

Aug/04

IMMIGRATION DIRECTORATES' INSTRUCTIONS

**CHAPTER 4
SECTION 6**

**DEPENDANTS OF EXCHANGE TEACHERS,
LANGUAGE ASSISTANTS,
OR PERSONS HERE UNDER TWES**

1. INTRODUCTION

Paragraph 122 of HC 395 sets out the requirements relating to spouses of persons with limited leave to enter or remain under Paragraphs 110-121, Paragraph 125 sets out those relating to children of such persons. These must be referred to when reading the following advice.

This section combines the guidance relating to both spouses and children.

2. LEAVE TO ENTER OR REMAIN AS A DEPENDANT OF AN EXCHANGE TEACHER, LANGUAGE ASSISTANT OR PERSON HERE UNDER TWES

The requirements to be met by a person seeking entry clearance or leave to remain as the spouse or child of such a person are set out in Paragraphs 122 and 125 respectively, in Part 4 of HC 395 and *must* be referred to when reading the following advice.

2.1. Leave to enter - Key points

Although *all* the requirements of Paragraph 122 *must* be met, the main points on which the immigration officer needs to be satisfied are:

- ◆ that the passenger holds a valid entry clearance endorsed "Employment"; and
- ◆ that there is no reason to believe that false representations were made in order to obtain the entry clearance or that circumstances have changed since its issue.

2.2. Leave to remain

Caseworkers must satisfy themselves that *all* the requirements of Paragraph 122 or 125, as appropriate, are satisfied.

2.3. Further guidance

In many cases, a dependant will seek leave to enter or remain at the same time as the person upon whom he/she is dependent. Where this is the case, both applications will

fall to be considered together and it would not be appropriate to consider, for example, refusal on grounds of maintenance or accommodation independently of the main applicant.

Where, however, a dependant seeks to join a spouse or parent who has previously arrived in the United Kingdom and has been given leave to enter or remain, his application will fall to be considered separately, but taking his spouse's/parent's circumstances into account.

2.4. **Switching - dependants of exchange teachers or TWES permit holders**

Entry clearance is mandatory for entry in this category. After-entry, however, in the case of *dependants of exchange teachers or TWES permit holders*, where the applicant was not admitted as a spouse or child, caseworkers may waive the no-switching provision in the Rules if they are satisfied that *all* the other requirements are met. Any case which falls to be refused, however, should be refused on no-switching grounds.

2.5. **Granting leave to enter or remain**

- * Leave to enter or remain should be granted on Code 1 for a period normally equal to, but in any event not in excess of that granted to the spouse/parent.
- * Dependants who are foreign nationals aged 16 or over are required to register with the police.

2.6. **INDECS**

On entry

- O Other person on limited leave to enter

After entry

- T1S Extension (spouse)
- T1C Extension (child)

2.7. **Refusal of leave to enter or remain**

- * Where no entry clearance is held and the requirements of Paragraph 122, in the case of a spouse and Paragraph 125 in the case of a child, are not met, the passenger should be refused leave to enter under Paragraph 124 or 127 respectively.

- * A visa national seeking *leave to enter* without a valid United Kingdom visa falls to be refused under Paragraph 320(5). See *Chapter 9, Section 2* to these instructions.
- * Where a passenger seeking *leave to enter* in this capacity holds an entry clearance for this purpose, refusal may only be considered under Paragraph 321 (See *Chapter 9, Section 3* to these instructions).
- * In the case of a person returning to the United Kingdom from a temporary absence abroad, within a period for which he was previously given leave, reference *must* be made, before refusal, to *Chapter 1, Section 9, "Persons returning to resume previous leave"*.

ANNEX L (below) provides examples of refusal formulae.

Chapter 9, Section 1 "Adverse decisions - General Guidance" provides important advice about the decision making process and should be consulted whenever an application falls to be refused.

ANNEX L (below) provides examples of refusal formulae.

2.8. On entry refusal codes

- E4 Lack of required non-settlement entry clearance, including those set aside on grounds of misrepresentation, forgery, failure to disclose material facts or where a change of circumstances has removed the basis of claim to admission.

2.9. After entry INDECS codes

When the spouse/child is being refused together with the main applicant, the INDECS refusal code will be the same as that used for the main applicant, with the suffix S (for spouse) or C (for child).

Where the dependant is refused separately, the INDECS Code will be X6.

2.10. On entry cases - right of appeal and corresponding refusal forms

- * In accordance with Section 13(3B)(a) of the Act (as set out in Section 11 of the Asylum and Immigration Appeals Act 1993), there is no right of appeal against refusal of leave to enter in this capacity where no entry clearance is held.

Refusal form IS 82D should therefore be used.

- * A passenger seeking entry as a spouse or child in this category who holds a United Kingdom entry clearance cannot be refused under Paragraphs 124 or 127. See *Chapter 9, Section 3*.

The "*Port Instructions for on-entry asylum applications*" provides details of the appropriate forms to use in mixed asylum/non-asylum cases.

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