphs (i) and (ii) substitute:

- “
- (i) a visa national;
  - (ii) a non visa national who is:
    - (a) not a British national; and
    - (b) seeking entry for a period exceeding six months or for a purpose for which prior entry clearance is required under these Rules;
  - (iii) a British national without the right of abode who is seeking entry for a purpose for which prior entry clearance is required under these Rules.”.

1.2. In paragraph 28 for the sentence beginning “An applicant for an entry clearance who is seeking entry” substitute “An application for an entry clearance as a visitor or as a short-term student must be made to any post designated by the Secretary of State to accept such applications.”.

1.3. In paragraph 28 in the sentence beginning “Subject to paragraph 28A”, for “the post” substitute “a post”.

1.4. For paragraphs A34 to 34D substitute:

## **“How to make a valid application for leave to remain in the UK**

34. An application for leave to remain is valid when the requirements of this paragraph are met.
- (1) (a) Subject to paragraph 34(1)(c), the application must be made on an application form which is specified for the immigration category under which the applicant is applying on the date on which the application is made.
- (b) An application form is specified when it is posted on the visa and immigration pages of the GOV.UK website.
- (c) An application can be made on a previous version of a specified paper application form (and shall be treated as made on a specified form) as long as it is no more than 21 days out of date.
- (2) All mandatory sections of the application form must be completed.
- (3) Where the applicant is required to pay a fee, this fee must be paid in full in accordance with the process set out in the application form.
- (4) Where the applicant is required to pay the Immigration Health Surcharge, this must be paid in accordance with the process set out on the visa and immigration pages of the GOV.UK website.
- (5) (a) Subject to paragraph 34(5)(c), the applicant must provide proof of identity as described in 34(5)(b) below and in accordance with the process set out in the application form.
- (b) Proof of identity for the purpose of this Rule means:
- (i) a valid passport or, if an applicant (except a PBS applicant) does not have a valid passport, a valid national identity card; or
- (ii) if the applicant does not have a valid passport or national identity card, their most recent passport or (except a PBS applicant) their most recent national identity card; or
- (iii) if the applicant does not have any of the above, a valid travel document.
- (c) Proof of identity need not be provided where:

- (i) the applicant's passport, national identity card or travel document is held by the Home Office at the date of application; or
  - (ii) the applicant's passport, nationality identity card or travel document has been permanently lost or stolen and there is no functioning national government to issue a replacement; or
  - (iii) the applicant's passport, nationality identity card or travel document has been retained by an employer or other person in circumstances which have led to the applicant being the subject of a positive conclusive grounds decision made by a competent authority under the National Referral Mechanism; or
  - (iv) the application is for limited leave to enable access to public funds pending an application under paragraph 289A of, or under Part 6 of Appendix Armed Forces or section DVILR of Appendix FM to these Rules; or
  - (v) the application is made under Part 14 of these Rules for leave as a stateless person or as the family member of a stateless person; or
  - (vi) the application was made by a person in the UK with refugee leave or humanitarian protection; or
  - (vii) the applicant provides a good reason beyond their control why they cannot provide proof of their identity.
- (6) Where any of paragraph 34(5)(c)(ii)-(vii) applies, the Secretary of State may ask the applicant to provide alternative satisfactory evidence of their identity and nationality.
- (7) Two passport sized photographs must be provided in accordance with the requirements set out in the application form and accompanying guidance notes.
- (8) Where the main applicant is under the age of eighteen, their parent or legal guardian must provide written consent to the application.
- (9) (a) Where the application is made:
- (i) on a paper application form, it must be sent by pre-paid post or courier to the address on the application form or,

where permitted, submitted in person at a Home Office premium service centre;

- (ii) on-line and the applicant chooses to or is subsequently required to attend an appointment at a place specified by the Home Office as part of the application process, the applicant must make and attend the appointment within 45 days of submission of the on-line application.
  - (b) Application types permitted in person at a Home Office premium service centre are listed on the visa and immigration pages of the GOV.UK website.
- (10) Where the applicant is required to provide their biometric information, this must be provided in accordance with the process set out in the biometric enrolment letter and any subsequent warning letter issued in accordance with the Code of Practice about the sanctions for non-compliance with the biometric registration regulations.

### **Invalid applications**

- 34A. Subject to paragraph 34B, where an application for leave to remain does not meet the requirements of paragraph 34, it is invalid and will not be considered.
- 34B. (1) Where an application for leave to remain does not meet the requirements of paragraph 34(1)-(9), the Secretary of State may notify the applicant and give them one opportunity to correct the error(s) or omission(s) identified by the Secretary of State.
- (2) Where paragraph 34B(1) applies, the error(s) or omission(s) identified must be corrected within 10 working days of the date on which the notification was sent.
- (3) Subject to paragraph 34B(4), where an applicant does not comply with paragraph 34B(2), the application is invalid and will not be considered.
- (4) The Secretary of State may exercise discretion to treat an invalid application as valid as long as the requirements of paragraph 34(3), (6) and (10) have been met.
- (5) Notice of invalidity will be given in writing and served in accordance with Appendix SN of these Rules.

### **Dependent applicants applying at the same time as the main applicant**

34C. A dependent applicant can be included on a main applicant's application form where the application form allows the dependant to be included."

1.5. For paragraph 34E substitute:

"34E. If a person wishes to vary the purpose of an application for leave to remain in the United Kingdom, the variation must comply with the requirements of paragraph 34 (as they apply at the date the variation is made) as if the variation were a new application. If it does not, subject to paragraph 34B, the variation will be invalid and will not be considered."

1.6. For paragraph 34G substitute:

**"Date an application (or variation of an application) for leave to remain is made**

34G. For the purposes of these rules, the date on which an application (or a variation of application in accordance with paragraph 34E) is made is:

(i) where the application form is sent by post by Royal Mail, the date of posting as shown on the tracking information provided by Royal Mail or, if not tracked, by the postmark date on the envelope; or

(ii) where the application is made on a paper application form and is submitted in person, the date on which it is received at a Home Office premium service centre; or

(iii) where the paper application form is sent by courier, or other postal services provider, the date on which it is delivered to the Home Office; or

(iv) where the application is made via the online application process, the date on which the online application is submitted whether or not a subsequent appointment is made at a Home Office premium service centre."

1.7. Delete paragraph 34H.

1.8. Delete paragraph 34I.

1.9. For paragraph 34O substitute:

"34O. (1) Where the eligible decision is either a decision on an application for leave to remain or a decision to cancel leave to enter or remain

which is in force on a person's arrival at the UK, the application for administrative review must be made in accordance with paragraph 34U or paragraph 34V.

(2) Where the eligible decision is a refusal of an application for entry clearance, the application for administrative review must be made in accordance with paragraph 34VA.”.

1.10. In paragraph 34Q(c) after “eligible decision” insert “ on an application”.

1.11. In paragraph 34V(2)(e) after “must be accompanied by”, for “the” substitute “any”.

1.12. After paragraph 34V insert:

**“Applications for administrative review of entry clearance decisions**

34VA. (1) An application may be made by post, courier, hand, fax or email in accordance with this paragraph.

(2) Where an application is made by post, courier, hand, fax or email:

- (a) it must be made on the application form as specified within the meaning of paragraph 34 (but see paragraph 34Y);
- (b) any section of the application form which is designated as mandatory in the form itself or related guidance notes must be completed;
- (c) the form must be signed by the applicant or their representative;
- (d) the application must be accompanied by any documents specified as mandatory in the application form or related guidance notes; and
- (e) the application must be delivered to the postal address, email address or fax number specified on the form.”.

1.13. After paragraph 39D insert:

**“Exceptions for overstayers**

39E. This paragraph applies where:

(1) the application was made within 14 days of the applicant's leave expiring and the Secretary of State considers that there was a good reason beyond the control of the applicant or their representative, provided in or with the application, why the application could not be made in-time; or

(2) the application was made:

(a) following the refusal of a previous application for leave which was made in-time or to which sub-paragraph (1) applied; and

(b) within 14 days of:

(i) the refusal of the previous application for leave; or

(ii) the expiry of any leave extended by section 3C of the Immigration Act 1971; or

(iii) the expiry of the time-limit for making an in-time application for administrative review or appeal (where applicable); or

(iv) any administrative review or appeal being concluded, withdrawn or abandoned or lapsing.”

### **Changes to Part 3**

3.1. In paragraph 76(vii) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

3.2. In paragraph 79(vii) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

### **Changes to Part 4**

4.1. In paragraph 122(vii) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

4.2. In paragraph 125(viii) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

## Changes to Part 5

5.1. In paragraph 128A(a)(ii) for the text following “except that” substitute:

“:

(1) where that leave expired no more than 28 days prior to a further application for entry clearance which was made before 24 November 2016 and subsequently granted, that period and any period pending the applicant’s re-entry into the United Kingdom shall be disregarded; and

(2) where, on or after 24 November 2016, the applicant makes a further application for entry clearance during the currency of continuing limited leave which is subsequently granted, the period spent outside the United Kingdom with continuing leave and any period pending the applicant’s re-entry into the United Kingdom shall be disregarded; and”.

5.2. For paragraph 128A(a)(iii) substitute:

“(iii) the applicant has any current period of overstaying disregarded where paragraph 39E of these Rules applies; and

(iv) the applicant has any previous period of overstaying between periods of leave disregarded where: the further application was made before 24 November 2016 and within 28 days of the expiry of leave; or the further application was made on or after 24 November 2016 and paragraph 39E of these Rules applied.”.

5.3. In paragraph 134(viii) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

5.4. In paragraph 135G(g) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

5.5. In paragraph 142(vi) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

5.6. In paragraph 147(vi) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

5.7. In paragraph 150(vi) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules

applies, any current period of overstaying will be disregarded”.

- 5.8. In paragraph 158(vi) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 5.9. In paragraph 159A(i) for “18-65 inclusive” substitute “18 years or over”.
- 5.10. In paragraph 159D(vii) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 5.11. In paragraph 159EA(iii) delete “full time”.
- 5.12. In paragraph 159EA(iii) after “domestic worker” insert “for at least 30 hours per week”.
- 5.13. In paragraph 159EA(vi) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 5.14. In paragraph 159G(vii) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 5.15. At the end of sub-paragraph 159I(i)(b) delete “or”.
- 5.16. After sub-paragraph 159I(i)(c) insert:

“or

(d) outside these Rules having been the subject of a positive conclusive grounds decision made by a competent authority under the National Referral Mechanism, and where the applicant’s most recent leave prior to that decision was as a domestic worker within the meaning of (a) or (c) above;”.
- 5.17. At the end of sub-paragraph 159I(iii)(b) for “and” substitute:

“or

(c) if the applicant is a person who falls within sub-paragraph (i)(d) above, is made before the applicant’s most recent grant of leave expires; and”.
- 5.18. At the start of paragraph 159J, for “A” substitute “Except where paragraph 159JA applies, a”.

- 5.19. In paragraph 159J, after “Leave to remain granted in accordance with this paragraph” insert “or paragraph 159JA”.
- 5.20. After paragraph 159J, insert:  
“159JA. A person meeting the requirements of paragraph 159I who has previously been granted leave outside these Rules having been the subject of a positive conclusive grounds decision made by a competent authority under the National Referral Mechanism may be granted a period of leave to remain such that the total duration of leave granted outside the Rules and under this provision does not exceed 2 years.”.
- 5.21. In paragraph 167(vi) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 5.22. In paragraph 176(vi) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 5.23. In paragraph 184(vi) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 5.24. In paragraph 189(iii) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 5.25. In paragraph 192(v) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 5.26. In paragraph 196A(iv) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 5.27. In paragraph 196D(v) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 5.28. In paragraph 197(viii) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 5.29. In paragraph 199(v) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules

applies, any current period of overstaying will be disregarded”.

### **Changes to Part 6A**

6A.1. In paragraph 245AAA(a)(ii) for the text following “except that” substitute:

“:

(1) where that leave expired no more than 28 days prior to a further application for entry clearance which was made before 24 November 2016 and subsequently granted, that period and any period pending the applicant’s re-entry into the United Kingdom shall be disregarded; and

(2) where, on or after 24 November 2016, the applicant makes a further application for entry clearance during the currency of continuing limited leave which is subsequently granted, the period spent outside the UK with continuing leave and any period pending the applicant’s re-entry into the United Kingdom shall be disregarded; and”.

6A.2. For paragraph 245AAA(a)(iii) substitute:

“(iii) the applicant has any current period of overstaying disregarded where paragraph 39E of these Rules applies; and

(iv) the applicant has any previous period of overstaying between periods of leave disregarded where: the further application was made before 24 November 2016 and within 28 days of the expiry of leave; or the further application was made on or after 24 November 2016 and paragraph 39E of these Rules applied.”.

6A.3. For paragraph 245AA substitute:

“(a) Subject to sub-paragraph (b), where Part 6A or any appendices referred to in Part 6A state that specified documents must be provided, the decision maker (that is the Entry Clearance Officer, Immigration Officer or the Secretary of State) will only consider documents received by the Home Office before the date on which the application is considered.

(b) If the applicant has submitted the specified documents and:

(i) some of the documents within a sequence have been omitted (for example, if one page from a bank statement is missing) and the documents marking the beginning and end of that sequence have been provided; or

(ii) a document is in the wrong format (for example, if a letter is not on

letterhead paper as specified); or

(iii) a document is a copy and not an original document; or

(iv) a document does not contain all of the specified information;

the decision maker may contact the applicant or his representative in writing, and request the correct documents. Such a request will only be made once, and the requested documents must be received at the address specified in the request within 10 working days of the date of the request.

(c) Documents will not be requested under sub-paragraph (b) where:

(i) a specified document has not been submitted (for example an English language certificate is missing); or

(ii) where the decision maker does not think that submission of the missing or correct documents will lead to a grant because the application will be refused for other reasons.

(d) If the applicant has submitted a specified document:

(i) in the wrong format; or

(ii) which is a copy and not an original document; or

(iii) which does not contain all of the specified information, but the missing information is verifiable from:

(1) other documents submitted with the application; or

(2) the website of the organisation which issued the document; or

(3) the website of the appropriate regulatory body;

the decision maker may request the correct document under sub-paragraph (b), or may grant the application despite the error or omission, if satisfied that the specified documents are genuine and the applicant meets all the other requirements of the Rules.”.

6A.4. In paragraph 245BD(d) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

6A.5. In paragraph 245BF(f) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules

applies, any current period of overstaying will be disregarded”.

- 6A.6. In paragraph 245CD(i) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 6A.7. In paragraph 245DD(g) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 6A.8. In paragraph 245DF(e) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 6A.9. In paragraph 245ED(f) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 6A.10. In paragraph 245EF(e) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 6A.11. In paragraph 245F(a)(ii) for “UK Trade and Investment” substitute “the Department for International Trade”.
- 6A.12. In paragraph 245FB(j) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 6A.13. At the end of paragraph 245G(iii) for “;” substitute “.”.
- 6A.14. Delete paragraph 245G(iv).
- 6A.15. Delete paragraph 254GC(c)(i) and renumber sub-paragraphs (ii) and (iii) as (i) and (ii) respectively.
- 6A.16. In paragraph 245GD delete sub-paragraph (e).
- 6A.17. In paragraph 245GD(l) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 6A.18. In paragraph 245GE(a)(iii) for “breaks between periods of leave of up to 28 days” substitute “break between periods of leave which was disregarded when granting the further leave”.

- 6A.19. Delete paragraph 245GE(b)(i).
- 6A.20. In paragraph 245GE(b) renumber sub-paragraphs (ii) to (v) as (i) to (iv) respectively.
- 6A.21. In paragraph 245GE(b)(ii)(3) (as renumbered) for “Paragraph (v)” substitute “Paragraph (iv)”.
- 6A.22. In paragraph 245GE(b)(iii)(3) (as renumbered) for “Paragraph (v)” substitute “Paragraph (iv)”.
- 6A.23. In paragraph 245GF(h) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 6A.24. In paragraph 245HD(d)(ii) delete “(other than an applicant under b(ii)(1) above)”.
- 6A.25. In paragraph 245HD after sub-paragraph (d)(iv) insert;  
“(v) If the applicant undertook the study for the qualification specified in (d)(i) whilst holding leave as a Tier 4 student, the applicant must have undertaken the study at the institution which is the Tier 4 sponsor, and not through supplementary study.”.
- 6A.26. In paragraph 245HD(p) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 6A.27. In paragraph 245HE(a)(iv) for “breaks between periods of leave of up to 28 days” substitute “break between periods of leave which was disregarded when granting the further leave”.
- 6A.28. In paragraph 245HF(j) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 6A.29. In paragraph 245HG(f) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 6A.30. In paragraph 245ZK(g) for “.” substitute “; and”.
- 6A.31. After paragraph 245ZK(g) insert:  
  
“(h) where the applicant is a national of a country whose annual allocation of places available under this route is subject to invitation to apply arrangements

operated in accordance with Appendix G of these Rules, the applicant must:

- (i) have been issued with an invitation to apply, and
- (ii) have made their application within the period of time specified on the invitation.”.

