

**Statement of changes in Immigration Rules [HC 1511]**

Presented to Parliament on 10 October 2011 (Session 2010-2012)

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**CORRECTION**

The change set out in paragraph 5 of the Statement should read as follows:

5. In Appendix A, paragraph 126(c) delete “Her Majesty’s Inspectorate of Education” and substitute “Education Scotland”.

*October 2011*

LONDON: THE STATIONERY OFFICE

# STATEMENT OF CHANGES IN IMMIGRATION RULES

*Presented to Parliament on 10 October 2011 pursuant to section 3(2) of  
the Immigration Act 1971*

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*Ordered by The House of Commons to be printed  
10 October 2011*

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## **STATEMENT OF CHANGES IN IMMIGRATION RULES**

The Home Secretary has made the changes hereinafter stated in the rules laid down by her as to the practice to be followed in the administration of the Immigration Acts for regulating entry into and the stay of persons in the United Kingdom and contained in the statement laid before Parliament on 23 May 1994 (HC 395) as amended. The amending statements were laid before, or presented to, Parliament on 20 September 1994 (Cm 2663), 26 October 1995 (HC 797), 4 January 1996 (Cm 3073), 7 March 1996 (HC 274), 2 April 1996 (HC329), 30 August 1996 (Cm 3365), 31 October 1996 (HC 31), 27 February 1997 (HC 338), 29 May 1997 (Cm 3669), 5 June 1997 (HC 26), 30 July 1997 (HC 161), 11 May 1998 (Cm 3953), 8 October 1998 (Cm 4065), 18 November 1999 (HC 22), 28 July 2000 (HC 704), 20 September 2000 (Cm 4851), 27 August 2001 (Cm 5253), 16 April 2002 (HC 735), 27 August 2002 (Cm 5597), 7 November 2002 (HC 1301), 26 November 2002 (HC 104), 8 January 2003 (HC 180), 10 February 2003 (HC 389), 31 March 2003 (HC 538), 30 May 2003 (Cm 5829), 24 August 2003 (Cm 5949), 12 November 2003 (HC 1224), 17 December 2003 (HC 95), 12 January 2004 (HC 176), 26 February 2004 (HC 370), 31 March 2004 (HC 464), 29 April 2004 (HC523), 3 August 2004 (Cm 6297), 24 September 2004 (Cm 6339), 18 October 2004 (HC 1112), 20 December 2004 (HC 164), 11 January 2005 (HC 194), 7 February 2005 (HC 302), 22 February 2005 (HC 346), 24 March 2005 (HC 486), 15 June 2005 (HC 104), 12 July 2005 (HC 299), 24 October 2005 (HC 582), 9 November 2005 (HC 645), 21 November 2005 (HC 697), 19 December 2005 (HC 769), 23 January 2006 (HC 819), 1 March 2006 (HC 949), 30 March 2006 (HC 1016), 20 April 2006 (HC 1053), 19 July 2006 (HC 1337), 18 September 2006 (Cm 6918), 7 November 2006 (HC 1702), 11 December 2006 (HC 130), 19 March 2007 (HC 398), 3 April 2007 (Cm 7074), 4 April 2007 (Cm 7075), 7 November 2007 (HC 28), 13 November 2007 (HC 40), 19 November 2007 (HC 82), 6 February 2008 (HC 321), 17 March 2008 (HC 420), 9 June 2008 (HC 607), 10 July 2008 (HC 951), 15 July 2008 (HC 971), 4 November 2008 (HC 1113), 9 February 2009 (HC 227), 9 March 2009 (HC 314), 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 (HC1148) and 19 July 2011 (HC 1436).

The changes set out in this Statement in paragraphs 1, 2, 3, 5, 6 to 44 and 46 to 63 shall take effect on 31 October 2011.

The changes in paragraphs 1, 3, 5 and 46 to 63 shall apply to applications for leave made before 31 October 2011 which have not been decided before that date.

The changes in paragraphs 2 and 6 to 44 shall not apply to applications for leave made before 31 October 2011 which have not been decided before that date. Such applications shall be decided in accordance with the Rules in force on 30 October 2011.

The changes in paragraphs 4 and 45 shall take effect on 30 March 2012. They shall cease to have effect on 9 November 2012.

### **Review**

Before the end of each review period, the Secretary of State must:

- (a) carry out a review of the changes made by HC 1511 to the extent that they are still in force,
- (b) set out the conclusions of the review in a report, and
- (c) publish the report.

The report must in particular:

- (a) set out the objectives intended to be achieved by any regulatory system established by HC 1511,
- (b) assess the extent to which those objectives are achieved, and
- (c) 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 31 October 2011, 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.

