STATEMENT OF CHANGES IN IMMIGRATION RULES

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

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A copy of this Statement of Changes can be found at www.gov.uk/official-documents and also on the visas and immigration pages of the GOV.UK website at www.gov.uk/government/collections/immigration-rules-statement-of-changes


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

The following changes shall take effect at 2300 on 31 December 2020. In relation to an application for asylum made before 2300 on 31 December 2020, these changes shall not apply:

- Part 11 - Paragraphs 11.1, 11.2, 11.3 and 11.4.

The other changes set out in this statement shall take effect at 2300 on 31 December 2020 and will apply to all decisions made on or after that time.

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 2017; 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 6.2, after the definition of “Business Day”, insert:

“Cabotage operations” in Appendix Visitor: Permitted Activities means
(a) in relation to goods, national carriage for hire or reward carried
out on a temporary basis in the UK; or
(b) in relation to passengers either:
   i. national road passenger services for hire and reward carried
      out on a temporary basis by a carrier in the UK, or
   ii. the picking up and setting down of passengers within the
       UK, in the course of a regular international service, provided
       that it is not the principal purpose of the service.”.

Intro2. In paragraph 6.2, after the definition of “International Agreement
Worker”, insert:

“International Operator Licence” in Appendix Visitor: Permitted Activities means:
(a) a licence issued by the competent authority of a country other than
    the United Kingdom authorising an operator to undertake
    international carriage of goods or passengers by road in
    accordance with an international agreement to which the United
    Kingdom is a party; or
(b) a community licence issued by a Member State of the Union in
    accordance with Regulation (EC) No 1072/2009 or Regulation
    (EC) No 1073/2009.”.

Intro3. In paragraph 6.2, after the definition of “Overstayed” or “overstaying”,
insert:

“Own Account” in Appendix Visitor: Permitted Activities means the
transport of goods by a business where the following conditions are
fulfilled:
(a) the goods carried are the property of the business or have been
    sold, bought, let out on hire or hired, produced, extracted,
    processed or repaired by the business; and
(b) the purpose of the journey is to carry the goods to or from the premises of the business or to move them, either inside or outside the business for its own requirements; and
(c) the vehicles used for such transport are driven by personnel employed by, or put at the disposal of, the business under a contractual obligation; and
(d) the vehicles carrying the goods are owned by the business, have been bought by it on deferred terms or have been hired; and
(e) such transport is no more than ancillary to the overall activities of the business.”.

Changes to Part 11

11.1 In paragraph 327, for “Under the Rules an asylum applicant is a person who either;”, substitute “Under the Rules, an asylum applicant is a person who, in person and at a designated place of asylum claim, either;”.

11.2 After paragraph 327A, insert

“327B. A designated place of asylum claim is:

(i) an asylum intake unit;
(ii) an immigration removal centre;
(iii) a port or airport;
(iv) a location to which the person has been directed by the Secretary of State to make a claim for asylum; or
(v) any other location where an officer authorised to accept an asylum application is present and capable of receiving the claim.”.

11.3 After paragraph 327B, insert

“327C. If the officer is not capable of receiving the claim, they will direct the applicant to a designated place of asylum claim.”.

11.4 After paragraph 327C, insert

“327D. An officer is not capable of receiving the claim in the territorial waters of the United Kingdom”.

11.5 For paragraphs 345A to 345D, substitute:

“345A. An asylum application may be treated as inadmissible and not substantively considered if the Secretary of State determines that:

(i) the applicant has been recognised as a refugee in a safe third country and they can still avail themselves of that protection; or
(ii) the applicant otherwise enjoys sufficient protection in a safe third country, including benefiting from the principle of non-refoulement; or
(iii) the applicant could enjoy sufficient protection in a safe third country, including benefiting from the principle of non-refoulement because:
(a) they have already made an application for protection to that country; or
(b) they could have made an application for protection to that country but did not do so and there were no exceptional circumstances preventing such an application being made, or
(c) they have a connection to that country, such that it would be reasonable for them to go there to obtain protection.

Safe Third Country of Asylum

345B. 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; and
(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.”

345C. When an application is treated as inadmissible, the Secretary of State will attempt to remove the applicant to the safe third country in which they were previously present or to which they have a connection, or to any other safe third country which may agree to their entry.”

Exceptions for admission of inadmissible claims to UK asylum process

345D. When an application has been treated as inadmissible and either

(i) removal to a safe third country within a reasonable period of time is unlikely; or
(ii) upon consideration of a claimant’s particular circumstances the Secretary of State determines that removal to a safe third country is inappropriate

the Secretary of State will admit the applicant for consideration of the claim in the UK.”.
11.6 Delete Paragraph 345E.

**Changes to Appendix V: Visitor**

V1. In V 4.6, after sub paragraph (a), insert:

“(aa) International drivers undertaking activities permitted under PA 9.2.; or”.

**Changes to Appendix Visitor: Permitted Activities**

PA1. Delete paragraph PA 9. and insert:

“PA 9.1. Individuals employed outside the UK may visit the UK to take part in the following activities in relation to their employment overseas:

(a) a translator and/or interpreter may support a business person in the UK, provided they will attend the same event(s) as the business person and are employed by that business person outside of the UK; or
(b) personal assistants and bodyguards may support an overseas business person in carrying out permitted activities, provided they will attend the same event(s) as the business person and are employed by them outside the UK. They must not be providing personal care or domestic work for the business person; or
(c) a tour group courier, contracted to a company with its headquarters outside the UK, who is entering and departing the UK with a tour group organised by their company; or
(d) a journalist, correspondent, producer or cameraman gathering information for an overseas publication, programme or film; or
(e) archaeologists taking part in a one-off archaeological excavation; or
(f) a professor from an overseas academic institution accompanying students to the UK as part of a study abroad programme, may provide a small amount of teaching to the students at the host organisation (however this must not amount to filling a permanent teaching role for that institution).

PA 9.2. Drivers on a genuine international route between the UK and a country outside the UK may:

(a) deliver or collect goods or passengers from a country outside the UK to the UK; and
(b) undertake *cabotage operations*.  

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Drivers must be employed or contracted to an operator registered in a country outside the UK or be a self-employed operator and driver based outside the UK. The operator must hold an *International Operators Licence* or be operating on an *own account* basis.”.