6A.32. In paragraph 245ZP(f)(iii)(5) delete “, such alternative employment being for a maximum period of 6 months, or the period of extant leave remaining to the person (whichever is the lesser)”.

6A.33. In paragraph 245ZQ(i) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

6A.34. In paragraph 245ZR(h)(iii)(5) delete “, such alternative employment being for a maximum period of 6 months, or the period of extant leave remaining to the person (whichever is the lesser)”.

6A.35. In paragraph 245ZS(d) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

6A.36. In paragraph 245ZV(ga)(iii)(4) a., for “Masters in Legal Science (MLegSc)” substitute “Masters in Law (MLaw)”.

6A.37. In paragraph 245ZX(m) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

6A.38. In paragraph 245ZZC(l) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

### **Changes to Part 7**

7.1. In paragraph 266(iv) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

7.2. In paragraph 269(iv) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

7.3. For paragraph 269(v)(ii) for the text following “except that” substitute:

“:

(1) where that leave expired no more than 28 days prior to a further application for entry clearance which was made before 24 November 2016 and subsequently granted, that period and any period pending the applicant's re-entry into the United Kingdom shall be disregarded; and

(2) where, on or after 24 November 2016, the applicant makes a further application for entry clearance during the currency of continuing limited leave which is subsequently granted, the period spent outside the UK with continuing leave and any period pending the applicant's re-entry into the United Kingdom shall be disregarded; and”.

7.4. For paragraph 269(v)(iii) substitute:

“(iii) the applicant has any current period of overstaying disregarded where paragraph 39E of these Rules applies; and

(iv) the applicant has any previous period of overstaying between periods of leave disregarded where: the further application was made before 24 November 2016 and within 28 days of the expiry of leave; or the further application was made on or after 24 November 2016 and paragraph 39E of these Rules applied.”.

7.5. In paragraph 273A(iv) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

7.6. In paragraph 273D(v) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

7.7. In paragraph 274(viii) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

7.8. In paragraph 275A(vii) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

7.9. In paragraph 276A(b) for sub-paragraph (ii) substitute:

“(ii) temporary admission within section 11 of the 1971 Act (as previously in force), or immigration bail within section 11 of the 1971 Act, where leave to enter or remain is subsequently granted; or”.

7.10. In paragraph 276A01(1). for “temporary admission or temporary release” substitute “immigration bail”.

7.11. In paragraph 276B for sub-paragraph (v) substitute:

“(v) the applicant must not be in the UK in breach of immigration laws, except that, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded. Any previous period of overstaying between periods of leave will also be disregarded where -

- (a) the further application was made before 24 November 2016 and within 28 days of the expiry of leave; or
- (b) the further application was made on or after 24 November 2016 and paragraph 39E of these Rules applied.”.

7.12. In paragraph 276ADE(1)(i) for “S-LTR.4.4.” substitute “S-LTR.4.5.”.

7.13. In paragraph 276DE(a) for the text following “120 months.” substitute:

“This continuous leave will disregard any current period of overstaying where paragraph 39E of these Rules applies. Any previous period of overstaying between periods of leave on the grounds of private life will also be disregarded where –

- (a) the further application was made before 24 November 2016 and within 28 days of the expiry of leave; or
- (b) the further application was made on or after 24 November 2016 and paragraph 39E of these Rules applied;”.

7.14. In paragraph 276I(iv) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

7.15. In paragraph 276O(iv) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

7.16. In paragraph 276AA(iv) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

7.17. In paragraph 276BT1(viii) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

### **Changes to Part 8**

8.1. In paragraph A277B (a) after “R-LTRPT.1.1.(a), (b) and (d)” insert “, R-LTRC.1.1.(a), (b) and (d)”.

- 8.2. In paragraph A277C after “R-LTRPT.1.1.(a), (b) and (d)” insert “, R-LTRC.1.1.(a), (b) and (d)”.
- 8.3. In paragraph A277C for “or D-LTRPT.1.2.” substitute “, D-LTRPT.1.2. or D-LTRC.1.1.”.
- 8.4. In paragraph A280(c)(ii) in the table for “2290-295” substitute “290-295”.
- 8.5. In paragraph A280(d)(i) in the table for “2290-295” substitute “290-295”.
- 8.6. In paragraph 284 for sub-paragraph (iv) substitute:

“(iv) the applicant must not be in the UK in breach of immigration laws (except that, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded); and”.
- 8.7. In paragraph 284(ix)(c) delete “(not a professional or vocational qualification)”.
- 8.8. In paragraph 284(ix)(d) delete “(not a professional or vocational qualification)”.
- 8.9. In paragraph 284(ix)(e) delete “(not a professional or vocational qualification)”.
- 8.10. In paragraph 290(vii)(c) delete “(not a professional or vocational qualification)”.
- 8.11. In paragraph 290(vii)(d) delete “(not a professional or vocational qualification)”.
- 8.12. In paragraph 290(vii)(e) delete “(not a professional or vocational qualification)”.
- 8.13. In paragraph 295D for sub-paragraph (iv) substitute:

“(iv) the applicant must not be in the UK in breach of immigration laws (except that, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded); and”.
- 8.14. In paragraph 295D(xi)(c) delete “(not a professional or vocational qualification)”.
- 8.15. In paragraph 295D(xi)(d) delete “(not a professional or vocational qualification)”.

- 8.16. In paragraph 295D(xi)(e) delete “(not a professional or vocational qualification)”.
- 8.17. For paragraph 309B substitute:
- “309B. Inter-country adoptions may be subject to section 83 of the Adoption and Children Act 2002 or the equivalent legislation in Scotland or Northern Ireland if the adopter’s habitual residence is there. Where this is the case, a letter obtained from the Department for Education (England and Wales habitual residents) or the equivalent from the relevant central authority (Scotland or Northern Ireland habitual residents) confirming the issue of a Certificate of Eligibility must be provided with any entry clearance adoption application under paragraphs 310-316C.”.
- 8.18. In paragraph 319C(j) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 8.19. At the end of paragraph 319D(b)(v) insert “,”.
- 8.20. After paragraph 319D(b)(v) insert:
- “(vi) study subject to the condition set out in Part 15 of these Rules where the applicant is 18 years of age or over at the time their leave is granted, or will be aged 18 before their period of limited leave expires.”.
- 8.21. In paragraph 319E(d)(ii) insert after (c):
- “In this sub-paragraph “continuous” means an unbroken period and for this purpose a period shall not be considered to have been broken in any of the circumstances set out in paragraph 245AAA(a)(i) to (iii).”.
- 8.22. In paragraph 319E(i) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 8.23. In paragraph 319H(f) after each reference to “lawfully present” and “leave to remain” insert “(other than as a visitor)”.
- 8.24. In paragraph 319H(m) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- 8.25. In paragraph 319J(i) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

## Changes to Part 9

- 9.1. After paragraph 322(1D) (deleted) insert:  
“(1E) where the person is seeking limited or indefinite leave to remain under any Part of the Immigration Rules and -
- (i) the Secretary of State has made a decision under Article 1F of the Refugee Convention to exclude the person from the Refugee Convention or under paragraph 339D of these Rules to exclude them from humanitarian protection; or
  - (ii) the Secretary of State has previously made a decision that they are a person to whom Article 33(2) of the Refugee Convention applies because there are reasonable grounds for regarding them as a danger to the security of the United Kingdom; or
  - (iii) the Secretary of State has made a decision that they are a person to whom sub-paragraph (1C)(i) or (ii) would apply except that –
    - (a) the person has not made a protection claim, or
    - (b) the person made a protection claim which has already been finally determined without reference to Article 1F of the Refugee Convention or paragraph 339D of these Rules; or
  - (iv) the Secretary of State has previously made a decision that they are a person to whom Article 33(2) of the Refugee Convention applies because, having been convicted by a final judgment of a particularly serious crime, they constitute a danger to the community of the United Kingdom.”.
- 9.2. At the end of sub-paragraph 323AA(c) for “.” substitute “, unless all of the following apply:
- (i) the applicant is sponsored to undertake a graduate training programme covering multiple roles within the organisation,
  - (ii) the applicant is changing to a job in a different SOC code either as a part of that programme or when appointed to a permanent role with the Sponsor at the end of that programme, and

- (iii) the Sponsor has notified the Home Office of the change and any change in salary.”.

### **Changes to Part 11**

- 11.1. In paragraph 326B after "paragraphs 276ADE", insert "(1)".
- 11.2. In paragraph 326C(a) delete each instance of "Geneva" and substitute with "Refugee".
- 11.3. In paragraph 326C(a) delete "him" and substitute with "them".
- 11.4. In paragraph 327(a) delete each instance of "Geneva" and substitute with "Refugee".
- 11.5. In paragraph 327(a) delete "him" and substitute with "them".
- 11.6. In paragraph 327A delete "his" and substitute with "their".
- 11.7. In paragraph 328 delete "Geneva" and substitute with "Refugee".
- 11.8. In paragraph 329 delete "his" and substitute with "their".
- 11.9. In paragraph 331 after “the Immigration officer will consider whether or not”, delete “he is” and substitute with “they are” and delete each subsequent instance of "he" and substitute with "they".
- 11.10. In paragraph 331 delete "his" and substitute with "their".
- 11.11. In paragraph 331 delete “him” and substitute with “them”.
- 11.12. In paragraph 333 delete each instance of "he" and substitute with "they".
- 11.13. In paragraph 333A delete “by him”.
- 11.14. In paragraph 333A(b) delete "his" and substitute with "their".
- 11.15. In paragraph 333B delete "Legal Services Commission" and substitute with "Legal Aid Agency".
- 11.16. In paragraph 333C delete each instance of "his or her" and substitute with "their".
- 11.17. In paragraph 334(i) delete "he is" and substitute with "they are"
- 11.18. In paragraph 334(i) delete "has" and substitute with "have".

- 11.19. In paragraph 334(ii) delete "he is" and substitute with "they are".
- 11.20. In paragraph 334(iii) delete "him" and substitute with "them".
- 11.21. In paragraph 334(iv) delete "he does" and substitute with "they do".
- 11.22. In paragraph 334(iv) after "not constitute" insert "a".
- 11.23. In paragraph 334(v) delete each instance of "his" and substitute with "their".
- 11.24. In paragraph 334(v) delete "him" and substitute with "them".
- 11.25. In paragraph 334(v) delete "Geneva" and substitute with "Refugee" and after "freedom would" insert "be".
- 11.26. Delete paragraph 338.
- 11.27. In paragraph 339A(i) delete "he has" and substitute with "they have".
- 11.28. In paragraph 339A(i) delete "himself" and substitute with "themselves".
- 11.29. In paragraph 339A(ii) delete "his" and substitute with "their".
- 11.30. In paragraph 339A(ii) delete "he has" and substitute with "they have".
- 11.31. In paragraph 339A(iii) delete "he has" and substitute with "they have".
- 11.32. In paragraph 339A(iii) "his" and substitute with "their".
- 11.33. In paragraph 339A(iii) delete "enjoys" and substitute with "enjoy".
- 11.34. In paragraph 339A(iv) delete "he has" and substitute with "they have".
- 11.35. In paragraph 339A(iv) delete "himself" and substitute with "themselves".
- 11.36. In paragraph 339A(iv) delete "he left" and "he remained" and substitute with "they left" and "they remained" respectively.
- 11.37. In paragraph 339A(v) delete "he can" and substitute with "they can".
- 11.38. In paragraph 339A(v) delete "he has" and substitute with "they have".
- 11.39. In paragraph 339A(v) delete "himself" and substitute with "themselves".
- 11.40. In paragraph 339A(vi) delete "he is" and substitute with "they are".

- 11.41. In paragraph 339A(vi) delete "he has" and substitute with "they have".
- 11.42. In paragraph 339A(vi) after "been recognised" insert "as".
- 11.43. In paragraph 339BA delete each instance of "his" and substitute with "their"
- 11.44. In paragraph 339BB(i) delete "his" and substitute with "their".
- 11.45. In paragraph 339BB(ii) after "unequivocally renounced", delete "his" and substitute with "their".
- 11.46. In paragraph 339BB(ii) after "recognition as a refugee,", delete "his".
- 11.47. In paragraph 339BC delete each instance of "UK" and substitute with "United Kingdom".
- 11.48. In paragraph 339C(i) delete "he is" and substitute with "they are".
- 11.49. In paragraph 339C(i) delete "has" and substitute with "have".
- 11.50. In paragraph 339C(ii) delete "he does" and substitute with "they do".
- 11.51. In paragraph 339C(iii) delete "he".
- 11.52. In paragraph 339C(iii) delete "himself" and substitute with "themselves".
- 11.53. In paragraph 339C(iv) delete "he is" and substitute with "they are".
- 11.54. In paragraph 339C (as amended) after "(iv) they are not excluded from a grant of humanitarian protection.", insert:  
  
"339CA. For the purposes of paragraph 339C,".
- 11.55. In paragraph 339CA (as amended), after "For the purposes of paragraph 339C,", delete "Serious", and substitute with "serious".
- 11.56. In paragraph 339D delete "under" and substitute with "for the purposes of".
- 11.57. In paragraph 339D(i) delete "he has" and substitute with "they have".
- 11.58. In paragraph 339D(ii) delete "he is" and "has" and substitute with "they are" and "have" respectively.
- 11.59. In paragraph 339D(ii) after "prepare or instigate" delete "instigated".

- 11.60. In paragraph 339D(iii) delete "he constitutes" and substitute with "they constitute".
- 11.61. Delete paragraph 339D(iv) and substitute with:  
"(iv) there are serious reasons for considering that they have committed a serious crime; or".
- 11.62. After paragraph 339D(iv) insert:  
  
"(v) prior to their admission to the United Kingdom the person committed a crime outside the scope of (i) and (iv) that would be punishable by imprisonment were it committed in the United Kingdom and the person left their country of origin solely in order to avoid sanctions resulting from the crime."
- 11.63. In the heading for paragraph 339G after "**Revocation of**", insert ", **ending of or refusal to renew**".
- 11.64. In paragraph 339G after "paragraphs 339GA to 339" delete "GC" and substitute with "GB".
- 11.65. In paragraph 339G after, "may be revoked or not renewed if ", insert "any of paragraphs 339GC to".
- 11.66. In paragraph 339G delete "applies" and substitute with "apply".
- 11.67. In the heading for paragraph 339GA delete "**Cessation**" and substitute with "**Humanitarian protection ceases to apply**".
- 11.68. In the heading for paragraph 339GB delete "**Exclusion**" and substitute with "**Revocation of humanitarian protection on the grounds of exclusion**".
- 11.69. In paragraph 339GB(i) delete "he has" and substitute with "they have".
- 11.70. In paragraph 339GB(ii) delete "he is" and "has" and substitute with "they are" and "have" respectively.
- 11.71. In paragraph 339GB(iii) delete "he constitutes" and substitute with "they constitute".
- 11.72. After paragraph 339GB(iii) insert:  
  
"(iv) the person granted humanitarian protection should have been or is excluded from humanitarian protection because there are serious reasons for considering that they have committed a serious crime; or

(v) the person granted humanitarian protection should have been or is excluded from humanitarian protection because prior to their admission to the United Kingdom the person committed a crime outside the scope of paragraph 339GB (i) and (iv) that would be punishable by imprisonment had it been committed in the United Kingdom and the person left their country of origin solely in order to avoid sanctions resulting from the crime."

- 11.73. Delete paragraph 339GC.
- 11.74. In the heading for paragraph 339GD delete "**Misrepresentation**" and substitute with "**Revocation of humanitarian protection on the basis of misrepresentation**".
- 11.75. In paragraph 339GD delete "applies" and substitute with "shall apply".
- 11.76. In paragraph 339HA delete "his" and substitute with "the Secretary of State's".
- 11.77. In paragraph 339I delete "he is" and substitute with "they are".
- 11.78. In paragraph 339IA(ii) delete each instance of "his" and substitute with "their".
- 11.79. In paragraph 339J(iv) delete "he is" and substitute with "they are".
- 11.80. In paragraph 339J(iv) after "will expose the person to persecution or serious harm if" delete "he".
- 11.81. In paragraph 339J(v) delete "himself" and substitute with "themselves".
- 11.82. In paragraph 339J(v) delete "he" and substitute with "they".
- 11.83. In paragraph 339L delete "he is" in the first place where it appears and substitute with "they are".
- 11.84. In paragraph 339L after "a person eligible" in the first place where it appears, insert "for".
- 11.85. In paragraph 339L delete "his" and substitute with "their".
- 11.86. In paragraph 339L(i) delete each instance of "his" and substitute with "their".
- 11.87. In paragraph 339L(i) delete "he is" and substitute with "they are".
- 11.88. In paragraph 339L(i) after "a person eligible" insert "for".