## **Changes**

1. In paragraph 6, after “A "UK recognised body" is an institution that has been granted degree awarding powers by either a Royal Charter, an Act of Parliament or the Privy Council.” insert “For the purposes of these Rules we will consider the Foundation Programme Office and the Yorkshire and Humber Strategic Health Authority as equivalent to UK Recognised Bodies.”
2. In paragraph 6 insert  
“In paragraph 320(22) and 322(12) of these Rules:  
“relevant NHS body” means
  - a) in relation to England-
    - (i) a National Health Service Trust established under section 25 of the National Health Service Act 2006,
    - (ii) a NHS foundation trust.
  - b) in relation to Wales-
    - (i) a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006,

(ii) a National Health Service Trust established under section 18 of the National Health Service (Wales) Act 2006,

(iii) a Special Health Authority established under 22 of the National Health Service (Wales) Act 2006.

c) in relation to Scotland-

(i) a Health Board or Special Health Board established under section 2 of the National Health Service (Scotland) Act 1978 (c. 29),

(ii) the Common Services Agency for the Scottish Health Service established under section 10 of that Act,

(iii) Healthcare Improvement Scotland established under section 10A of that Act.

d) in relation to Northern Ireland-

(i) the Regional Health and Social Care Board established under the Health and Social Care (Reform) Act (Northern Ireland) 2009,

(ii) a Health and Social Care trust established under the Health and Personal Social Services (Northern Ireland) Order 1991 (S.I. 1991/194 (N.I. 1)) and renamed under the Health and Social Care (Reform) Act (Northern Ireland) 2009.

“relevant NHS regulations” means

(i) The National Health Service (Charges to Overseas Visitors) (Amendment) (Wales) Regulations 2004 (2004 No 1433);

(ii) The National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989 as amended (1989 No 364);

(iii) The Health and Personal Social Services (Provision of Health Services to Persons not Ordinarily Resident) Regulations (Northern Ireland) 2005 (2005 No 551); or

(iv) The National Health Service (Charges to Overseas Visitors) Regulations (2011 No 1556).”

3. In paragraph 33C(a) delete “Her Majesty’s Inspectorate of Education” and substitute “Education Scotland”.

4. Insert after paragraph 56Q:-

**“Olympic or Paralympic Games Family Member Visitor**

**Requirements for leave to enter or remain as an Olympic or Paralympic Games Family Member Visitor**

**56R.** The requirements to be met by a person seeking leave to enter or remain as an Olympic or Paralympic Games Family Member Visitor are that the applicant:

(i) is genuinely seeking leave to enter or remain as an Olympic or Paralympic Games Family Member Visitor; and

- (ii) is accredited by the London Organising Committee of the Olympic Games and Paralympic Games Limited for the 2012 London Olympic and Paralympic Games and that accreditation has not been revoked by the International Olympic Committee or the International Paralympic Committee; and
- (iii) is not accredited for the 2012 London Olympic and Paralympic Games in accreditation category codes OCOG, S or X; and
- (iv) when seeking leave to enter or remain presents an Olympic Identity and Accreditation Card or a Paralympic Identity and Accreditation Card issued by the London Organising Committee of the Olympic Games and Paralympic Games Limited; and
- (v) is seeking leave to enter or remain during the period commencing on 30 March 2012 and ending on 8 November 2012; and
- (vi) if seeking leave to enter or remain during the period commencing on 30 March 2012 and ending on 8 May 2012 is seeking leave for a period not exceeding 6 months; or if seeking leave to enter or remain during the period commencing on 9 May 2012 and ending on 8 November 2012 is not seeking leave beyond 8 November 2012; and
- (vii) if seeking leave to enter or remain on or after 13 August 2012 and presents an Olympic Identity and Accreditation Card must have held leave to enter, leave to remain or entry clearance at any time during the period commencing on 30 March 2012 and ending on 12 August 2012; or if seeking leave to enter or remain on or after 10 September 2012 and presents a Paralympic Identity and Accreditation Card must have held leave to enter, leave to remain or entry clearance at any time during the period commencing on 30 March 2012 and ending on 9 September 2012; and
- (viii) if intending to take employment, takes employment only related to the Olympic and Paralympic Games; and
- (ix) will maintain and accommodate himself and any dependents adequately out of resources available to him without recourse to public funds; or will, with any dependents, be maintained and accommodated adequately by relatives, friends, or associates; and
- (x) does not intend to undertake a course of study; and
- (xi) does not, during his visit, intend to marry or form a civil partnership, or to give notice of marriage or civil partnership; and
- (xii) can meet the cost of the return or onward journey; and
- (xiii) intends to leave the United Kingdom by or on 8 November 2012; and
- (xiv) is not a child under the age of 18.

### **Leave to enter or remain as an Olympic or Paralympic Games Family Member Visitor**

**56S.** A person seeking leave to enter or remain in the United Kingdom as an Olympic or Paralympic Games Family Member Visitor during the period commencing on 30 March 2012 and ending on 8 May 2012 may be admitted or allowed to stay in the United Kingdom for up to 6 months subject to a condition prohibiting recourse to public funds and restricting employment to employment only related to the Olympic or Paralympic Games, provided the Immigration Officer is satisfied that each of the requirements of paragraph 56R is met. A person seeking leave to enter or remain in the United Kingdom as an Olympic or Paralympic Games Family Member Visitor during the period commencing on 9 May 2012 and ending on 8 November 2012 may be admitted or allowed to stay in the United Kingdom until 8 November 2012 subject to a condition prohibiting recourse to public funds and restricting employment to employment only related to the Olympic and Paralympic Games provided the Immigration Officer is satisfied that each of the requirements of paragraph 56R is met.