- 11.89. In paragraph 339L(iv) delete "he is" and substitute with "they are".
- 11.90. In paragraph 339M delete each instance of "his" and substitute with "their".
- 11.91. In paragraph 339M delete each instance of "he is" and substitute with "they are".
- 11.92. In paragraph 339M delete "he fails" and substitute "they fail".
- 11.93. In paragraph 339NA delete "his" in the first place where it appears, and substitute with "their".
- 11.94. In paragraph 339NA(ii) delete "him" and substitute with "them".
- 11.95. In paragraph 339NA(ii) delete "his" and substitute with "their".
- 11.96. In paragraph 339NA(iii) delete "his" and substitute with "their".
- 11.97. In paragraph 339NA(iii) delete "he is" and substitute with "they are".
- 11.98. In paragraph 339NA(iv) after "insufficient representations which make" delete "his" and insert "their".
- 11.99. In paragraph 339NA(iv) after "unconvincing in relation to", delete "his".
- 11.100. In paragraph 339NA(v) delete each instance of "his" and substitute with "their".
- 11.101. In paragraph 339NA(vi) delete "his" and substitute with "their".
- 11.102. In paragraph 339NA(vii) delete "his" and substitute with "their".
- 11.103. In paragraph 339ND delete "his" and substitute with "their".
- 11.104. After paragraph 339ND insert:
- "339NE The Secretary of State may require an audio recording to be made of the personal interview referred to in paragraph 339NA. Where an audio recording is considered necessary for the processing of a claim for asylum, the Secretary of State shall inform the applicant in advance that the interview will be recorded."
- 11.105. In paragraph 339O(ii) delete "his" and substitute with "a".
- 11.106. In paragraph 339P delete "activates" and substitute with "activities".

- 11.107. In paragraph 339P after "which have been engaged in by a person since" delete "he left he" and substitute with "they left the".
- 11.108. In paragraph 339Q(i) delete "UK Residence Permit (UKRP)" and substitute with "residence permit".
- 11.109. In paragraph 339Q delete each instance of "UKRP" and substitute with "residence permit".
- 11.110. In paragraph 339Q delete each instance of "UK" and substitute with "United Kingdom".
- 11.111. In paragraph 339R after "dependants granted" delete "asylum" and substitute with "refugee status".
- 11.112. In paragraph 339R after "any dependant granted" insert "leave to enter or remain".
- 11.113. In paragraph 339R(i) delete "UK Residence Permit (UKRP)" and substitute with "residence permit".
- 11.114. In paragraph 339R(ii) delete "UKRP" and substitute with "residence permit".
- 11.115. In paragraph 339T(ii) delete "UK Residence Permit" and substitute with "residence permit".
- 11.116. In paragraph 339T(ii) after "in accordance with paragraph 339Q" insert "to 339QD".
- 11.117. Delete paragraph 342.
- 11.118. In paragraph 344A(i) delete "Geneva" and substitute with "Refugee".
- 11.119. In paragraph 344A(ii) delete "him" and substitute with "that person".
- 11.120. In paragraph 344A(iii) delete "he can" and substitute with "that person can".
- 11.121. In paragraph 344A(iii) delete "that he has" and substitute with "they have".
- 11.122. After paragraph 344C delete the heading "Third country cases" and substitute with "Inadmissibility of non-EU applications for asylum".
- 11.123. Delete paragraph 345 and 345(2A) and substitute with:

"345A. An asylum claim will be declared inadmissible and will not be substantively considered if the Secretary of State determines that one of the

following conditions are met:

- (i) another Member State has granted refugee status;
- (ii) a country which is not a Member State is considered to be a first country of asylum for the applicant, according to the requirements of paragraph 345B;
- (iii) a country which is not a Member State is considered to be a safe third country for the applicant, according to the requirements of paragraphs 345C and 345D;
- (iv) the applicant is allowed to remain in the United Kingdom on some other grounds and as a result of this has been granted a status equivalent to the rights and benefits of refugee status;
- (v) the applicant is allowed to remain in the United Kingdom on some other grounds which protect them against refoulement pending the outcome of a procedure for determining their status in accordance with (iii) above.

### **First Country of Asylum**

345B. A country is a first country of asylum, for a particular applicant, if:

- (i) the applicant has been recognised in that country as a refugee and they can still avail themselves of that protection; or
- (ii) the applicant otherwise enjoys sufficient protection in that country, including benefiting from the principle of non-refoulement; and
- (iii) the applicant will be readmitted to that country in either case.

### **Safe Third Country**

345C. A country is a safe third country for a particular applicant if:

- (i) the applicant's life and liberty will not be threatened on account of race, religion, nationality, membership of a particular social group or political opinion in that country;
- (ii) the principle of non-refoulement will be respected in that country in accordance with the Refugee Convention;
- (iii) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected in that country;
- (iv) the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Refugee Convention in that country;
- (v) there is a sufficient degree of connection between the person seeking asylum and that country on the basis of which it would be reasonable for them to go there; and
- (vi) the applicant will be admitted to that country.

### **Safe Third Country connectivity**

345D. In order to determine whether it is reasonable for an individual to be removed to a safe third country in accordance with paragraph 345C(v), the Secretary of State may have regard to, but is not limited to:

- (i) any time the applicant has spent in the third country;
- (ii) any relationship with persons in the third country which may include:
  - a. nationals of the third country;
  - b. non-citizens who are habitually resident in the third country;
  - c. family members seeking status in the third country;
- (iii) family lineage, regardless of whether close family are present in the third country; or
- (iv) any cultural or ethnic connections.

### **Dublin Transfers**

345E. The Secretary of State shall decline to substantively consider an asylum claim if the applicant is transferable to another country in accordance with the Dublin Regulation.”.

- 11.124. In paragraph 349 delete each instance of “or same-sex” and “or same sex”.
- 11.125. In paragraph 349 after "a principal applicant may be included in" delete "his" and substitute with "the".
- 11.126. In paragraph 349 after "application for asylum as" delete "his" and substitute with "a".
- 11.127. In paragraph 349 after "may also claim asylum in" delete "his" and substitute with "their".
- 11.128. In paragraph 349 after "The case of any dependant who claims asylum in" delete "his" and substitute with "their".
- 11.129. In paragraph 349 after "An applicant under this paragraph, including an accompanied child, may be interviewed where" delete "he makes" and substitute with "they make".
- 11.130. In paragraph 349 after "a claim as a dependant or in" delete "his" and substitute with "their".
- 11.131. In paragraph 349 after "or minor child in question has a claim in" delete "his" and substitute with "their".

- 11.132. In paragraph 349 after "with a notice of the Secretary of State's intention to deport" delete "him" and substitute with "them".
- 11.133. In paragraph 351 delete each instance of "his" and substitute with "their".
- 11.134. In paragraph 352 delete each instance of "his" and substitute with "their".
- 11.135. In paragraph 352 delete "himself" and substitute with "themselves".
- 11.136. In paragraph 352 delete "he appears" and substitute with "they appear".
- 11.137. In paragraph 352ZA delete "himself" and substitute with "themselves".
- 11.138. After paragraph 352ZF delete heading "**Refugee Family Reunion**" and substitute with "**Family Reunion Requirements for leave to enter or remain as the partner of a refugee**".
- 11.139. In paragraph 352A after "United Kingdom as the" delete "spouse or civil".
- 11.140. In paragraph 352A(i) after "the applicant is" delete " married to or the civil" and substitute with "the".
- 11.141. In paragraph 352A(ii) delete "his" and substitute with "their".
- 11.142. In paragraph 352A(ii) after " to seek asylum" insert "or the parties have been living together in a relationship akin to marriage or a civil partnership which has subsisted for two years or more before the person granted refugee status left the country of their former habitual residence in order to seek asylum".
- 11.143. Delete paragraph 352A(iii) to (vi) and substitute with:
- (iii) the relationship existed before the person granted refugee status left the country of their former habitual residence in order to seek asylum; and
  - (iv) the applicant would not be excluded from protection by virtue of paragraph 334(iii) or (iv) of these Rules or Article 1F of the Refugee Convention if they were to seek asylum in their own right; and
  - (v) each of the parties intends to live permanently with the other as their spouse or civil partner and the marriage is subsisting; and
  - (vi) the applicant and their partner must not be within the prohibited degree of relationship; and
  - (vii) if seeking leave to enter, the applicant holds a valid United

Kingdom entry clearance for entry in this capacity."

11.144. Delete paragraph 352AA.

11.145. Before paragraph 352B, as a heading, insert:

**“Granting family reunion to the partner of a refugee”.**

11.146. In paragraph 352B delete each instance of "spouse or civil".

11.147. In paragraph 352B after "requirements of paragraph 352A (i)" delete "- (v)" and substitute with "to (vi)".

11.148. Before paragraph 352C, as a heading, insert:

**“Refusing family reunion to the partner of a refugee”.**

11.149. In paragraph 352C delete "spouse civil" and “spouse or civil”.

11.150. In paragraph 352C after "requirements of paragraph 352A (i)" delete "- (v)" and substitute with "to (vi)".

11.151. Delete paragraph 352CA.

11.152. Before paragraph 352D, as a heading, insert:

**“Requirements for leave to enter or remain as the child of a refugee”.**

11.153. In paragraph 352D(iv) delete "his" and substitute with "their".

11.154. In paragraph 352D(v) delete "Geneva" and substitute with "Refugee".

11.155. In paragraph 352D(v) delete "he" and substitute with "they".

11.156. In paragraph 352D(v) after "seek asylum in" delete "his" and substitute with "their".

11.157. Before paragraph 352E, as a heading, insert:

**“Granting family reunion to the child of a refugee”.**

11.158. In paragraph 352E after "requirements of paragraph 352D (i)" delete "-" and substitute with "to".

11.159. Before paragraph 352F, as a heading, insert:

**“Refusing family reunion to the child of a refugee”.**

11.160. In paragraph 352F after "requirements of paragraph 352D (i)" delete "-" and substitute with "to".

11.161. Before paragraph 352FA, as a heading, insert:

**“Requirements for leave to enter or remain as the partner of a person with humanitarian protection”.**

11.162. In paragraph 352FA after "United Kingdom as the" delete "spouse or civil".

11.163. In paragraph 352FA(i) after "the applicant is" delete " married to or the civil" and substitute with "the".

11.164. In paragraph 352FA(ii) delete "his" and substitute with "their".

11.165. In paragraph 352FA(ii) after " to seek asylum in the" delete “UK” and insert "United Kingdom or the parties have been living together in a relationship akin to marriage or a civil partnership which has subsisted for two years or more before the person granted humanitarian protection left the country of their former habitual residence in order to seek asylum".

11.166. Delete paragraph 352FA(iii) to (vi) and substitute with:

"(iii) the relationship existed before the person granted humanitarian protection left the country of their former habitual residence in order to seek asylum; and  
(iv) the applicant would not be excluded from a grant of humanitarian protection for any of the reasons in paragraph 339D; and  
(v) each of the parties intend to live permanently with the other as their spouse or civil partner and the marriage or civil partnership is subsisting; and  
(vi) the applicant and their partner must not be within the prohibited degree of relationship; and  
(vii) if seeking leave to enter, the applicant holds a valid United Kingdom entry clearance for entry in this capacity.”.

11.167. Before paragraph 352FB, as a heading, insert:

**“Granting family reunion to the partner of a person with humanitarian protection”.**

11.168. In paragraph 352FB delete each instance of "spouse or civil".

11.169. In paragraph 352FB after "requirements in sub paragraphs 352FA(i)" delete "- (iv)" and substitute with "to (vi)".

11.170. Before paragraph 352FC, as a heading, insert:

**"Refusing family reunion to the partner of a person with humanitarian protection".**

11.171. In paragraph 352FC delete each instance of "spouse or civil".

11.172. In paragraph 352FC after "requirements in sub paragraphs 352FA(i)" delete "-(iv)" and substitute with "to (vi)".

11.173. Delete paragraph 352FD.

11.174. Delete paragraph 352FE.

11.175. Delete paragraph 352FF.

11.176. Before paragraph 352FG, as a heading, insert:

**"Requirements for leave to enter or remain as the child of a person with humanitarian protection".**

11.177. In paragraph 352FG(iv) delete "his" and substitute with "their".

11.178. In paragraph 352FG(iv) delete "UK" and substitute with "United Kingdom".

11.179. Before paragraph 352FH, as a heading, insert:

**"Granting family reunion to the child of a person with humanitarian protection".**

11.180. In paragraph 352FH after "satisfied that each of the requirements in sub paragraphs 352FG (i)" delete "-" and substitute with "to".

11.181. Before paragraph 352FI, as a heading, insert:

**"Refusing family reunion to the child of a person with humanitarian protection".**

11.182. In paragraph 352FI after "satisfied that each of the requirements in sub paragraphs 352FG (i)" delete "-" and substitute with "to".

11.183. Before paragraph 352FJ, as a heading, insert:

**"Refusing family reunion where the sponsor is a British Citizen".**

- 11.184. In paragraph 352FJ after "Nothing in paragraphs 352A" delete "-" and substitute with " to ".
- 11.185. In paragraph 352FJ delete "spouse or civil partner, unmarried or same sex".
- 11.186. In paragraph 352FJ after "a person who has been granted refugee status, or" delete "of a person".
- 11.187. In paragraph 352FJ delete ", as the case may be, person".
- 11.188. In paragraph 352G delete sub-paragraph (a).
- 11.189. In paragraph 352G, after sub-paragraph (c), insert:
- (d) "Partner" means the applicant's spouse, civil partner, or a person who has been living together with the applicant in a relationship akin to a marriage or civil partnership for at least two years prior to the date of application;
- (e) "Dublin Regulation" means Regulation (EU) No. 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person".

#### **Changes to Part 14**

- 14.1. In paragraph 407(c) for "any period of overstaying for a period of 28 days or less will be disregarded" substitute " , where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded. Any previous period of overstaying between periods of leave will also be disregarded where: the further application was made before 24 November 2016 and within 28 days of the expiry of leave; or the further application was made on or after 24 November 2016 and paragraph 39E of these Rules applied".
- 14.2. In paragraph 415(c) for "any period of overstaying for a period of 28 days or less will be disregarded" substitute " , where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded. Any previous period of overstaying between periods of leave will also be disregarded where: the further application was made before 24 November 2016 and within 28 days of the expiry of leave; or the further application was made on or after 24 November 2016 and paragraph 39E of these Rules applied".

#### **Changes to Appendix A**

- A1. In paragraph 5(f) for the text following " , will be reduced by one for" substitute:

“:

- (i) each applicant that body endorses in that period for the purposes of applying to be deemed a highly skilled person under the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013, and
  - (ii) each applicant that body endorses in that period for the purpose of applying for entry clearance, leave to enter or leave to remain in the Isle of Man.”.
- A2. In paragraph (b)(ii) in the first row of Table 4 for “UK Trade & Investment” substitute “Department for International Trade pages of the GOV.UK”.
- A3. In paragraph 41-SD(c)(ii) delete “covering a consecutive 90 day period of time”.
- A4. In paragraph 41-SD(c)(ii) after “date of the application,” insert “and which, unless paragraph 41(a)(ii)(2) applies, must cover a consecutive 90 day period of time,”.
- A5. In paragraph 41-SD(c)(iii)(1) for “with” substitute “who is not the applicant, and who has”.
- A6. In paragraph 41-SD(c)(iii)(1) after “practising certificate,” insert “and”.
- A7. At the end of paragraph 41-SD (c)(iii)(2)b. for “.” substitute “, or”.
- A8. After paragraph 41-SD (c)(iii)(2) insert:
- “(3) in the case of money made available from a Seed Funding Competition only, an authorised official of the Seed Funding Competition.”.
- A9. In paragraph 41-SD (c)(iv)(9) for “UK Trade & Investment” substitute “Department for International Trade pages of the GOV.UK”.
- A10. In the fourth row of Table 5 for “previous” substitute “most recent”.
- A11. In the third row of Table 6 for “that last” substitute “the most recent”.
- A12. In paragraph 46-SD(a)(ii) after “who is” insert “not the applicant and who has a valid licence to practise or practising certificate, and who is”.
- A13. In paragraph 46-SD(a)(vi)(2) after “The accountant must” insert “not be the applicant, must”.
- A14. In paragraph 46-SD(b)(2) for “UK Trade & Investment” substitute

“Department for International Trade pages of the GOV.UK”.

- A15. In paragraph 46-SD(b)(3) for “endorsed on the UK Trade & Investment” substitute “endorsed on the Department for International Trade pages of the GOV.UK”.
- A16. In paragraph 46-SD(b)(3) for “letter from UK Trade & Investment” substitute “letter from the Department for International Trade”.
- A17. In paragraph 46-SD(b)(4) for “copy” substitute “printout”.
- A18. In paragraph 46-SD(b)(4) after “register of members” insert “from Companies House”.
- A19. In paragraph 46-SD(b)(5) after “the name of the accountant,” insert “who must not be the applicant.”.
- A20. In paragraph 46-SD(h)(i) for the text which follows “HM Revenue & Customs (HMRC)” substitute:

“and has done so for the full period of employment for which points are being claimed, as follows:

- (1) for reporting up to and including 5 October 2013 either:
- (a) printouts of Employee Payment Records and, unless the start date of the employment is shown in the Employee Payment Record, an original HMRC form P45 or form P46 (also called a Full Payment Submission) for the settled worker showing the starting date of the employment, or
  - (b) printouts of Real Time-Full Payment Submissions which confirm the report of PAYE income tax to HMRC (if he began reporting via Real Time before 6 October 2013); and
- (2) for reporting from 6 October 2013 onwards, printouts of Real Time-Full Payment Submissions which confirm the report of PAYE income tax to HMRC.