### **Refusal of leave to enter or remain as an Olympic or Paralympic Games Family Member Visitor**

**56T.** Leave to enter or remain as an Olympic or Paralympic Games Family Member Visitor is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 56R is met.

### **Olympic or Paralympic Games Family Member Child Visitor**

#### **Requirements for leave to enter or remain as an Olympic or Paralympic Games Family Member Child Visitor**

**56U.** The requirements to be met by a person seeking leave to enter or remain as an Olympic or Paralympic Games Family Member Child Visitor are that the applicant: -

- (i) is genuinely seeking leave to enter or remain as an Olympic or Paralympic Games Family Member Child Visitor; and
- (ii) meets the requirements of paragraph 56R (ii) to (xiii); and
- (iii) is under the age of 18; and
- (iv) can demonstrate that suitable arrangements have been made for their travel to, and reception and care in the United Kingdom; and
- (v) can demonstrate that their parent or guardian in their home country or country of habitual residence who is responsible for their care consents to arrangements for applicant's travel, reception and care in the United Kingdom.



## **Leave to enter or remain as an Olympic or Paralympic Games Family Member Child Visitor**

**56V.** A person seeking leave to enter or remain in the United Kingdom as an Olympic or Paralympic Games Family Member Child Visitor during the period commencing on 30 March 2012 and ending on 8 May 2012 may be admitted or allowed to stay in the United Kingdom for up to 6 months subject to a condition prohibiting recourse to public funds and restricting employment to employment only related to the Olympic or Paralympic Games, provided the Immigration Officer is satisfied that each of the requirements of paragraph 56U is met. A person seeking leave to enter or remain in the United Kingdom as an Olympic or Paralympic Games Family Member Child Visitor during the period commencing on 9 May 2012 and ending on 8 November 2012 may be admitted or allowed to stay in the United Kingdom until 8 November 2012 subject to a condition prohibiting recourse to public funds and restricting employment to employment only related to the Olympic and Paralympic Games providing the Immigration Officer is satisfied that each of the requirements of paragraph 56U is met.

## **Refusal of leave to enter or remain as an Olympic or Paralympic Games Family Member Child Visitor**

**56W.** Leave to enter or remain as an Olympic or Paralympic Games Family Member Child Visitor is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 56U is met.”

5. In paragraph 126(c) delete “Her Majesty’s Inspectorate of Education” and substitute “Education Scotland”.
6. Renumber the existing paragraphs 134(v) and (vi) as 134(vi) and (vii).
7. After paragraph 134(iv), insert:  
“(v) the applicant provides the specified documents as set out in the application form for settlement and accompanying guidance to evidence the employer’s certification in sub-section (iv), and”.
8. In paragraph 245A(a) “Documentary evidence”, after “the Secretary of State in”, insert “either” and after “the Points Based System Policy Guidance” insert “, or for applications for settlement the application form and accompanying guidance,”.
9. In paragraph 245GF - Requirements for indefinite leave to remain, in sub-paragraph (e)(ii) delete the words “his employer certifies that...”.
10. Renumber existing paragraph 245GF (f) as paragraph 245GF (g).
11. After 245GF(e)(ii) insert:  
“(f) The applicant provides the specified documents as set out in the application form for settlement and accompanying guidance to evidence the sponsor’s certification in sub-section (e) (ii)”.

12. Renumber existing paragraph 245HF (e) as paragraph 245HF (f).
13. After 245HF(d)(ii) insert:

“(e) The applicant provides the specified documents as set out in the application form for settlement and accompanying guidance to evidence the sponsor’s certification in sub-section (d) (ii)”.
14. In paragraph 284(i), after “with these Rules, unless” delete “the leave in question is limited leave to enter as a fiancé or proposed civil partner; and” and insert:

“ :

(a) the leave in question is limited leave to enter as a fiancé or proposed civil partner; or  
(b) the leave in question was granted to the applicant as the spouse, civil partner, unmarried or same-sex partner of a Relevant Points Based System Migrant and that spouse or partner is the same person in relation to whom the applicant is applying for an extension of stay under this rule; and”
15. In paragraph 295D (i), after “limited leave to”, insert “enter or”.
16. In paragraph 295D (i) after “Rules”, insert “, other than where as a result of that leave he would not have been in the United Kingdom beyond 6 months from the date on which he was admitted to the United Kingdom on this occasion in accordance with these rules”.
17. In paragraph 298(ii) (d), delete “was admitted into” and after the word “applicant” insert, “has limited leave to enter or remain in”.
18. In paragraph 317(i)(a) delete “ mother or grandmother who is a widow” and before “aged 65 years or over” insert “parent or grandparent who is divorced, widowed, single or separated”.
19. Delete paragraph 317(i) (b).
20. Renumber existing paragraph 317(i) (c) as paragraph 317(i) (b).
21. Renumber existing paragraph 317(i) (d) as paragraph 317(i) (c).
22. Renumber existing paragraph 317(i) (e) as paragraph 317(i) (d) and delete “and mainly dependent financially on relatives settled in the United Kingdom”.
23. After paragraph 317(i)(d) insert:

“(e) parents or grandparents travelling together who are both under the age of 65 if living in the most exceptional compassionate circumstances; or”.
24. In paragraph 317(i) (f) after “exceptional compassionate circumstances” delete “and mainly dependent financially on relatives settled in the United Kingdom”.
25. In paragraph 319V(i)(a) delete “ mother or grandmother who is a widow” and before “aged 65 years or over” insert “parent or grandparent who is divorced, widowed, single or separated”.
26. Delete paragraph 319V (i) (b).
27. Renumber existing paragraph 319V (i) (c) as paragraph 319V (i) (b).

28. Renumber existing paragraph 319V (i) (d) as paragraph 319V (i) (c).
29. Renumber existing paragraph 319V (i) (e) as paragraph 319V (i) (d) and delete “and mainly dependent financially on relatives with limited leave to enter or remain in the United Kingdom”.
30. After paragraph 319V(i)(d) insert:  
“(e) parents or grandparents travelling together who are both under the age of 65 if living in the most exceptional compassionate circumstances; or”
31. In paragraph 319V (i) (f) after “exceptional compassionate circumstances” delete “and mainly dependent financially on relatives with limited leave to enter or remain in the United Kingdom”.
32. In paragraph 319V (vii), insert after “capacity”, “or, if seeking leave to remain, holds valid leave to remain in another capacity” and delete “; and” and substitute “.”
33. In paragraph 319V, delete subparagraph “(viii)”.
34. In paragraph 319VA, delete “319V (i)-(viii)” and replace with “319V (i)-(vii)”.
35. In paragraph 319VB, delete “319V (i)-(viii)” and replace with “319V (i)-(vii)”.
36. In paragraph 319W (i), after “applicant”, insert, “has limited leave to enter or remain in”, and delete, “was admitted to”.
37. In paragraph 319X (i), after “enter”, insert “or remain”, and delete “accompany or”.
38. In paragraph 319X (viii), delete “the applicant, holds a valid United Kingdom entry clearance for entry in this capacity; and” and insert “*if seeking leave to enter, the applicant holds a valid United Kingdom entry clearance for entry in this capacity or, if seeking leave to remain, holds valid leave to remain in another capacity.*”
39. In paragraph 319X, delete subparagraph “(ix)”.
40. In paragraph 319XA, delete “319X (i) – (ix)” and replace with “319X (i)-(viii)”.
41. In paragraph 319XB, delete “319X (i) – (ix)” and replace with “319X (i)-(viii)”.
42. In paragraph 319Y, delete “298(ii) (d)” and replace with “298”.
43. After paragraph 320(21) insert  
“(22) Where one or more relevant NHS body has notified the Secretary of State that the person seeking entry or leave to enter has failed to pay a charge or charges with a total value of at least £1000 in accordance with the relevant NHS regulations on charges to overseas visitors.”
44. After Paragraph 322 (11) insert  
“(12) Where one or more relevant NHS body has notified the Secretary of State that the person seeking leave to remain or a variation of leave to enter or remain has failed to pay a

charge or charges with a total value of at least £1000 in accordance with the relevant NHS regulations on charges to overseas visitors.”

45. Insert after paragraph 2(1), Appendix 1 :

- m) During the period commencing on 30 March 2012 up to and including 12 August 2012 those nationals or citizens of all the countries or territorial entities listed in paragraph 1 of Appendix 1 who hold an Olympic Identity and Accreditation Card issued by the London Organising Committee of the Olympic Games and Paralympic Games Limited unless that card has the accreditation category code OCOG, S or X;
- n) During the period commencing on 13 August 2012 up to and including 8 November 2012 those nationals or citizens of all the countries or territorial entities listed in paragraph 1 of Appendix 1 who hold an Olympic Identity and Accreditation Card issued by the London Organising Committee of the Olympic Games and Paralympic Games Limited unless (i) that card has the accreditation category code OCOG, S or X; or (ii) the holder had not held leave to enter, leave to remain or entry clearance at any time during the period commencing on 30 March 2012 and ending on 12 August 2012;
- o) During the period commencing on 30 March 2012 up to and including 9 September 2012 those nationals or citizens of all the countries or territorial entities listed in paragraph 1 of Appendix 1 who hold an Paralympic Identity and Accreditation Card issued by the London Organising Committee of the Olympic Games and Paralympic Games Limited unless that card has the accreditation category code OCOG, S or X;
- p) During the period commencing on 10 September 2012 up to and including the 8 November 2012 those nationals or citizens of all the countries or territorial entities listed in paragraph 1 of Appendix 1 who hold the Paralympic Identity and Accreditation Card issued by the London Organising Committee of the Olympic Games and Paralympic Games Limited unless (i) that card has the accreditation category code OCOG, S or X; or (ii) the holder had not held leave to enter, leave to remain or entry clearance at any time during the period commencing on 30 March 2012 and ending on 9 September 2012.