The evidence in (1) or (2) above must show the total payments made to the settled workers as well as the tax deducted and date which they started work with the applicant’s business; and”.

- A21. In paragraph 46-SD(h)(vi) for “and bank account” substitute “ or Real Time Full Payment Submission, the names on the bank account”.

- A22. In paragraph 46-SD(h)(viii) after “The accountant must” insert “not be the applicant, must”.
- A23. In paragraph 49 for "then" substitute "than".
- A24. In paragraph 50 after “entry clearance or leave” insert “to enter or remain”.
- A25. In paragraph 50 delete “a total of”.
- A26. In paragraph 50 for “in which the migrant had leave in that category” substitute “of the most recent grant of leave”.
- A27. In paragraph 50 for “in which the migrant had leave as a Tier 1 (Entrepreneur) Migrant.” substitute “of the most recent grant of leave.”.
- A28. In paragraph 65-SD(c)(ii) for “the UK Border Agency” substitute “the Home Office”.
- A29. In paragraph (b) in the first row of Table 10 for “UK Trade & Investment” substitute “the Department for International Trade”.
- A30. In paragraph 69(b)(ii) for “UK Trade and Investment” substitute “the Department for International Trade”.
- A31. In 74A(e) for each reference to “UK Border Agency” substitute “Home Office”.
- A32. For paragraph 74C(b) substitute:
- “(b) Throughout the 12 months referred to in paragraph (a)(i) above, the applicant must have been working outside the UK for a business established outside the territory of the UK which is linked by common ownership or control to the Sponsor.”.
- A33. In paragraph 74C-SD(a)(i) for the text after “covering” substitute:
- “:
- (1) the full specified period, and
- (2) the period covered by the applicant’s most recent payslip (if this is not included in the above), which must be dated no earlier than 31 days before the date of the application;”.
- A34. In paragraph 74C-SD(a)(ii) for “full specified period (The most recent payslip must be dated no earlier than 31 days before the date of the application),”

substitute “time periods in (i)(1) and (2) above,”.

- A35. In paragraph 74C-SD(a)(iii) for “full specified period” substitute “time periods in (i)(1) and (2) above”.
- A36. In paragraph 74C-SD(a)(iii)(5) delete “covering the full specified period”.
- A37. In paragraph 74C-SD(a)(iv) after “pass book” insert “covering the time periods in (i)(1) and (2) above”.
- A38. In paragraph 74C-SD(a)(iv)(4) delete “covering the full specified period”.
- A39. In paragraph 74D(b) for “5 applicants” substitute “20 applicants”.
- A40. Delete paragraph 74E.
- A41. In paragraph 74I for “28 calendar days” substitute “10 business days”.
- A42. In paragraph 75(iii)(1) for “Short Term Staff, Graduate Trainee or Skills Transfer” substitute “Short Term Staff or Graduate Trainee”.
- A43. For paragraph 75A substitute:

“75A. No points will be awarded if the salary referred to in paragraph 75 above is less than the minimum amount shown in Table 11AA.

**Table 11AA**

<b>Circumstance</b>	<b>Minimum salary</b>
The applicant is applying in the Long Term Staff sub-category (and the exception below does not apply).	£41,500 per year or the appropriate rate for the job as stated in Appendix J, whichever is higher.
The applicant is applying for leave to remain in the Long Term Staff sub-category and:  (i) previously had leave as a Qualifying Work Permit Holder or a Tier 2 (Intra-Company Transfer) Migrant under the rules in place before 6 April 2011; and  (ii) has not been granted entry clearance in this or any other route since the grant of leave in (i).	The appropriate rate for the job as stated in Appendix J.
The applicant is applying in the Short Term	£30,000 per year or the

Staff sub-category (and the exception below does not apply).	appropriate rate for the job as stated in Appendix J, whichever is higher.
The applicant is applying for leave to remain in the Short Term Staff sub-category and:  (i) previously had leave in the Short Term Staff sub-category granted on the basis of a Certificate of Sponsorship which was assigned to the applicant before 24 November 2016; and  (ii) has not been granted entry clearance in this or any other route since the grant of leave in (i).	£24,800 per year or the appropriate rate for the job as stated in Appendix J, whichever is higher.
The applicant is applying in the Graduate Trainee sub-category.	£23,000 per year or the appropriate rate for the job as stated in Appendix J, whichever is higher.

”.

- A44. Delete paragraphs 75B and 75C.
- A45. In paragraph 77C(f) for each reference to “UK Border Agency” substitute “Home Office”.
- A46. In paragraph 77J for “28 calendar days” substitute “10 business days”.
- A47. After paragraph 77J insert:
- “77K. No points will be awarded for a Certificate of Sponsorship if the Certificate of Sponsorship Checking Service entry records that the applicant is being sponsored in the occupation code “2231 Nurses” or “2231 Midwives” unless:
- (a) the applicant has:
- (i) obtained full registration with the Nursing and Midwifery Council; or
- (ii) passed the Nursing and Midwifery Council’s Computer Based Test of competence, or
- (iii) obtained a Nursing and Midwifery Council permission before 30 April 2015 to undertake the Overseas Nursing Programme,

and be sponsored to undertake supervised practice as part of the programme in a placement which has been approved by the Nursing and Midwifery Council,

and the applicant provides evidence from the Nursing and Midwifery Council of the above; and

(b) where (a)(ii) or (a)(iii) applies, the sponsor confirms that once the applicant achieves Nursing and Midwifery Council registration, it will continue to sponsor the applicant as a nurse or midwife, and will pay the applicant at least the appropriate rate for a Band 5 and equivalent nurse or midwife, as stated in Appendix J; and

(c) where (a)(ii) applies, the sponsor also confirms that:

(i) the applicant will sit an Observed Structured Clinical Examination (OSCE) to obtain Nursing and Midwifery Council registration no later than 3 months after the stated employment start date; and

(ii) the applicant will cease to be sponsored if full Nursing and Midwifery Council registration is not achieved within 8 months of the stated employment start date (or, if the applicant is applying for leave to remain and was last granted leave as a Tier 2 Migrant to work as a nurse or midwife, within 8 months of the start date of that previous employment).”.

A48. In row 1 of Table 11B after the word “applicant” insert “provided the applicant was offered the job within 6 months of the end of the recruitment exercise cited”.

A49. At the end of paragraph 78A(a) after “Appendix K,” insert “and must not be in the occupation code “2231 Nurses””.

A50. In paragraph 78A(c) for “UK Border Agency” substitute “Home Office”.

A51. After 78D(c)(iii) insert:

“ and

(d) the applicant must not be changing jobs within an occupation from a job which is on the Shortage Occupation List in Appendix K to a job which is not on that list.”.

A52. For paragraph 79A substitute:

“79A. No points will be awarded if the salary referred to in paragraph 79 above is less than the minimum amount shown in the Table 11CA below:

**Table 11CA**

<b>Circumstances</b>	<b>Minimum salary</b>
None of the exceptions below apply.	£25,000 per year or the appropriate rate for the job as stated in Appendix J, whichever is higher
<p>The applicant is considered to be a “new entrant” due to one of the following:</p> <p>(i) he is exempt from the Resident Labour Market Test due to the post-study work provisions in paragraph 78B above,</p> <p>(ii) his Sponsor satisfied the Resident Labour Market Test under the provisions for “new graduate jobs or internships” in the first row of Table 11B above, or</p> <p>(iii) he was under the age of 26 on the date the application was made</p> <p>and, in all cases, the applicant is not applying for a grant of leave that would extend his total stay in Tier 2 and/or as a Work Permit Holder beyond 3 years and 1 month.</p>	£20,800 per year or the appropriate rate for the job as stated in Appendix J, whichever is higher
<p>The job is one of the following public service occupations:</p> <ul style="list-style-type: none"> <li>• 2217 Medical radiographers</li> <li>• 2231 Nurses</li> <li>• 2314 Secondary education teaching professionals – subject teachers in maths, physics, chemistry, computer science and Mandarin only</li> <li>• 3213 Paramedics</li> </ul> <p>and the Certificate of Sponsorship was assigned to the applicant before 1 July 2019.</p>	£20,800 per year or the appropriate rate for the job as stated in Appendix J, whichever is higher

<p>The applicant is applying for leave to remain and:</p> <p>(i) previously had leave as a Tier 2 (General) migrant on the basis of a Certificate of Sponsorship which was assigned to the applicant before 24 November 2016; and</p> <p>(ii) has not been granted entry clearance in this or any other route since the grant of leave in (i).</p>	<p>£20,800 per year or the appropriate rate for the job as stated in Appendix J, whichever is higher</p>
<p>The applicant is applying for leave to remain and:</p> <p>(i) previously had leave as:</p> <p>(1) a Qualifying Work Permit Holder,  (2) a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation,  (3) a Member of the operational Ground Staff of an Overseas-owned Airline,  (4) a Jewish Agency Employee, or  (5) a Tier 2 (General) Migrant under the Rules in place before 6 April 2011; and</p> <p>(ii) has not been granted entry clearance in this or any other route since the grant of leave in (i).</p>	<p>The appropriate rate for the job as stated in Appendix J</p>

”.

A53. Delete paragraph 79B.

A54. In the header row of Table 11D for “Type of Job” substitute “Job and recruitment”.

A55. In Table 11D above the row containing the entry “Job passes Resident Labour Market Test or an exemption applies” insert a new row with the following text in columns 1 and 2:

“

<p>Resident Labour Market Test met via the “new graduate jobs or internships” provisions in Table 11B, and the individual being sponsored meets the requirements of paragraph 245HD(d) (other than he will be applying for entry clearance rather than leave to remain)</p>	<p>30</p>
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”.

A56. In paragraph 81A for “Type of Job” substitute “Job and recruitment”.

- A57. At the end of paragraph 81B insert “If the job is in the occupation code “2231 Nurses”, the sponsor must also certify that it has met the requirements of the resident labour market test, as set out in paragraph 78 of this Appendix.”.
- A58. In paragraph 81D for “as defined in guidance published by the UK Border Agency” substitute “as set out in paragraph 78 of this Appendix”.
- A59. At the end of paragraph 81H(b) for “.” substitute “, or”.
- A60. After paragraph 81H(b) insert:  
“(c) the requirements set out in paragraph 77K of this Appendix will not be satisfied if the occupation code is “2231 Nurses” or “2231 Midwives”.”.
- A61. In paragraph 83D(iv) for “UK Border Agency” substitute “Home Office”.
- A62. In paragraph 109A(c) delete “and”.
- A63. In paragraph 109A(d) for “.” substitute “, and”.
- A64. After paragraph 109A(d) insert:  
“(e) where the Certificate of Sponsorship records more than one individual engagement, a period of no more than 14 days intervenes between each successive engagement.”.
- A65. At the beginning of paragraph 118(b)(i)(2) insert “the applicant”.
- A66. At the beginning of paragraph 118(b)(i)(3) insert “the applicant”.
- A67. In paragraph 118(b)(i)(3) for “meets the recognised standard of” substitute “is either”.
- A68. In paragraph 118(b)(i)(4) after “degree in the UK” insert “and the applicant provides an original document from UK NARIC which confirms the assessment”.
- A69. At the beginning of paragraph 118(b)(ii)(2) insert “the applicant”.
- A70. At the beginning of paragraph 118(b)(ii)(3) insert “the applicant”.
- A71. In paragraph 118(b)(ii)(3) for “meets the recognised standard of” substitute “is either”.

- A72. In paragraph 118(b)(ii)(4) after “degree in the UK” insert “and the applicant provides an original document from UK NARIC which confirms the assessment”.
- A73. At the beginning of paragraph 118(b)(iii)(2) insert “the applicant”.
- A74. At the beginning of paragraph 118(b)(iii)(3) insert “the applicant”.
- A75. In paragraph 118(b)(iii)(3) for “meets the recognised standard of” substitute “is either”.
- A76. At the end of paragraph 120(cb)(6) after “level 3 or above,” delete “or”.
- A77. At the end of paragraph 120(cb)(7), for “.” substitute “, or”.
- A78. After paragraph 120(cb)(7), insert  
“(8) an aviation licence, rating or certificate issued in accordance with EU legislation by the UK’s Civil Aviation Authority.”.
- A79. In paragraph 120-SD(a)(ii) after “The transcript of results” insert “(which, unless the applicant has applied for their course through UCAS (Universities and Colleges Admission Service) and the applicant is applying in the UK to study at a Higher Education Institution which has Tier 4 status and the qualification is issued by a UK awarding body for a course that the applicant has studied in the UK, must be an original)”.
- A80. In paragraph 120-SD(a)(ii) delete:  
“This transcript must be original unless the applicant has applied for their course through UCAS (Universities and Colleges Admissions Service), and:  
(a) the applicant is applying in the UK to study at a Higher Education Institution which has Tier 4 Sponsor status, and  
(b) the qualification is issued by a UK awarding body for a course that the applicant has studied in the UK;”.
- A81. At the end of paragraph 120-SD(a)(iii) for “.” substitute:  
“,  
and  
(iv) If the qualification was obtained from an educational establishment in Antigua and Barbuda, Australia, The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Ireland, Jamaica, New Zealand, St Kitts and Nevis, St Lucia, St Vincent and The Grenadines, Trinidad and Tobago, or the USA, an

original document issued by UK NARIC confirming that the qualification meets or exceeds the recognised standard of a Bachelor's or Master's degree or a PhD in the UK.”.

A82. For sub-paragraph 120A(a)i. substitute:

“i. either:

- (1) the applicant is re-sitting examinations or repeating modules in accordance with paragraph 119 above, or
- (2) the applicant has previously re-sat examinations or repeated modules in accordance with paragraph 119 above, and requires leave to remain to complete the course in respect of which those examinations were re-sat or modules repeated, or”.

A83. In paragraph 120A(a)ii for “to remain to complete” substitute “for the purposes of completing”.

A84. In paragraph 120A(a)iv for “to remain” substitute “to undertake a role as a student union sabbatical officer or”.

A85. At the end of paragraph 120A(a)iv for “;” substitute “, or”.

A86. After paragraph 120A(a)iv insert:

“v. the applicant is applying for leave under the doctorate extension scheme or as a postgraduate doctor or dentist on a recognised Foundation Programme;”.

A87. At the end of paragraph 120A(b) for “:” substitute “the applicant must:”.

A88. In paragraph 120A(b)i delete “the applicant must”.

A89. At the end of paragraph 120A(b)i for “and” substitute:

“or

ii. be applying for leave to allow them to progress from:

- (1) a Bachelors to Masters level course as part of an integrated Masters course, or
- (2) a Masters to PhD level course as part of an integrated Masters and PhD programme

having been offered a place on the higher level course by the sponsor after an assessment of their academic ability

and”.

A90. In paragraph 120A(b) renumber sub-paragraph (ii) as (iii).

### **Changes to Appendix Administrative Review**

AR1. At the end of paragraph AR2.4(a) for “and” substitute “or”.

AR2. In paragraph AR2.11(a)(iii) delete “V9.2 or”.

### **Changes to Appendix Armed Forces**

AF1. In Part 2 after paragraph 8(c) insert:

“(ca) in respect of applications for limited or indefinite leave to remain, where:

- (i) the Secretary of State has made a decision under Article 1F of the Refugee Convention to exclude the person from the Refugee Convention or under paragraph 339D of these Rules to exclude them from humanitarian protection; or
- (ii) the Secretary of State has previously made a decision that they are a person to whom Article 33(2) of the Refugee Convention applies because there are reasonable grounds for regarding them as a danger to the security of the United Kingdom; or
- (iii) the Secretary of State has made a decision that they are a person to whom sub-paragraph (i) or (ii) would apply except that (a) the person has not made a protection claim, or (b) the person made a protection claim which has already been finally determined without reference to Article 1F of the Refugee Convention or paragraph 339D of these Rules; or
- (iv) the Secretary of State has previously made a decision that they are a person to whom Article 33(2) of the Refugee Convention applies because, having been convicted by a final judgment of a particularly serious crime, they constitute a danger to the community of the United Kingdom.”.

AF2. In Part 2 delete paragraphs 9(b)(i) and (ii).

AF3. In Part 2 after paragraph 10A insert:

“10B An application under this Appendix may be refused on the grounds of suitability if one or more relevant NHS bodies has notified the Secretary of State that the applicant has failed to pay charges in accordance with the relevant NHS regulations on charges to overseas visitors and the outstanding charges have a total value of at least £500.”.