46. In Appendix A, paragraph 115E (d) delete “Her Majesty’s Inspectorate of Education” and substitute “Education Scotland”.

47. In Appendix A, paragraph 118(a) *after “national of one of the countries” insert “or the rightful holder of a qualifying passport issued by one of the relevant competent authorities, as appropriate,”.*

48. In Appendix A, paragraph 118(a) *after “country of nationality” insert “or in the territory related to the passport he holds, as appropriate,”.*

49. In Appendix A, paragraph 120B delete “1 July 2011” and substitute “4 July 2011”.

50. In Appendix A, paragraph 125A(b) *after “national of one of the countries” insert “or the rightful holder of a qualifying passport issued by one of the relevant competent authorities, as appropriate,”.*

51. In Appendix A, paragraph 125A(b) *after “country of nationality” insert “or in the territory related to the passport he holds, as appropriate,”*.
52. In Appendix C, paragraph 11(b) *after “national of one of the countries” insert “or the rightful holder of a qualifying passport issued by one of the relevant competent authorities, as appropriate,”*.
53. In Appendix C, paragraph 11(b) *after “country of nationality” insert “or in the territory related to the passport he holds, as appropriate,”*.
54. In Appendix C, paragraph 16(b) *after “national of one of the countries” insert “or the rightful holder of a qualifying passport issued by one of the relevant competent authorities, as appropriate,”*.
55. In Appendix C, paragraph 16(b) *after “country of nationality” insert “or in the territory related to the passport he holds, as appropriate,”*.
56. In Appendix E, paragraph (j) *after “national of one of the countries” insert “or the rightful holder of a qualifying passport issued by one of the relevant competent authorities, as appropriate,”*.
57. In Appendix E, paragraph (j) *after “country of nationality” insert “or in the territory related to the passport he holds, as appropriate,”*.
58. In Appendix H in the title, delete “Countries whose nationals” and substitute “Applicants who”.
59. In Appendix H, after the title, insert “An applicant will be subject to different documentary requirements under Tier 4 of the Points Based System where he is a national of one of the following countries *and he is applying for entry clearance in his country of nationality or leave to remain in the UK:*”.
60. In Appendix H delete “British National Overseas”.
61. In Appendix H delete “Hong Kong”.
62. In Appendix H delete “Taiwan (those who hold a passport issued by Taiwan that includes the number of the identification card issued by the competent authority in Taiwan)”.
63. In Appendix H after “provided he is applying either for entry clearance in his country of nationality listed above or for leave to remain in the UK.” insert:

*“An applicant will be subject to different documentary requirements under Tier 4 of the Points Based System where he is the rightful holder of one of the following passports, which has been issued by the relevant competent authority, and where he is applying for leave to remain in the UK or for entry clearance in the territory related to the passport he holds:*

- British National (Overseas)
- Hong Kong
- Taiwan (those who hold a passport issued by Taiwan that includes the number of the identification card issued by the competent authority in Taiwan)

*Where an applicant is the rightful holder of a passport issued by a relevant competent authority listed above and also holds another passport or is the national of a country not listed above, he will be able to apply using the different documentary requirements that apply to rightful holders of those passports listed in this Appendix provided he is applying either for entry clearance in the territory related to the passport he holds or for leave to remain in the UK.”.*



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**EXPLANATORY MEMORANDUM TO  
THE STATEMENT OF CHANGES IN IMMIGRATION RULES  
PRESENTED TO PARLIAMENT ON 10 OCTOBER 2011 (HC 1511)**

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 purposes of these changes are:
    - To introduce a requirement for migrants who are applying for settlement in the UK ('Indefinite Leave to Remain') in the categories of Tier 2 (General), Tier 2 (Intra Company Transfer) of the Points Based System, and Work Permit holders, to provide specified documents together with their application.
    - To make minor and technical amendments to the Immigration Rules for Spouses (and Civil Partners) following changes that came into effect on 6 April 2011 and to formalise provisions, at present provided within a concession, into the Immigration Rules for unmarried and same-sex partners.
    - To make corrections to drafting errors made in an earlier rules change. In July we created a new route in the Rules so that refugees and beneficiaries of humanitarian protection with limited leave to remain may sponsor their 'other dependent relatives' to apply to join them in the UK. Drafting errors were made and, though minor and with no significant operational impact, they require correction.
    - To bring into effect a new provision to provide that a person subject to immigration control who has failed to pay the NHS charges of £1,000 or more in respect of NHS treatment charges should normally be refused permission to enter or remain in this country and cancel leave in appropriate circumstances.
    - To exempt certain persons accredited for the 2012 Olympic and Paralympic Games from requiring a visa to enter the UK and create two new visitor categories within the Immigration Rules for persons accredited for the 2012 Olympic and Paralympic Games.
    - To reflect that Education Scotland is the new name for Her Majesty's Inspectorate of Education in sections relating to Tier 4 (Child), the Tier 4 interim limit and providers of courses in English for Speakers of Other Languages.
    - To amend the definition of "UK recognised body" to confirm that for the purposes of Tier 4 of the Points Based System this includes foundation programme offices for post-graduate doctors and dentists, which coordinate these programmes and formally sponsor post-graduate doctors and dentists on a national basis.
    - To clarify the definition of who benefits from the streamlined application process for Tier 4 of the Points Based System. The current definition using the terms nationality and country does not allow for the individual positions of Hong Kong and Taiwan, which are not recognised as countries but are territories which issue



their own passports. This amendment will confirm that holders of British National (Overseas), Hong Kong and Taiwan passports can benefit from this process where they are applying in the appropriate territory.

- To correct a date in the section of the rules relating to academic progression in Tier 4 of the Points Based System, from 1 July to 4 July, to bring it in line with the stated policy position.
- To make minor, clarificatory changes to requirements for indefinite leave to enter or remain and limited leave to enter or remain in the UK as a parent, grandparent or other dependent relative of a person present and settled in the UK, or of a person who is a refugee or beneficiary of humanitarian protection with limited leave to enter or remain.

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

3.1 None

### **4. Legislative Context**

4.1 The Immigration Rules, as laid before Parliament by the Home Secretary, constitute a statement of practice to be followed in the administration of immigration legislation for regulating entry into, and stay of persons in, the United Kingdom.

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

4.3 The changes in this Statement shall take effect on 31 October 2011, other than those relating to persons accredited for the 2012 Olympic and Paralympic Games, contained in paragraphs 4 and 46, which will take effect on 30 March 2012 and cease to have effect on 9 November 2012.

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

5.1 This instrument applies to all of the United Kingdom.

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

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

### **7. Policy Background**

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

7.1 A summary of the policy changes contained in this Statement of Changes in Immigration Rules follows:

### ***Amendments to the rules relating to settlement***

In April 2011 changes to the Rules were made to introduce a new requirement for migrants in Tier 1 (General), Tier 2 (General), Tier 2 (Intra-Company Transfer) of the Points Based System and work permit holder categories who are applying for settlement, to demonstrate that they are continuing to meet at least the minimum income threshold which applied when they last extended their permission to stay in the UK. In practice this means that Tier 1 (General) migrants need to have the same minimum number of points as were scored at the further leave to remain stage. For Tier 2 and Work Permit migrants, their employer must certify in writing that they are being paid at or above the appropriate rate for the job as set out in codes of practice published by the United Kingdom Border Agency.

- 7.2 This instrument introduces an additional requirement for Work Permit and Tier 2 migrants only so that they must provide, in addition to their employer's written certification, specified documents which confirm their earnings. Updated guidance will be made available when the rules are introduced, which will specify those documents to be submitted. This change mirrors changes made in April whereby similar evidential requirements for the Points-Based System were brought within the rules. There is no need to amend the indefinite leave to remain rules for Tier 1 (General) cases, as those rules were amended in April to require migrants to provide 'specified documents' as proof of income when applying for settlement.
- 7.3 This change will enable the UK Border Agency to confirm that the migrant is being paid at the appropriate rate, and will prevent abuse of the existing rule which we have observed in a small number of cases.

### ***Amendments to rules for family members, for a person seeking leave to remain in the UK as a partner of a British citizen or settled person.***

- 7.4 We are making some technical corrections to the provisions for spouses, civil partners, unmarried and same-sex partners. These corrections will put within the rules a concession which has already been operating to clarify rules on switching for an unmarried or same-sex partner already in the United Kingdom with leave to enter exceeding six months in another category. On 6 April 2011, minor changes to the Immigration Rules came into effect updating the spouse and civil partner category. In so doing, a section of the Rules was inadvertently changed. This proposed change will amend this section and reinsert this provision into the Rules.

### ***Elderly Dependent Relatives***

- 7.5 We are making some minor changes to Rule 317(i) on applications for indefinite leave to enter or remain in the UK as a parent, grandparent or other dependent relative of a person present and settled in the UK. The changes respond to observations made by the Court of Appeal in the case of MB (Somalia) [2008] EWCA Civ 102. Divorced, separated and single parents/grandparents over the age of 65 will now be treated in the same way as widowed parents/grandparents when applying under the Rule. In addition, the Rule is being extended to include parents/grandparents travelling together who are under 65. Currently, the UK Border Agency's policy, which is set out in the

Immigration Directorate Instructions, Section 6 of Chapter 8, Annex V, is to consider these categories of person under Rule 317(i) (e). Amending the wording of Rule 317(i) to incorporate these categories of person will improve the clarity and transparency of the Rule. The Immigration Directorate Instructions will also be amended in line with the Rule changes.