- AF4. In Part 3 paragraph 14(b) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- AF5. In Part 3 paragraph 16(b) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- AF6. In Part 4 paragraph 28(b) for “any period of overstaying for a period of 28 days or less is to be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- AF7. In Part 4 paragraph 31(b) for “any period of overstaying for a period of 28 days or less is to be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- AF8. In Part 7 paragraph 47(e) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- AF9. In Part 7 paragraph 49(g) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- AF10. In Part 9 paragraph 59(c) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- AF11. In Part 9A paragraph 61D(c) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- AF12. In Part 10 paragraph 66(c) for “any period of overstaying for a period of 28 days or less will be disregarded” substitute “, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.

### **Changes to Appendix B**

- B1. At the end of paragraph 7(ii)(2)(e) for “.” substitute:

“, and

(iii) provides original documentation produced by UK NARIC which confirms the assessment in (i)(2) or (3), if applicable.”.

B2. In paragraph 8(iii) delete “provide”.

B3. At the end of paragraph 8(iii)(5) for “.” substitute:

“, and:

(iv) provides original documentation produced by UK NARIC which confirms the assessment in (i), if the qualification was awarded by an educational establishment outside the UK.”.

### **Changes to Appendix C**

C1. In paragraph 2(c) for each reference to “UK Trade and Investment” substitute “the Department for International Trade”.

C2. In paragraph 2(c) delete “it has awarded”.

C3. In paragraph 2(c), after “leave to remain applications)” insert “has been awarded”.

C4. In the table in paragraph 9 for the words after “A-rated Sponsor” substitute:

“and has certified on the Certificate of Sponsorship that, should it become necessary, it will maintain and accommodate the migrant up to the end of the first month of his employment. The Sponsor may limit the amount of the undertaking but any limit must be at least £945. Points will only be awarded if the applicant provides a valid Certificate of Sponsorship reference number with his application.”.

C5. In the table after paragraph 11, in the first row, after “recognised Foundation Programme,” for “,” substitute “or as a”.

C6. In the table after paragraph 11, in the first row, delete “or on the doctorate extension scheme”.

C7. In the table after paragraph 11, in the first row, after sub-paragraph (i) insert

“(ii) Where the applicant is applying for leave to remain on the doctorate extension scheme, the applicant must show they have two months’ worth of funds, i.e. £2,530.”.

- C8. In the table after paragraph 11, in the first row, renumber sub-paragraph (ii) as (iii).
- C9. In the table after paragraph 11, in the second row, renumber sub-paragraph (iii) as (iv).
- C10. In the table after paragraph 11, in the second row, after “recognised Foundation Programme” for “,” substitute “or as a”.
- C11. In the table after paragraph 11, in the second row, delete “or on the doctorate extension scheme”.
- C12. In the table after paragraph 11, in the second row, after sub-paragraph (iv), insert:  
 “(v) Where the applicant is applying for leave to remain on the doctorate extension scheme, the applicant must show they have two months’ worth of funds, i.e. £2,030.”.
- C13. In the table after paragraph 11, in the second row, renumber sub-paragraph (iv) as (vi).

### **Changes to Appendix E**

- E1. In paragraph (i)(1), after “Tier 2 migrant,” insert “or as a Tier 5 (Temporary Worker) Migrant,”.
- E2. In paragraph (i)(3) delete “on the Certificate of Sponsorship”.
- E3. In paragraph (i)(3) after “if granted” delete “.” and substitute:  
 “, by either-  
 a. endorsing the certification on the Certificate of Sponsorship, or  
 b. providing the certification in a letter from the sponsor which includes:  
 i. the applicant’s name,  
 ii. the sponsor’s name and logo, and  
 iii. details of any limit on the level of the undertaking provided.”.
- E4. In paragraph (ib) for each reference to “UK Trade and Investment” substitute “the Department for International Trade”.
- E5. In paragraph (ib) for “it has awarded funding” substitute “funding has been awarded”.

## Changes to Appendix FM

FM1. In paragraph GEN.1.6. for “paragraph E-ECP.4.1.(a); E-LTRP.4.1.(a); EECPT.4.1(a) and E-LTRPT.5.1.(a)” substitute “paragraph E-ECP.4.1.(a); E-LTRP.4.1.(a); E-LTRP.4.1A.(a); E-ECPT.4.1.(a); E-LTRPT.5.1.(a); and E-LTRPT.5.1A.(a)”.

FM2. In paragraph GEN.2.3.(1). for “temporary admission or temporary release” substitute “immigration bail”.

FM3. Delete paragraph S-EC.2.3.

FM4. After paragraph S-EC.3.1. insert:

“S-EC.3.2. The applicant may be refused on grounds of suitability if one or more relevant NHS bodies has notified the Secretary of State that the applicant has failed to pay charges in accordance with the relevant NHS regulations on charges to overseas visitors and the outstanding charges have a total value of at least £500.”.

FM5. In paragraph E-ECP.3.1.(c) for the words which follow “paragraph E-ECP.3.3. being met.” to the end of the paragraph substitute:

“In this paragraph “child” means a dependent child of the applicant or the applicant’s partner who is-

(a) under the age of 18 years, or who was under the age of 18 years when they were first granted entry under this route;

(b) applying for entry clearance as a dependant of the applicant or the applicant’s partner, or is in the UK with leave as their dependant;

(c) not a British Citizen or settled in the UK; and

(d) not an EEA national with a right to be admitted to or reside in the UK under the Immigration (EEA) Regulations 2006.”.

FM6. In paragraph E-ECP.4.1. for sub-paragraph (c) substitute:

“(c) have an academic qualification which is either a Bachelor’s or Master’s degree or PhD awarded by an educational establishment in the UK; or, if awarded by an educational establishment outside the UK, is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor’s or Master’s degree or PhD in the UK, and UK NARIC has confirmed that the degree was taught or researched in English to level A1 of the Common European

Framework of Reference for Languages or above; or”.

FM7. In paragraph S-LTR.1.1. for “1.7.” substitute “1.8.”.

FM8. After paragraph S-LTR.1.7. insert:

“S-LTR.1.8. The presence of the applicant in the UK is not conducive to the public good because the Secretary of State:

(a) has made a decision under Article 1F of the Refugee Convention to exclude the person from the Refugee Convention or under paragraph 339D of these Rules to exclude them from humanitarian protection; or

(b) has previously made a decision that they are a person to whom Article 33(2) of the Refugee Convention applies because there are reasonable grounds for regarding them as a danger to the security of the UK; or

(c) has made a decision that they are a person to whom sub-paragraph (a) or (b) would apply except that (i) the person has not made a protection claim, or (ii) the person made a protection claim which has already been finally determined without reference to Article 1F of the Refugee Convention or paragraph 339D of these Rules; or

(d) has previously made a decision that they are a person to whom Article 33(2) of the Refugee Convention applies because, having been convicted by a final judgment of a particularly serious crime, they constitute a danger to the community of the UK.”.

FM9. Delete paragraph S-LTR.2.3.

FM10. In paragraph S-LTR.4.1. for “S-LTR.4.4.” substitute “S-LTR.4.5.”.

FM11. For paragraph S-LTR.4.2. substitute:

“S-LTR.4.2. The applicant has made false representations or failed to disclose any material fact in a previous application for entry clearance, leave to enter, leave to remain or a variation of leave, or in a previous human rights claim; or did so in order to obtain from the Secretary of State or a third party a document required to support such an application or claim (whether or not the application or claim was successful).”.

FM12. After paragraph S-LTR.4.4 insert:

“S-LTR.4.5. One or more relevant NHS bodies has notified the Secretary of State that the applicant has failed to pay charges in accordance with the relevant NHS regulations on charges to overseas visitors and the outstanding

charges have a total value of at least £500.”.

FM13. In paragraph E-LTRP.2.2.(a) for “temporary admission or temporary release,” substitute “immigration bail,”.

FM14. In paragraph E-LTRP.2.2.(b) for “(disregarding any period of overstaying for a period of 28 days or less)” substitute “(except that, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded)”.

FM15. In paragraph E-LTRP.3.1.(c) for the words which follow “unless paragraph EX.1. applies.” to the end of the paragraph substitute:

“In this paragraph “child” means a dependent child of the applicant or the applicant’s partner who is-

(a) under the age of 18 years, or who was under the age of 18 years when they were first granted entry under this route;

(b) applying for entry clearance or leave to remain as a dependant of the applicant or the applicant’s partner, or is in the UK with leave as their dependant;

(c) not a British Citizen or settled in the UK; and

(d) not an EEA national with a right to be admitted to or reside in the UK under the Immigration (EEA) Regulations 2006.”.

FM16. In paragraph E-LTRP.3.2.(f) after “of the applicant” insert “or of the applicant’s partner”.

FM17. In paragraph E-LTRP.3.2.(g) after “of the applicant”, in the second place where those words appear, insert “or of the applicant’s partner”.

FM18. In paragraph E-LTRP.4.1. for “previous application for leave” substitute “previous application for entry clearance or leave to remain”.

FM19. In paragraph E-LTRP.4.1. for sub-paragraph (c) substitute:

“(c) have an academic qualification which is either a Bachelor’s or Master’s degree or PhD awarded by an educational establishment in the UK; or, if awarded by an educational establishment outside the UK, is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor’s or Master’s degree or PhD in the UK, and UK NARIC has confirmed that the degree was taught or researched in English to level A1 of the Common European Framework of Reference for Languages or above; or”.

FM20. After paragraph E-LTRP.4.1. insert:

“E-LTRP.4.1A. Where the applicant:

- (i) in a previous application for entry clearance or leave to remain as a partner or parent, met the English language requirement in paragraph E-LTRP.4.1.(b) or E-LTRPT.5.1.(b);
- (ii) was granted entry clearance or leave to remain as a partner or parent; and
- (iii) now seeks further leave to remain as a partner after 30 months in the UK with leave as a partner;

then, the applicant must provide specified evidence that they:

(a) are a national of a majority English speaking country listed in paragraph GEN.1.6.;

(b) have passed an English language test in speaking and listening at a minimum of level A2 of the Common European Framework of Reference for Languages with a provider approved by the Secretary of State;

(c) have an academic qualification which is either a Bachelor’s or Master’s degree or PhD awarded by an educational establishment in the UK; or, if awarded by an educational establishment outside the UK, is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor’s or Master’s degree or PhD in the UK, and UK NARIC has confirmed that the degree was taught or researched in English to level A2 of the Common European Framework of Reference for Languages or above; or

(d) are exempt from the English language requirement under paragraph E-LTRP.4.2.”.

FM21. In paragraph E-LTRP.4.2. after “English language requirement” insert “in paragraph E-LTRP.4.1. or E-LTRP.4.1A.”.

FM22. In paragraph S-ILR.1.1. for “1.9.” substitute “1.10.”.

FM23. After paragraph S-ILR.1.9. insert:

“S-ILR.1.10. The presence of the applicant in the UK is not conducive to the public good because the Secretary of State:

(a) has made a decision under Article 1F of the Refugee Convention to exclude the person from the Refugee Convention or under paragraph 339D of

these Rules to exclude them from humanitarian protection; or

(b) has previously made a decision that they are a person to whom Article 33(2) of the Refugee Convention applies because there are reasonable grounds for regarding them as a danger to the security of the UK; or

(c) has made a decision that they are a person to whom sub-paragraph (a) or (b) would apply except that (i) the person has not made a protection claim, or (ii) the person made a protection claim which has already been finally determined without reference to Article 1F of the Refugee Convention or paragraph 339D of these Rules; or

(d) has previously made a decision that they are a person to whom Article 33(2) of the Refugee Convention applies because, having been convicted by a final judgment of a particularly serious crime, they constitute a danger to the community of the UK.”.

FM24. Delete paragraph S-ILR.2.3.

FM25. In paragraph S-ILR.4.1. for “S-ILR.4.4.” substitute “S-ILR.4.5.”.

FM26. For paragraph S-ILR.4.2. substitute:

“S-ILR.4.2. The applicant has made false representations or failed to disclose any material fact in a previous application for entry clearance, leave to enter, leave to remain or a variation of leave, or in a previous human rights claim; or did so in order to obtain from the Secretary of State or a third party a document required to support such an application or claim (whether or not the application or claim was successful).”.

FM27. After paragraph S-ILR.4.4 insert:

“S-ILR.4.5. One or more relevant NHS bodies has notified the Secretary of State that the applicant has failed to pay charges in accordance with the relevant NHS regulations on charges to overseas visitors and the outstanding charges have a total value of at least £500.”.

FM28. In paragraph E-ILRP.1.2. after “partner” insert “under this Appendix”.

FM29. In paragraph E-ILRP.1.2. for “(disregarding any period of overstaying for a period of 28 days or less)” substitute “(except that, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded)”.

FM30. In paragraph E-ILRP.1.3. after “The applicant must” insert “at the date of application”.

FM31. At the end of paragraph E-ILRP.1.5. insert:

“E-ILRP.1.5A. In calculating the periods under paragraph E-ILRP.1.3., any current period of overstaying will be disregarded where paragraph 39E of these Rules applies. Any previous period of overstaying between periods of leave will also be disregarded where: the further application was made before 24 November 2016 and within 28 days of the expiry of leave; or the further application was made on or after 24 November 2016 and paragraph 39E of these Rules applied.”.

FM32. In the paragraph below the heading “**Family life as a child of a person with limited leave as a partner or parent**” after “whose parent is applying” insert “under this Appendix”.

FM33. In paragraph E-ECC.2.1.(c) for the words which follow “paragraph E-ECC.2.3. being met.” to the end of the paragraph substitute:

“In this paragraph “child” means the applicant and any other dependent child of the applicant’s parent or the applicant’s parent’s partner who is-

(a) under the age of 18 years, or who was under the age of 18 years when they were first granted entry under this route;

(b) applying for entry clearance as a dependant of the applicant’s parent or of the applicant’s parent’s partner, or is in the UK with leave as their dependant;

(c) not a British Citizen or settled in the UK; and

(d) not an EEA national with a right to be admitted to or reside in the UK under the Immigration (EEA) Regulations 2006.”.

FM34. After paragraph R-LTRC.1.1.(c)(ii) for “or” substitute “and

(iii) a parent of the applicant has been or is at the same time being granted leave to remain under paragraph D-LTRP.1.1. or D-LTRPT.1.1. or indefinite leave to remain under this Appendix (except as an adult dependent relative); or”.

FM35. In paragraph E-LTRC.2.1.(c) for the words which follow “paragraph E-LTRC.2.3. being met.” to the end of the paragraph substitute:

“In this paragraph “child” means the applicant and any other dependent child of the applicant’s parent or the applicant’s parent’s partner who is-

(a) under the age of 18 years, or who was under the age of 18 years when they were first granted entry under this route;

(b) applying for entry clearance as a dependant of the applicant's parent or of the applicant's parent's partner, or is in the UK with leave as their dependant;

(c) not a British Citizen or settled in the UK; and

(d) not an EEA national with a right to be admitted to or reside in the UK under the Immigration (EEA) Regulations 2006.”.

FM36. In paragraph E-ECPT.4.1. for sub-paragraph (c) substitute:

“(c) have an academic qualification which is either a Bachelor's or Master's degree or PhD awarded by an educational establishment in the UK; or, if awarded by an educational establishment outside the UK, is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor's or Master's degree or PhD in the UK, and UK NARIC has confirmed that the degree was taught or researched in English to level A1 of the Common European Framework of Reference for Languages or above; or”.

FM37. In paragraph E-LTRPT.2.3.(a) after “(who is a British citizen or settled in the UK)” insert “, and the applicant must not be eligible to apply for leave to remain as a partner under this Appendix”.

FM38. In paragraph E-LTRPT.3.2.(a) for “temporary admission or temporary release,” substitute “immigration bail,”.

FM39. In paragraph E-LTRPT.3.2.(b) for “(disregarding any period of overstaying for a period of 28 days or less)” substitute “(except that, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded)”.

FM40. In paragraph E-LTRPT.5.1. for “previous application for leave” substitute “previous application for entry clearance or leave to remain”.

FM41. In paragraph E-LTRPT.5.1. for sub-paragraph (c) substitute:

“(c) have an academic qualification which is either a Bachelor's or Master's degree or PhD awarded by an educational establishment in the UK; or, if awarded by an educational establishment outside the UK, is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor's or Master's degree or PhD in the UK, and UK NARIC has confirmed that the degree was taught or researched in English to level A1 of the Common European Framework of Reference for Languages or above; or”.