***Other family members of refugees and beneficiaries of humanitarian protection***

- 7.6 We are making some technical corrections to the provisions for other family members of refugees and beneficiaries of humanitarian protection under paragraphs 319V-319Y. The Secretary of State wishes to delete the requirement at entry clearance for an applicant to not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974 (paragraph 319V (i) (f) (viii) and 319X (ix)). As a matter of policy, this requirement should only be applied to applicants for Indefinite Leave to Remain (ILR) in the UK and not for entry clearance or Further Leave to Remain (FLR).
- 7.7 We are also clarifying the Rules to ensure that it accurately reflects our policy intention for switching in country to the route for other dependent relatives. At present the Rules do not make it clear that it is possible for children to switch in country for further leave to remain as a child of a relative (paragraph 319X). The same applies to those who wish to switch in country for indefinite leave to remain as an ‘other dependent relative’ where the sponsor is a refugee or beneficiary of humanitarian protection and is now present and settled in the United Kingdom (paragraph 319W).
- 7.8 Similarly, we are clarifying the wording of the rules to ensure that in order to qualify for settlement in the United Kingdom as an ‘other dependent relative’ or child of a relative, the applicant must have valid leave to enter or remain under the rules. This will ensure that applications for settlement are subject to the same requirement to have existing leave as paragraph 298 of the Rules requires of the child of a parent or relative who is present and settled in the UK.
- 7.9 We are also making some minor amendments to the numbering in these rules which affect paragraphs 319VA, 319VB, 319XA, 319XB and 319Y. Amendments to paragraph 319V(i) align the requirements for dependent relatives of refugees or beneficiaries of humanitarian protection with the changes to paragraph 317(i) which are described in paragraph 7.5 above..

***Olympics***

- 7.10 This instrument will enable the UK to implement contractual obligations and agreements reached relating to the entry and stay in the UK of persons accredited for the 2012 Olympic and Paralympic Games during the period of 30 March 2012 to 8 November 2012 (“Accreditation Period of the Games”).
- 7.11 Persons accredited for the Games such as athletes, umpires, technical and support staff, broadcasters and other individuals are referred to as Games Family Members (GFM). The London Organising Committee of the Olympic Games and Paralympic Games (LOCOG) will issue each GFM an Olympic and Identity & Accreditation Card (OIAC) or Paralympic Identity & Accreditation Card (PIAC), which will display amongst other

information the person's full name and a specific accreditation category code relating to their involvement in the Games.

- 7.12 Due to the provisions of the Host City Contract, GFM accredited under certain accreditation category codes are entitled to enter the Host Country without a visa when they present their OIAC or PIAC with a valid national passport or other approved travel document. The instrument provides for this by amending Appendix 1 to the Immigration Rules to exempt holders of OIAC and PIAC from requiring a visa to enter the UK during the Accreditation Period, aside from those accredited under the three accreditation category codes OCOG, S and X, these non – exempt codes include security personnel such as the fire, police and ambulance services, personnel from these services will be mostly British Citizens; possibly some international observers from future Olympic host cities; additional members of entourages and individuals invited by the London Organising Committee of the Olympic Games and Paralympic Games such as domestic dignitaries or national partners. The International Olympic Committee and International Paralympic Committee have advised individuals accredited in accreditation category codes OCOG, S and X are not entitled to be exempted from visa requirements.
- 7.13 The closing ceremonies of the Olympic Games and Paralympic Games will take place on 12 August 2012 and 9 September 2012 respectively. OIAC and PIAC holders genuinely seeking to enter or stay in the UK as a GFM for the Games should have already entered or been present in the UK with immigration leave prior to the closing ceremonies of the Games. Therefore OIAC holders seeking entry on or after 13 August 2012 will only be exempt from visa requirements and eligible for leave as an Olympic or Paralympic Games Family Member Visitor or an Olympic or Paralympic Games Family Member Child Visitor providing they held entry clearance, leave to enter or leave to remain at some point during the period of 30 March 2012 and 12 August 2012. Similarly PIAC holders seeking entry on or after 10 September 2012 will only be exempt from visa requirements and eligible for leave as an Olympic or Paralympic Games Family Member Visitor or an Olympic or Paralympic Games Family Member Child Visitor providing they held entry clearance, leave to enter or leave to remain at some point during the period of 30 March 2012 and 9 September 2012.
- 7.14 The provisions of the Host City Contract confer on all GFM regardless of their age the right to work in the UK on Olympic and Paralympic- related business. To provide for this right and facilitate GFM entry and stay in the UK, it is necessary to create two new visitor categories of the Immigration Rules. The instrument provides for this by creating an 'Olympic or Paralympic Games Family Member Visitor' and an 'Olympic or Paralympic Games Family Member Child Visitor' within the Immigration Rules.
- 7.15 The requirements of the Olympic or Paralympic Games Family Member Visitor and Olympic or Paralympic Games Family Member Child Visitor categories of the Immigration Rules contain appropriate provisions taken from existing visitor categories of the rules whilst also including appropriate provisions to provide for the UK's Host City Contract obligations and agreements reached with LOCOG.
- 7.16 GFM meeting the requirements of the Olympic or Paralympic Games Family Member Visitor and Olympic or Paralympic Games Family Member Child Visitor categories of the Immigration Rules applying for leave to enter or remain in the UK between 30

March 2012 and 8 May 2012 will be granted leave to enter or remain in the UK for up to 6 months, whilst those applying for leave between 9 May 2012 and 8 November 2012 will be granted leave to enter or remain up until 8 November 2012. Conditions prohibiting recourse to public funds and restricting their employment to only employment related to the Olympic and Paralympic Games will be attached to the leave.