FM42. After paragraph E-LTRPT.5.1. insert:

“E-LTRPT.5.1A. Where the applicant:

- (i) in a previous application for entry clearance or leave to remain as a parent or partner, met the English language requirement in paragraph E-LTRPT.5.1.(b) or E-LTRP.4.1.(b) on the basis that they had passed an English language test in speaking and listening at level A1 of the Common European Framework of Reference for Languages; and
- (ii) was granted entry clearance or leave to remain as a parent or partner; and
- (iii) now seeks further leave to remain as a parent after 30 months in the UK with leave as a parent;

then, the applicant must provide specified evidence that they:

(a) are a national of a majority English speaking country listed in paragraph GEN.1.6.;

(b) have passed an English language test in speaking and listening at a minimum of level A2 of the Common European Framework of Reference for Languages with a provider approved by the Secretary of State;

(c) have an academic qualification which is either a Bachelor’s or Master’s degree or PhD awarded by an educational establishment in the UK; or, if awarded by an educational establishment outside the UK, is deemed by UK NARIC to be equivalent to the standard of a Bachelor’s or Master’s degree or PhD in the UK, and UK NARIC has confirmed that the degree was taught or researched in English to level A2 of the Common European Framework of Reference for Languages or above; or

(d) are exempt from the English language requirement under paragraph E-LTRPT.5.2.”.

FM43. In paragraph E-LTRPT.5.2. after “English language requirement” insert “in paragraph E-LTRPT.5.1. or E-LTRPT.5.1A.”.

FM44. In paragraph E-ILRPT.1.2. after “parent” insert “under this Appendix”.

FM45. In paragraph E-ILRPT.1.2. for “(disregarding any period of overstaying for a period of 28 days or less)” substitute “(except that, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded)”.

FM46. In paragraph E-ILRPT.1.3. after “The applicant must” insert “at the date of application”.

FM47. After paragraph E-ILRPT.1.5. insert:

“E-ILRPT.1.5A. In calculating the periods under paragraph E-ILRPT.1.3., any current period of overstaying will be disregarded where paragraph 39E of these Rules applies. Any previous period of overstaying between periods of leave will also be disregarded where: the further application was made before 24 November 2016 and within 28 days of the expiry of leave; or the further application was made on or after 24 November 2016 and paragraph 39E of these Rules applied.”.

FM48. In paragraph E-ILRDR.1.2. for “(disregarding any period of overstaying for a period of 28 days or less)” substitute “(except that, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded)”.

### **Changes to Appendix FM-SE**

FM-SE1. In paragraph D.(a) for “or (e)” substitute “, (e) or (f)”.

FM-SE2. After paragraph D insert:

“E. A reference in this Appendix to the provision of evidence from a UK government department includes evidence from a body performing an equivalent function to such a department.”.

FM-SE3. In paragraph 7(b) for “income” substitute “profit”.

FM-SE4. In paragraph 7 for sub-paragraph (g) substitute:

“(g) Evidence of ongoing self-employment through the provision of at least one of the following: a bank statement dated no more than three months earlier than the date of application showing transactions relating to ongoing trading, or evidence dated no more than three months earlier than the date of application of the renewal of a licence to trade or of ongoing payment of business rates, business-related insurance premiums, employer National Insurance contributions or franchise payments to the parent company.”.

FM-SE5. In paragraph 7(h)(i)(bb) for “or who is a member of the Institute of Financial Accountants” substitute “or who is a member of the Institute of Financial Accountants”.

FM-SE6. After paragraph 8 insert:

“8A. In respect of prospective self-employment in the UK (for an applicant’s partner or parent’s partner who, in respect of paragraph E-

ECP.3.2.(a) or E-ECC.2.2.(a) of Appendix FM, is in self-employment outside the UK at the date of application and is returning to the UK to continue that self-employment), one of the following must be provided, with a starting date within three months of the person's return to the UK:

- (a) An application to the appropriate authority for a licence to trade;
- (b) Details of the purchase or rental of business premises;
- (c) A signed employment contract or a signed contract for the provision of services; or
- (d) A partnership or franchise agreement signed by the relevant parties to the agreement.”.

FM-SE7. In paragraph 9(b)(iv) for “or who is a member of the Institute of Financial Accountants” substitute “or who is a member of the Institute of Financial Accountants”.

FM-SE8. In paragraph 11A(a) for “(whether a current, deposit or investment account, provided by a financial institution regulated by the appropriate regulatory body for the country in which that institution is operating)” substitute “(whether a current, deposit or investment account, provided by a financial institution regulated by the appropriate regulatory body for the country in which that institution is operating)”.

FM-SE9. In paragraph 12 after “the War Pensions Scheme,” insert “or a Police Disability Pension,”.

FM-SE10. In paragraph 12(a) for “or Veterans Agency” substitute “, Veterans Agency or Police Pension Authority”.

FM-SE11. In paragraph 13(e) for “(and that of their partner if that person is in the UK with permission to work)” substitute “(and that of their partner if that person is in the UK with permission to work)”.

FM-SE12. In paragraph 18 for sub-paragraph (f) substitute:

“(f) For the purpose of paragraph 13(b)(i), “the gross annual salary from employment as it was at the date of application” of a person in non-salaried employment at the date of application shall be considered to be the annual equivalent of:

(aa) the person's gross income from non-salaried employment in the

period immediately prior to the date of application, where the employment has been held for a period of no more than one month at the date of application; or

(bb) the person's average gross monthly income from non-salaried employment, where the employment has been held for a period of more than one month at the date of application.”.

FM-SE13. In paragraph 19 for sub-paragraph (b) substitute:

“(b) Where the self-employed person is a sole trader or is in a partnership or franchise agreement, the income will be the gross taxable profits from their share of the business in the relevant financial year(s), not including any deductible allowances, expenses or liabilities which may be applied to the gross taxable profits to establish the final tax liability.”.

FM-SE14. In paragraph 27 after “a minimum of level A1” insert “or A2 (as the case may be)”.

FM-SE15. For paragraph 31 substitute:

“31. Evidence of an academic qualification under paragraphs 284(ix)(c), (d) and (e), 290(vii)(c), (d) and (e) and 295D(xi)(c), (d) and (e) of Part 8, paragraph 68(c) of Appendix Armed Forces, and paragraphs E-ECP.4.1.(c), E-LTRP.4.1.(c), E-ECPT.4.1.(c) and E-LTRPT.5.1.(c) of Appendix FM must be:

(a) a certificate issued by the relevant institution confirming the award of the academic qualification showing:

- (i) the applicant's name;
- (ii) the title of award;
- (iii) the date of award; and
- (iv) the name of the awarding institution; or

(b) if the applicant is awaiting graduation or no longer has the certificate and cannot obtain a new one, either:

(i) an original academic reference from the institution awarding the academic qualification that:

- (1) is on official letter headed paper;
- (2) shows the applicant's name;
- (3) shows the title of award;
- (4) explains when the academic qualification has been, or

will be, awarded; and  
(5) confirms either the date that the certificate will be issued (if the applicant has not yet graduated) or that the institution is unable to re-issue the original certificate of award; or

(ii) an original academic transcript that:

- (1) is on official letter headed paper;
- (2) shows the applicant's name;
- (3) shows the name of the academic institution;
- (4) shows the course title; and
- (5) confirms either the date that the certificate will be issued (if the applicant has not yet graduated) or that the institution is unable to re-issue the original certificate of award; and

(c) if the qualification was awarded by an educational establishment outside the UK, an original document from UK NARIC which confirms that the qualification meets or exceeds the recognised standard of a Bachelor's or Master's degree or PhD in the UK and was taught or researched in English to level A1 of the Common Framework of Reference for Languages or above.”.

- FM-SE16. In paragraph 31 after “E-LTRP.4.1.(c),” insert “E-LTRP.4.1A.(c),”.
- FM-SE17. In paragraph 31 for “and E-LTRPT.5.1.(c)” substitute “, E-LTRPT.5.1.(c) and E-LTRPT.5.1A.(c)”.
- FM-SE18. In paragraph 31(c) after “level A1” insert “or A2 (as the case may be)”.
- FM-SE19. In paragraph 32 after “taught” insert “or researched”.
- FM-SE20. In paragraph 32B(a) after “level A1” insert “or A2 (as the case may be)”.
- FM-SE21. In paragraph 32D for “the decision-maker may accept” substitute “the decision-maker will accept”.
- FM-SE22. In paragraph 32D(d) after “provided that” insert “it is at or above the requisite level of the Common European Framework of Reference for Languages and”.
- FM-SE23. In paragraph 32D(d)(i) for “(disregarding any period of overstaying of no more than 28 days)” substitute “(disregarding any current period of

overstaying where paragraph 39E of these Rules applies, as well as any previous period of overstaying where: the further application was made before 24 November 2016 and within 28 days of the expiry of leave; or the further application was made on or after 24 November 2016 and paragraph 39E of these Rules applied)".

## **Changes to Appendix G**

G1. For Appendix G substitute:

### **“Appendix G: Countries and Territories participating in the Tier 5 Youth Mobility Scheme and annual allocation of places for 2017**

1. Places available for use by Countries and Territories with Deemed Sponsorship Status:  
  
Australia – 35,500 places  
New Zealand – 13,000 places  
Canada – 5,500 places  
Japan – 1,000 places  
Monaco – 1,000 places  
Taiwan – 1,000 places
  
2. Places available for use by Countries and Territories without Deemed Sponsorship Status:  
  
South Korea – 1,000 places  
Hong Kong – 1,000 places

#### **Invitation to apply arrangements:**

3. In order to effectively and efficiently manage the release of the above allocations, the Home Office will operate the arrangements set out in paragraph 4 below, known as invitation to apply arrangements, in relation to the allocation of places available for use by nationals of the following countries with Deemed Certificate of Sponsorship Status:

#### Japan

4. Under these arrangements:
  - (i) a prospective applicant must submit an expression of interest in applying for entry clearance under the Tier 5 (Youth Mobility Scheme) relevant allocation (an expression of interest) in accordance with the process published by the Home

Office,

(ii) no more than one expression of interest per person will be accepted by the Home Office during each period in which they may be submitted,

(iii) the Home Office will:

(1) select at random those to whom an invitation to apply for entry clearance under the Tier 5 (Youth Mobility Scheme) relevant allocation is to be issued from the pool of those who have submitted an expression of interest, and

(2) keep a record of those individuals to whom an invitation to apply is issued, and

(iv) the Home Office may:

(1) place a time limit on the period during which an expression of interest is to be submitted,

(2) determine the number of invitations to apply that may be issued in any calendar month, except that where the number of expressions of interest received in a calendar year exceeds the allocations specified above, the total number of invitations to apply in a calendar year shall not be less than the annual allocations specified above,

(3) place a time limit on the validity of an invitation to apply.”.

### **Changes to Appendix J**

J1. After paragraph 14(d) insert:

“(da) Where Appendix K requires a job holder to have a minimum level of experience, the “experienced worker” rate will always apply.”.

J2. In paragraph 14(e) for “Where the applicant has contracted weekly hours or is paid an hourly rate, the rates must be pro-rated accordingly.” substitute “Rates will be pro-rated based on the number of working hours stated on the Certificate of Sponsorship.”.

J3. In paragraph 14 (e) for “The exception is ‘Skilled chef as defined in the Shortage Occupation List in Appendix K’, where the appropriate rate cannot be pro-rated down for shorter working hours as it forms” substitute “The exceptions are ‘Skilled chef as defined in the Shortage Occupation List in Appendix K’ and ‘Overhead linesworker at Linesman Erector 2 (LE2) level and above’, where the appropriate rates cannot be pro-rated down for shorter working hours as they form”.

J4. In Table 2 in the row containing “2231 Nurses” for:

“Pre-registration candidate nurses who either:

- obtained a Nursing and Midwifery Council permission before 30 April 2015 to undertake the Overseas Nursing Programme, or
- have arranged to sit an Observed Structured Clinical Examination (OSCE) to obtain Nursing and Midwifery Council registration (Band 3 and equivalent): **£16,271**”

substitute:

“Pre-registration candidate nurses (Band 3 and equivalent): **£16,271**”.

J5. In Table 2 in the row containing “2232 Midwives” for:

“Pre-registration candidate midwives who either:

- obtained a Nursing and Midwifery Council permission before 30 April 2015 to undertake the Adaptation to Midwifery Programme, or
- have arranged to sit an Observed Structured Clinical Examination (OSCE) to obtain Nursing and Midwifery Council registration (Band 3 and equivalent): **£16,271**”

substitute:

“Pre-registration candidate midwives (Band 3 and equivalent): **£16,271**”.

J6. In Table 5 in the row containing “5249 Electrical and electronic trades not elsewhere classified” delete the contents of the “Appropriate salary rates” column and substitute:

- “Overhead linesworker at Linesman Erector 2 (LE2) level and above: £32,000 [Source: Migration Advisory Committee]
- Other line repairer and cable jointer (new entrant): £19,100 [Source: Annual Survey of Hours and Earnings 2013 (no equivalent 2014 data available)]
- Other line repairer and cable jointer (experienced worker): £24,400 [Source: Annual Survey of Hours and Earnings 2014]”.

### **Changes to Appendix K**

K1. In paragraph 4(a)(ii) for “UK Trade & Investment (UKTI), confirming that UKTI have been working with the company and support the application” substitute “the Department for International Trade, confirming that the Department has been working with the company and supports the

application”.

- K2. In Table 1, in the row containing “2231 Nurses” after “All jobs in this occupation code” delete the remainder of the entry in this row.

### **Changes to Appendix L**

- L1. Before paragraph 1 insert new paragraph:

“1A. Where these Rules require applicants to provide a letter of personal recommendation from a UK based individual or to hold a UK research based fellowship, specified evidence from the Isle of Man is also acceptable.”.

- L2. In the table in paragraph 7, in the header row, after “Exceptional Promise (potential world leader)”, insert “within the fields of arts, museums or galleries”.

- L3. In paragraph 8(a)(ii) after “award” insert “(Film, Television, Television Crafts, Cymru, Scotland, Games awards only)”.

- L4. In paragraph 8(b)(ii) after “award” insert “(Film, Television, Television Crafts, Cymru, Scotland, Games awards only)”.

- L5. In paragraph 8(c)(ii)(3) delete:

“BAFTA Cymru  
BAFTA Games Awards  
BAFTA Interactive Awards  
BAFTA Scotland  
BAFTA Television Craft Awards”.

- L6. In paragraph 8(c)(ii)(3) after “Chicago International Film Festival” insert “CinemaCon’s International Filmmaker of the Year Award”.

- L7. In paragraph 8(c)(ii)(3) after “Ernst von Siemens Music Prize” insert “European Film Awards”.

- L8. In paragraph 8(c)(ii)(3) after “Grawemeyer Award for Music Composition” insert “Grierson Documentary Awards”.

- L9. In paragraph 8(c)(ii)(3) after “Ivor Novello Awards” insert “Jean Hersholt Humanitarian Academy Award”.

- L10. In paragraph 8(c)(ii)(3) after “MTV Music Awards (MTV)” insert “News and Documentary Emmy”.

- L11. In paragraph 8(c)(ii)(3) after “Preis der deutschen Schallplattenkritik – For achievement in recorded music” insert “Primetime Engineering Emmy”.
- L12. In paragraph 8(c)(ii)(3) after “Prix de Rome” insert “Producers Guild of America Awards”.
- L13. In paragraph 8(c)(ii)(3) after “Rotterdam International Film Festival” insert “Royal Television Society Awards”.
- L14. In paragraph 8(c)(ii)(3) after “South by Southwest Film Festival” insert “Sports Emmy”.
- L15. In paragraph 8(c)(ii)(3) after “Stockholm International Film Festival” insert “Student Academy Award”.
- L16. In paragraph 8(c)(ii)(3) after “Sydney Film Festival” insert “Technology and Engineering Emmy”.

**Changes to Appendix M**

- M1. In Appendix M, in the table, delete the row containing “Water Skiing”:

Water Skiing	British Water Ski	Tier 5 (Temporary Worker – Creative and Sporting)
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**Changes to Appendix N**

- N1. Delete the entry in respect of “Competition Commission and US Federal Trade Commission scheme”.
- N2. Delete the entry in respect of “International Exchange Programme (UK) Ltd”.
- N3. Delete the entry in respect of “International Science and Innovation Unit”.
- N4. Delete the entry in respect of “International Student Internship Scheme”.

**Changes to Appendix O**

- O1. In the table in paragraph 2 entitled “Tests taken within the UK” in the line for “IELTS Life Skills” in column 4 “Levels Covered by Test” after “A1 speaking and listening.” insert “A2 speaking and listening.”

**Changes to Appendix V**

- V1. After paragraph V 3.4 insert:

“V 3.4A An application will be refused if the presence of the applicant in the UK is not conducive to the public good because they are a person to whom the Secretary of State:

- (a) has at any time decided that paragraph 339AA, 339AC, 339D or 339GB of these rules applies; or
- (b) has decided that paragraph 339AA, 339AC, 339D or 339GB of these rules would apply, but for the fact that (a) the person has not made a protection claim in the UK, or that (b) the person made a protection claim which was finally determined without reference to any of the relevant matters described in paragraphs 339AA, 339AC, 339D or 339GB.”

- V2. In paragraph V 3.6 in the opening words, for “applicant” substitute “application”.
- V3. In paragraph V 3.7 in the opening words, for “An applicant will be refused” substitute, “An application, except an application for an *extension of stay as a visitor*, will be refused if”.
- V4. In paragraph V 3.7 (a) delete “if”.
- V5. In paragraph V 3.7 (b) delete “if the applicant is outside the UK,”.
- V6. In paragraph V 4.8 delete the second “except”.
- V7. In paragraph V 8.2 for “A34-34D” substitute “34 – 34C”.
- V8. In paragraph V 8.5 for “except for any period of overstaying of 28 days or less which will be discounted” substitute “, except that where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded”.
- V9. In Visitors Appendix 1 in the definition of “specified application form” for “specified under paragraph 34 of these Rules” substitute “which is posted on the visa and immigration pages of the GOV.UK website”.
- V10. In Visitors Appendix 3 in paragraph 25(b) for “, provided that the main purpose of the visit is not to study” substitute, “on”.
- V11. In Visitors Appendix 3 in paragraph 25(b)(ii) for “.”, substitute “;”.
- V12. In Visitors Appendix 3 in paragraph 25 (b) after (ii), insert “provided that the main purpose of the visit is not to study.”.

**EXPLANATORY MEMORANDUM TO  
THE STATEMENT OF CHANGES IN IMMIGRATION RULES  
PRESENTED TO PARLIAMENT ON 3 NOVEMBER 2016 (HC 667)**

**1. Introduction**

1.1. 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 main purpose of these changes to the Immigration Rules is to:

- Implement the first of two phases of changes to Tier 2, announced by the Government on 24 March 2016 following a review by the independent Migration Advisory Committee.
- Introduce a new English language requirement at level A2 of the Common European Framework of Reference for Languages for applicants for further leave in the UK as a partner or parent, after completing 30 months here on a 5-year route to settlement under Appendix FM.
- Mandate the refusal of limited or indefinite leave where the applicant has been excluded under Article 1F from the Refugee Convention or under paragraph 339D from a grant of humanitarian protection or is a danger to the security of the UK or, having been convicted by final judgment of a particularly serious crime, is a danger to the community of the UK.
- Clarify when Dublin transfer, safe third country and first country of asylum rules apply and provide a definition of the third country concepts within the Immigration Rules.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

3.1. None.

*Other matters of interest to the House of Commons*

3.2. As this Statement of Changes is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

4.1. The Immigration Rules, as laid before Parliament by the Secretary of State, constitute a statement of practice to be followed in the administration of the Immigration Act 1971 for regulating the entry into and 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 visas

and immigration pages of the GOV.UK website at [www.gov.uk/government/collections/immigration-rules](http://www.gov.uk/government/collections/immigration-rules) where there are also copies of all the Statements of Changes in Immigration Rules issued since May 2003.

4.3. On 23 June 2016, the EU referendum took place and the people of the UK voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

4.4. Articles 25 to 27 of Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status (“the Procedures Directive”) sets out the circumstances under which a Member State can, in addition to applying the Dublin Regulation (343/2003), apply first country of asylum or safe third country concepts.

4.5. The changes to Part 7 set out in paragraph 7.12 of this statement, to Part 8 set out in paragraphs 8.1 to 8.5, 8.7 to 8.12 and 8.14 to 8.16, to Appendix FM set out in paragraphs FM3, FM4, FM6 to FM12, FM16 to FM19, FM22 to FM28, FM30, FM32, FM34, FM36, FM40, FM41, FM44 and FM46, to Appendix FM-SE set out in paragraphs FM-SE1 to FM-SE13, FM-SE15, FM-SE19, FM-SE21 and FM-SE22, and to Appendix O set out in paragraph O1, shall take effect from 24 November 2016 and apply to all applications decided on or after that date.

4.6. The changes to Part 1 set out in paragraph 1.11 of this statement, to Part 3 set out in paragraphs 3.1 and 3.2, to Part 4 set out in paragraphs 4.1 and 4.2, to Part 5 set out in paragraphs 5.1 to 5.8, 5.10, 5.13, 5.14 and 5.21 to 5.29, to Part 6A set out in paragraphs 6A.1 and 6A.2, 6A.4 to 6A.10, 6A.12, 6A.17, 6A.18, 6A.23, 6A.26, 6A.27, 6A.29, 6A.33, 6A.35, 6A.37 and 6A.38, to Part 7 set out in paragraphs 7.1 to 7.8, 7.11 and 7.13 to 7.17, to Part 8 set out in paragraphs 8.6, 8.13, 8.17, 8.18 and 8.21 to 8.25, to Part 14 set out in paragraphs 14.1 and 14.2, to Appendix Armed Forces set out in AF4 to AF11, to Appendix FM set out in paragraphs FM5, FM14, FM15, FM29, FM31, FM33, FM35, FM37, FM39, FM45, FM47 and FM48, to Appendix FM-SE set out in paragraph FM-SE23, and to Appendix V set in paragraph V.8, shall take effect from 24 November 2016, but will only apply to applications made on or after 24 November 2016.

4.7. The changes to Part 11 shall take effect from 24 November 2016. The changes set out in paragraphs 11.122 and 11.123 shall apply to all asylum claims made on or after 24 November 2016. All other changes to Part 11 shall apply to all decisions made on or after 24 November 2016.

4.8. The changes to Part 6A set out in paragraphs 6A.13 to 6A.16, 6A.19 to 6A.22 and 6A.25 of this statement, to Appendix A set out in paragraphs A32 to A53, to Appendix J set out in paragraphs J1 to J6, and to Appendix K set out in paragraphs K1 and K2, shall take effect from 24 November 2016. However, if an applicant has made an application for entry clearance or leave to remain using a Certificate of Sponsorship that was assigned to him by his Sponsor before 24 November 2016, the application will be decided in accordance with the Immigration Rules in force on 23 November 2016.

4.9. The changes to Appendix A set out in paragraphs A54 to A61 of this statement shall take effect for applications for Certificates of Sponsorship under the Tier 2 (General) limit decided on or after 12 December 2016.

4.10. The changes to Part 6A set out in paragraphs 6A.30 and 6A.31 and to Appendix G set out in paragraph G1 of this statement shall take effect from 1 January 2017.

4.11. The changes to Appendix C set out in paragraph C4 and to Appendix E set out in paragraphs E1 to E3 of this statement shall take effect from 2 January 2017.

4.12. The changes to Appendix FM set out in paragraphs FM1, FM20, FM21, FM42 and FM43 of this statement, and to Appendix FM-SE set out in paragraphs FM-SE14, FM-SE16 to FM-SE18 and FM-SE20, shall take effect from 1 May 2017. However, if the expiry date of the applicant's leave pre-dates 1 May 2017, the application will be decided in accordance with the Immigration Rules in force on 30 April 2017.

4.13. The changes to Part 7 set out in paragraphs 7.9 and 7.10 of this statement, and to Appendix FM set out in paragraphs FM2, FM13 and FM38, shall take effect on the commencement of Schedule 10 to the Immigration Act 2016.

4.14. The other changes set out in this statement shall take effect from 24 November 2016. However, in relation to those changes, if an application has been made for entry clearance or leave to enter or remain or administrative review before 24 November 2016, the application will be decided in accordance with the Immigration Rules in force on 23 November 2016.

## **5. Extent and Territorial Application**

5.1. The extent of this Statement of Changes is all of the United Kingdom.

### **Other matters of interest to the House of Commons**

5.2. The territorial application of this Statement of Changes is all of the United Kingdom.

## **6. European Convention on Human Rights**

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

## **7. Policy Background**

### **What is being done and why**

#### ***Changes relating to the entry clearance Rules***

7.1. A change is being made to the entry clearance Rules to clarify that British nationals without the right of abode require entry clearance in order to enter the UK

for a purpose for which entry clearance is required. The Rules are also being clarified so that applications for visit visas can be made at any post in the world which is designated by the Secretary of State to accept such applications.

### ***Changes to General Grounds for Refusal and suitability requirements***

7.2. The Government's policy is that those who:

- Have been excluded under Article 1F from the Refugee Convention or under paragraph 339D from a grant of humanitarian protection; or
- Would have been so excluded but they have never made a protection claim or made an earlier protection claim which was refused without reference to Article 1F or paragraph 339D; or
- Are a danger to the security of the UK; or
- Having been convicted by final judgment of a particularly serious crime are a danger to the community of the UK,

will only be granted leave to remain in the UK where their deportation or administrative removal would breach their human rights. Where that is the case, such individuals will be granted leave to remain outside the Immigration Rules under the "restricted leave" policy.

7.3. Currently, applications for limited or indefinite leave to remain made under the Immigration Rules by those who fall within the scope of the restricted leave policy are refused on a discretionary basis (for example, under paragraph 322(5) in Part 9, or paragraph S-LTR.1.6. in Appendix FM).

7.4. The changes to Part 9, Appendix AF and Appendix FM clarify that applications from such individuals made under the Immigration Rules, whether for limited or indefinite leave to remain, should always be refused. This is for reasons of public interest and public protection and to uphold the rule of law internationally, because they are unwelcome in the UK and are a priority for deportation or removal if and when this is consistent with their human rights. Instead, limited leave will continue to be granted outside the Immigration Rules for as long as their human rights prevent deportation or removal.

7.5. It is only very rarely that individuals subject to the restricted leave policy will be able to show that they should be granted indefinite leave to remain after a long period of lawful residence in the UK because it will be difficult to demonstrate that they are now welcome here and that their individual circumstances outweigh the need to maintain the UK's international reputation as a country that will not provide a safe haven to those who have committed internationally repugnant acts and the need to deter others who have committed such acts from coming to the UK. Where it is appropriate to grant indefinite leave to remain, it will be given on a discretionary basis outside the Immigration Rules and pursuant to the restricted leave policy.

### ***Changes relating to applications and validity***

7.6. The rules relating to specified forms and procedures for applications or claims in connection with immigration, previously A34-34I, were complicated and difficult

to interpret in places. They had been iteratively updated and required a wholesale review to make them understandable and user friendly. They have now been redrafted and simplified, and renamed 'How to make a valid application for leave to remain in the UK'. The changes are as follows.

7.7. An application for leave to remain in the UK will, as a result of these changes, now only be valid (subject to some exceptions set out in the Immigration Rules) when the applicant:

- Completes the mandatory sections of the application form.
- Provides any applicable fee (including the Immigration Health Surcharge).
- Provides a valid passport (or other proof of identity) or, where permitted, a valid national identity card or their most recent passport or national identity card, or a valid travel document.
- Provides passport photographs.
- Provides biometric information.

7.8. There is no longer a provision to provide mandatory documents as specified in the Immigration Rules; there were no mandatory documents for the purpose of validation of applications set out under the Immigration Rules and so this requirement is unnecessary.

7.9. The previous rules distinguished between 'online' and 'specified' forms. The reference to 'specified' has been changed to reflect that a specified form is one which has been posted on the visa and immigration pages of the GOV.UK website. Specified forms can be online or paper forms.

7.10. Paragraph 34G has also been redrafted to better reflect how different methods of submitting an application affect the date of application.

7.11. Paragraph 34I has been substituted by 34(1)(c) and included in the rules on how to make a valid application to clarify when a previous version of an application form can be used.

7.12. Paragraph 34H has been deleted as this provision is no longer required.

7.13. Paragraph 34O of the Immigration Rules specifies the method by which an administrative review application must be made. This is by reference to either paragraph 34U, which specifies the online application process, or paragraph 34V, which specifies the postal application process. The online application process is not available for administrative review of entry clearance decisions. However, administrative review applications in respect of eligible entry clearance decision can be submitted by a variety of other methods, including by email. Therefore paragraph 34O has been amended and a new paragraph, 34VA, is being inserted to set out the methods by which an administrative review of an entry clearance decision must be submitted. There is no change to the method by which an application for administrative review of an eligible decision made in the UK or at the border must be made.

7.14. A minor clarification has been made to paragraph 34V(2)(e) because the application form may not specify any mandatory documents which must accompany the application. Some missing words have been added to paragraph 34Q(c) to clarify that the rule is referring to eligible decisions on applications for entry clearance.

### ***Changes relating to the Points-Based System***

7.15. Points-Based System applications are normally decided on the basis of the information provided by the applicant before the case is considered. Paragraph 245AA of the Immigration Rules sets out the limited circumstances in which a decision maker may write out to request further evidence from the applicant.

7.16. A change has been made to clarify in what circumstances a document will be considered to be missing from a sequence for the purposes of paragraph 245AA(b)(i) and so may be requested from the applicant. A document will only be considered to be missing from a sequence where the documents at the beginning and the end of a sequence have both been provided and the missing document is within that sequence.

7.17. When further documents have been requested under evidential flexibility, the time period the applicant has to provide the required document has been changed from 7 working days to 10 working days. This is to align it with the time period for responding to a request made under the current paragraph 34C (paragraph 34B from 24 November 2016) of the Immigration Rules.

### ***Changes relating to Tier 1 of the Points-Based System***

7.18. Tier 1 of the Points-Based System caters for high value migrants, and currently consists of four active categories: Tier 1 (Exceptional Talent), Tier 1 (Entrepreneur), Tier 1 (Investor) and Tier 1 (Graduate Entrepreneur). It also includes the Tier 1 (General) category, which was closed to new applicants in April 2011 but remains open for settlement applications.

#### **Tier 1 (Entrepreneur)**

7.19. The Tier 1 (Entrepreneur) category caters for applicants coming to the UK to set up, take over, or be involved in the running of a business in the UK. The following minor technical changes are being made to this category to clarify various evidential requirements and to correct minor drafting errors:

- An amendment to clarify that applicants supplying third party evidence do not need to meet the requirement for their bank statements to cover a consecutive 90-day period of time.
- An amendment to make clear that applicants who are also accountants cannot sign-off their own accounts and/or funding evidence.
- Making a provision to allow applicants with funding from an endorsed Seed Funding Competition to provide a letter from an authorised official of the fund as confirmation that money is being made available for investment (rather than a letter from an accountant as at present). This brings the provision for funding from endorsed Seed Funding Competitions into line

with the provisions for funding from UK and Devolved Government Departments.

- A clarification that the company's register of members must come from Companies House.
- In response to queries from external stakeholders, minor clarifications are being made to existing Immigration Rules around job creation and evidence to demonstrate Pay As You Earn (PAYE) reporting to HM Revenue and Customs (HMRC).

### Tier 1 (Exceptional Talent)

7.20. The Tier 1 (Exceptional Talent) category is for talented individuals in the fields of science, humanities, engineering, the arts and digital technology to work in the UK without the need to be sponsored for employment in a specific post. The following minor technical changes are being made to this category:

- It has been agreed with the Isle of Man Government that the UK Designated Competent Bodies will consider endorsement applications for this category in the Isle of Man. An amendment is being made to specify that the Tier 1 (Exceptional Talent) limit of 1,000 places includes applicants who successfully apply under the equivalent Tier 1 (Exceptional Talent) route in the Isle of Man.
- An amendment which clarifies that evidence originating from the Isle of Man will be acceptable for the purposes of obtaining an endorsement from a Designated Competent Body under these Rules.
- The list of acceptable awards within the film, television, animation, post-production and visual effects industry, for endorsement under the Arts Council England criteria, has been updated.

### ***Changes relating to Tier 2 of the Points-Based System***

7.21. Tier 2 of the Points-Based System caters for migrant workers with an offer of a skilled job from a licensed employer. There are four overall categories: General, Intra-Company Transfer (ICT), Minister of Religion, and Sportsperson.

7.22. The Government announced changes to Tier 2 (General) and Tier 2 (ICT) on 24 March 2016 following a review published by the independent Migration Advisory Committee (MAC) on 19 January 2016. The Government announced that the changes would be introduced in two stages, in autumn 2016 and April 2017. This Statement includes the changes announced for autumn 2016, and additional minor changes.

7.23. The changes to each specific category are set out below. In addition, the time given to applicants and sponsors to respond to requests for further information in relation to genuineness assessments in both categories is being reduced from 28 calendar days to 10 working days, for consistency with other similar requirements elsewhere in the Immigration Rules. Minor changes are also being made across both these categories to clarify appropriate rate requirements and replace outdated references to the UK Border Agency.

## Tier 2 (General)

7.24. The Tier 2 (General) category is for migrant workers with an offer of a skilled job from a licensed employer which cannot be filled by a resident worker.

7.25. The following changes are being made following the review of Tier 2 by the MAC:

- The salary threshold for experienced workers has been increased to £25,000 for the majority of new applicants (the salary threshold for new entrants has been held at £20,800). An exemption from this increase will apply for nurses, medical radiographers, paramedics and secondary school teachers in mathematics, physics, chemistry, computer science, and Mandarin. The exemption will end in July 2019. For clarity, the salary thresholds are being set out in a new table.
- As a transitional arrangement, the £25,000 threshold will not apply to workers sponsored in Tier 2 (General) before 24 November 2016, if they apply to extend their stay in the category. The Government intends to increase the threshold to £30,000 in April 2017; there will be no such transitional arrangement for workers sponsored in Tier 2 (General) between 24 November 2016 and April 2017 – they will need to satisfy the £30,000 threshold in any future application.
- UK graduates who have returned overseas have been weighted more heavily in the monthly allocation rounds under the Tier 2 limit. Graduates who apply in the UK continue to be exempt from the limit.
- A change is being made to facilitate changes of occupation for applicants sponsored in graduate training programmes. This enables them to change occupation within the programme or at the end of the programme, without their sponsor needing to carry out a further Resident Labour Market Test or for them to make a new application.

7.26. The following additional changes to Tier 2 (General) are being made:

- From April 2017 a change to the Rules around advertising via a milkround will be introduced to close a loophole in which a sponsor can offer a job to a migrant 4 years after carrying out a milkround, without the need for a further recruitment search. Sponsors can continue to rely on a milkround which ended up to 4 years prior to assigning a Certificate of Sponsorship, but only providing the migrant was offered the job within 6 months of that milkround taking place.
- Following a separate review by the MAC on nursing shortages, nurses are being retained on the Shortage Occupation List, but a change is being made to require a Resident Labour Market Test to have been carried out before a nurse is assigned a Certificate of Sponsorship. The rules regarding pre-registration nurses are also being consolidated into a new paragraph 77K in Appendix A.
- To prevent abuse, changes are being made to prevent switching from Tier 4 to Tier 2 where the applicant is relying on a qualification obtained via supplementary study and clarify that an applicant switching from Tier 4

must have studied their course at a UK recognised body or a body in receipt of public funding as a higher education institution.

### Tier 2 (Intra-Company Transfer (ICT))

7.27. The Tier 2 (ICT) category supports inward investment and trade by allowing multinational employers to transfer key company personnel from overseas to their UK branch.

7.28. As with Tier 2 (General), a number of changes are being made in response to the review of Tier 2 by the MAC, and have been previously announced. The changes include:

- The salary for short term ICT applicants has been increased to £30,000 for new applicants. A transitional arrangement applies for those already in the UK under the short term route.
- The closure of the Skills Transfer sub-category to new applicants.
- Changes to the Graduate Trainee sub-category. The salary threshold has been reduced from £24,800 to £23,000 and the number of places a sponsor can use has been increased from 5 to 20 per year. As with Tier 2 (General), the salary thresholds are being set out in a new table for clarity.

7.29. In addition, a redundant paragraph relating to time spent working in the UK for the Sponsor is being removed, and amendments are being made to the evidential requirements to more accurately reflect the criteria relating to previous working for a business linked to the Sponsor.

### Changes relating to English language requirements for Points-Based System applicants

7.30. A change is being made to Appendix B to be clear that an applicant must provide official documentation produced by UK NARIC to confirm any assessment of their degree by UK NARIC.

### ***Changes relating to the Department for International Trade in the requirements for Points-Based System applicants***

7.31. Changes are being made to references to UK Trade and Investment (UKTI), to reflect that UKTI is now a part of the Department for International Trade, and that funding for its global graduate entrepreneur programme is now provided by an external supplier.

### ***Changes relating to Tier 4 of the Points-Based System***

7.32. Tier 4 of the Points-Based System is the visa route used by non-EEA students wishing to study in the UK. Tier 4 is comprised of two categories: Tier 4 (General) and Tier 4 (Child). The following changes are being made in Tier 4:

- A minor change is being made to the definition of a UK Recognised Body to reflect a change in ownership of the Tier 4 Postgraduate Doctor and Dentist

Programme from the UK Foundation Programme Office to Health Education South London, and from 1 November 2016 to Health Education England.

- A minor change is being made to replace the name of the law conversion course in Northern Ireland to a Masters in Law following a course name change.
- Under current Tier 4 rules, applicants applying to study a postgraduate qualification in certain sensitive subjects, knowledge of which could be used in programmes to develop weapons of mass destruction or their means of delivery, must apply for an Academic Technology Approval Scheme certificate before they can study in the UK. This requirement also applies to those studying whilst in the UK under work routes. An amendment is being made so that if the dependant of a Points Based Migrant wishes to undertake such a course, they must also obtain such a certificate.
- An amendment is being made to clarify that where an applicant is using as evidence a degree qualification that has been obtained within the UK, this must be a Bachelor's, Master's or PhD qualification, not a qualification equivalent to one of these.
- Under the Tier 4 (General) route, courses must, except in the case of a pre-session course, lead to an approved qualification. The definition of an approved qualification, as set out in the Immigration Rules, is being amended to include aviation licences, ratings and certificates issued in accordance with EU legislation by the UK's Civil Aviation Authority. This change is being made to ensure that UK flight schools holding a Tier 4 licence can sponsor international students and deliver courses to them through the Tier 4 system.
- Amendments are being made so where a student is relying on one or more qualifications from one of the following countries: Antigua and Barbuda; Australia; The Bahamas; Barbados; Belize; Dominica; Grenada; Guyana; Ireland; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; or the USA; in support of their application, they must provide original documentation produced by UK NARIC which confirms the assessment of that qualification's equivalent level in the UK.
- Currently applicants applying to undertake a role as a student union sabbatical officer; on the Doctorate Extension Scheme; or as a postgraduate doctor or dentist on a recognised Foundation Programme must demonstrate academic progression. Applicants are exempt if they are applying to re-sit an examination or repeat a module but not exempt if they are applying to extend their leave if they have previously done this. The academic progression rule is being amended to reflect the policy intention that applicants applying in these circumstances should all be exempt from demonstrating academic progression.
- An amendment is being made to allow students to move to a higher level course, and extend their leave from within the UK, where they are studying either an integrated Masters course or an integrated Masters and PhD programme, and are progressing from the lower to higher level qualification.
- Currently a Doctorate Extension Scheme (DES) applicant must show they have up to two months of maintenance funds available. An amendment is being made to simplify this maintenance requirement so that they will always need to demonstrate that they have two months of funds available to

support themselves financially before their salaried full-time work commences.

### ***Changes relating to Tier 5 of the Points-Based System***

7.33. Tier 5 of the Points-Based System encompasses the Tier 5 (Youth Mobility Scheme) and Tier 5 (Temporary Worker) categories. The following changes are being made in Tier 5:

- The Immigration Rules are amended to specify new allocations of places to participating countries for 2017 in the Tier 5 (Youth Mobility Scheme) category. The allocations are based on previous levels of take up by British citizens of equivalent schemes offered by participating countries.
- The Rules are amended to provide for the operation of arrangements to manage the allocation of places under the Tier 5 (Youth Mobility Scheme) allocation for Japan, where demand is expected to significantly exceed supply.
- Deemed sponsorship status is conferred upon Taiwan.
- The provisions of the Immigration Rules in respect of maintenance requirements are amended to bring them in line with the equivalent provisions for Tier 2 migrants, providing A-Rated Tier 5 sponsors with the option of certifying maintenance in respect of a Tier 5 migrant by confirming that they will maintain and accommodate the migrant for the first month of their stay. The rules are also amended to enable a Tier 5 sponsor to certify maintenance in respect of the dependants of a Tier 5 migrant.
- Remove four schemes from the list of Government Authorised Exchange Schemes at Appendix N to the Immigration Rules.

### ***Changes relating to overseas domestic workers***

7.34 The Immigration Rules are amended to:

- Remove the upper age limit currently applied to those applying in the Overseas Domestic Worker in Private Household category.
- Clarify the meaning of full-time employment in the context of extension applications made in respect of those admitted in the Overseas Domestic Worker in Private Household category where they were admitted under the Rules in force prior to April 2012.
- Provide for those admitted as an overseas domestic worker to qualify for a grant of leave as a domestic worker who is the victim of slavery or human trafficking where they have been granted discretionary leave immediately following a positive conclusive grounds decision under the National Referral Mechanism.
- Amend the conditions of stay applied to a person granted leave to enter or remain as a Tier 5 (Temporary Worker) where they are a private servant in a diplomatic household.

### Safe third country and first country of asylum concepts

7.35. EU law, as set out in the Procedures Directive (2005/85/EC), supports the principles and allows for applications for asylum to be treated as inadmissible where the applicant could safely be returned to a non-EU state that can be considered either a ‘first country of asylum’ or a ‘safe third country’. A first country of asylum is a country where an individual has refugee status or otherwise benefits from protection. A safe third country is a country to which an asylum seeker can safely and reasonably be returned on the basis of some connection to it, e.g. they have resided there.

7.36. The Rules are being clarified so it is clear that where a non-EU third country agrees to take an individual who has an association with that country and the individual will have sufficiency of protection in that third country, the UK will not consider their asylum application. There has been no change to how the Dublin Regulation is implemented but due to the changes required to implement first country of asylum and safe third country concepts Dublin Transfers are part of the new Rule. The revised policy will provide a clear framework of which concept to apply.

### The current policy

7.37. The current policy allows for but does not clearly set out within the Rules what first country of asylum or safe third country concepts are. The new Rules and associated guidance will provide clear guidance of the concepts.

### ***Changes relating to administrative review***

7.38. Appendix AR to the Immigration Rules sets out the Rules for administrative review including the decisions that are eligible for review.

7.39. The purpose of an administrative review is to assess whether the original decision maker made a case working error in deciding the application. The review is ordinarily based on the evidence originally supplied with the application. Additional evidence may only be submitted in the circumstances set out in paragraph AR2.4 of Appendix AR, with reference to certain sub-paragraphs of AR2.11. Two minor amendments have been made to these Rules.

7.40. Firstly, a change has been made to paragraph AR2.4 to clarify that the reviewer may consider evidence that was not before the original decision maker where either sub-paragraph (a) or (b) applies. There is no need for both sub-paragraphs to apply. This was always the policy intention and the Rule has in practice been interpreted in this way.

7.41. Secondly, a change has been made to remove the reference to paragraph V.9.2 in paragraph AR2.11(a)(iii). Where a person arrives in the UK with leave to enter or remain (including a visit visa) this can be cancelled at the border on grounds which include a change of circumstances since the leave to enter or remain was issued. The effect of including reference to paragraph V9.2 of Appendix V to the Immigration Rules in paragraph AR2.11 is that additional evidence can be considered at administrative review to rebut the finding that there had been a change of circumstances in the case of a visitor. This was an oversight. Passengers other than

visitors whose leave is cancelled on the basis of a change of circumstances are not able to produce additional evidence. The change aligns the treatment of administrative reviews for all those whose leave to enter or remain, or visit visa, is cancelled due to a change of circumstances.

### *Changes relating to Family and Private Life*

7.42. The following changes and clarifications are being made to the Immigration Rules relating to family and private life:

- Include in the transitional provisions in paragraphs A277B and A227C of Part 8 of the Immigration Rules access to the provisions of the child rules under Appendix FM.
- Confirm that a letter confirming the issuing of a Certificate of Eligibility to adopt is required when an entry clearance application involves an inter-country adoption subject to section 83 of the Adoption and Children Act 2002 or the equivalent legislation in Scotland or Northern Ireland.
- Clarify when those who have made false representations or failed to disclose any material fact in a previous application will normally be refused on grounds of suitability.
- Reduce the level of NHS debt from £1000 to £500 as a discretionary basis for refusal on grounds of suitability.
- Introduce from 1 May 2017 a new English language requirement at level A2 of the Common European Framework of Reference for Languages for applicants for further leave in the UK as a partner or parent, after completing 30 months here on a 5-year route to settlement under Appendix FM.
- Clarify that a child is only eligible to apply for entry clearance or leave to enter or remain in the UK under Appendix FM when their parent is applying for or has leave under Appendix FM, and that, where applicable, the minimum income threshold has to be met in respect of all relevant dependent children.
- Clarify the specified evidence required in respect of the minimum income threshold:
  - to reflect the gross business profit which can be counted towards the requirement, and to demonstrate ongoing self-employment.
  - for a self-employed sponsor overseas who is transferring that self-employment to the UK.
  - to include a police disability pension as a source of income.
  - to calculate the gross level of annual income of a person in non-salaried employment.
- Clarify that specified evidence from a government department can be provided from a body performing an equivalent function.
- Remake some minor changes in Appendix FM-SE, originally made by Statement of Changes in Immigration Rules HC 877, to evidential requirements for the minimum income requirement so that they apply to all applications decided from 24 November 2016 and not only to those applications made on or after 6 April 2016.
- Clarify specified evidence requirements for an applicant seeking to meet an A1 or A2 English language requirement using an academic qualification.

- Add the new IELTS Life Skills A2 speaking and listening test to the list in Appendix O of English language tests approved by the Home Office.
- Make other minor changes and clarifications.

### ***Changes relating to sports governing bodies***

7.43. A change is being made to the list of sports governing bodies who may endorse Tier 2 (Sportsperson) and Tier 5 (Temporary Worker – Creative and Sporting) applications. British Water Ski no longer wishes to provide endorsements and is removed from Appendix M.

### ***Changes to the visitor rules***

7.44. Part V3 of Appendix V to the Immigration Rules sets out the suitability requirements for visitors. This includes that applications for a visit visa, leave to enter and leave to remain will be refused if the applicant has previously breached the UK immigration laws. The Rule is being clarified where the applicant is outside the relevant re-entry ban period and has been permitted to return to the UK, they will not automatically be refused leave to remain as a visitor.

### ***Changes to reform the periods within which applications for further leave can be made by overstayers***

7.45. While applications for further leave to remain for many rules-based applications are expected to be made in time, i.e. before any existing leave expires, any period of overstaying for 28 days or less is not a ground for refusal as far as those applications are concerned. This 28 day period was originally brought in so that people who had made an innocent mistake were not penalised, but retaining it sends a message which is inconsistent with the need to ensure compliance with the United Kingdom's immigration laws.

7.46. The 28-day period is therefore to be abolished. However, an out of time application will not be refused on the basis that the applicant has overstayed where the Secretary of State considers that there is a good reason beyond the control of the applicant or their representative, given in or with the application, why an in time application could not be made, provided the application is made within 14 days of the expiry of leave.

7.47. Additionally, for those who have been present on 3C leave (leave extended by section 3C of the Immigration Act 1971), the 28-day period is to be reduced to 14 days from the expiry of any leave extended by section 3C. Without this arrangement, the abolition of the 28-day period would mean that any further application made by persons in this position would be out of time.

7.48. For those whose previous application was in-time but decided before their leave expired, or was made out of time but permitted by virtue of the provision outlined in paragraph 7.56, the 28-day period will be reduced to within 14 days of:

- The refusal of the previous application for leave.

- The expiry of the time-limit for making an in-time application for administrative review or appeal (where applicable).
- Any administrative review or appeal being concluded, withdrawn or abandoned or lapsing.

This is to ensure that individuals to whom these circumstances apply also have 14 days to make a further application.

7.49. Changes have also been made to the requirements for applicants for indefinite leave to remain to have completed a period of continuous lawful residence in the UK. These ensure that the Secretary of State will disregard any period of overstaying between periods of leave which, at the time the further application was made, fell to be disregarded under the previous 28 day period or the exceptions identified above. This is for reasons of fairness.

### ***Changes to the rules relating to NHS debt***

7.50. Reduce the threshold for NHS debt from £1000 to £500 in Appendix FM and Appendix Armed Forces as a discretionary ground for refusal of an application made under those Rules.

## **8. Consultation**

8.1. The changes to Tier 2 are being made in response to recommendations by the independent Migration Advisory Committee (MAC). The MAC consulted extensively before arriving at its recommendations. Its report is available on the GOV.UK website at <https://www.gov.uk/government/publications/migration-advisory-committee-mac-review-tier-2-migration>.

8.2. There was an informal consultation on the administrative review Immigration Rules as laid in October 2014. There has not been any further consultation since then.

8.3. Otherwise the changes in this Statement have not been the subject of a formal public consultation, as this would be disproportionate given the nature of the changes.

## **9. Guidance**

9.1. Guidance relating to these rules changes will be updated and placed on the GOV.UK website, including amended guidance relating to Safe Third Countries.

## **10. Impact**

10.1. The changes to Tier 2 will have an impact on businesses which are Tier 2 sponsors. The substantial changes are based on the MAC's advice (see above). An impact assessment of these changes will be published on the GOV.UK website. The changes are, in part, designed to influence employer behaviour by incentivising businesses to reduce their reliance on migrant workers.

10.2. Other changes will have limited or no impact on business, charities, the public sector or voluntary bodies, such that an impact assessment is unnecessary.

## **11. Regulating small business**

11.1. As above, the changes to Tier 2 will have an impact on small businesses which are Tier 2 sponsors.

11.2. Other changes will have limited or 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 should be directed to the Home Office as per the 'Contact UKVI' section on the visas and immigration pages of GOV.UK website at <https://www.gov.uk/government/organisations/uk-visas-and-immigration>.

13.2. Specific written queries relating to this Statement of Changes should be directed to [StatementofChanges@homeoffice.gsi.gov.uk](mailto: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 visa and immigration pages of the GOV.UK website at <https://www.gov.uk/government/collections/immigration-rules-statement-of-changes>.

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