### ***Refusing entry or stay NHS***

7.17 The Immigration Rules change will provide that where a person subject to immigration control has failed to pay charges of £1,000 or more due to one or more relevant NHS body in respect of NHS treatment charges invoiced on or after 1 November 2011, the person should normally be refused permission to enter or remain in the country or have their leave cancelled. The UK Border Agency will be provided with sufficient data to identify the debtor, namely full name, address, nationality and date of birth, Medical data will not be provided. This Immigration Rules change is to:

- Deter overseas visitors from misusing the NHS by making it clear that the UK health services are not an international free for all;
- Encourage overseas visitors to meet their obligations to pay for the NHS services they use;
- Enable the UK Border Agency to identify more effectively and take action against migrants with significant unpaid NHS charges; and
- Reassure the public that we are determined to operate fair and robust controls on migrants' access to public benefits and services.

This rule change will be phased in to be fully effective across the United Kingdom during 2012.

### ***Amendments to Tier 4 of the Points Based System***

7.18 Tier 4 of the Points-Based System caters for international students who wish to study in the United Kingdom. As with other parts of the Points-Based System, Tier 4 was implemented in phases, with the introduction of the main policy changes on 31 March 2009.

7.19 The Government ran a public consultation on reform of the Tier 4 student immigration system from 7 December 2010 to 31 January 2011. The Statements of Changes HC908 and HC1148 set out the first two sets of changes to the Rules governing Tier 4. A Statement of Intent was also published alongside those Rules changes, setting out the other changes the Government plans to make over the coming year. This was to enable education providers and users of the UK's student immigration system to understand the plans for reform and take such steps to prepare themselves as are appropriate.

7.20 This Statement sets out some minor, technical changes to the Rules governing Tier 4. The following changes are being made:

- To reflect that Education Scotland is the new name for Her Majesty's Inspectorate of Education in sections relating to Tier 4 Child, the Tier 4 interim limit and providers of courses in English for Speakers of Other Languages;

- To amend the definition of “UK recognised body” to confirm that this includes foundation programme offices for post-graduate doctors and dentists, which coordinate these programmes and formally sponsor post-graduate doctors and dentists on a national basis;
- To clarify the definition of who benefits from the streamlined application process for Tier 4. The current definition using the terms “nationality” and “country” does not allow for the individual positions of Hong Kong and Taiwan, which are territories that issue their own passports. These amendments confirms that holders of British National (Overseas), Hong Kong and Taiwan passports can benefit from this process where they are applying in the appropriate territory;
- To correct a date in the section of the rules relating to academic progression, from 1 July to 4 July, to bring it in line with the stated policy position.

## 8. Consultation outcome

### *Family members*

- 8.1 No formal public consultation has been undertaken in respect of the technical amendments made to rules for family members, given their relatively minor nature and the relatively small numbers likely to be affected by them. Those who have been subject to the concession previously in operation will see no change.

### *Olympics*

- 8.2 The UK Border Agency consulted LOCOG about this instrument who are satisfied its provisions fulfil the UK’s contractual obligations and agreements reached relating to the entry and stay of GFM in the UK during the Accreditation Period of the Olympic and Paralympic Games.
- 8.3 A full consultation exercise has not been undertaken because the provisions of the instrument are only available to a limited group of persons for a restricted period during a one-off event and the provisions reflect contractual obligations and agreements reached with LOCOG.

### *NHS*

- 8.4 The Government ran a public consultation from 26 February 2010 to 30 June 2010 on proposals to introduce a change to the Immigration Rules to allow the UK Border Agency to refuse entry or stay in the UK to those with outstanding unpaid NHS charges. On 18 March 2011, the Government announced its response to this consultation and signalled its intention to lay a new rules change in respect of outstanding NHS charges. The majority of the responses were supportive of the proposed Immigration Rules change, indicating that non payment of NHS charges should be sufficient grounds for refusing entry or extension of stay in the UK to a foreign national. Many thought it would act as a deterrent for “health tourism” with others seeing it as an appropriate sanction for abuse of a public system which leaves UK taxpayers to “foot the bill”. The British Medical Association supported the proposals in principle and it stated that “the introduction of changes to the Immigration Rules to promote repayment of NHS debt seems reasonable”.

### ***Other family members of refugees and beneficiaries of humanitarian protection***

- 8.5 The UK Border Agency has consulted key stakeholders on the ongoing development of family reunion policy, of which these changes form a part. However, no formal public consultation has been undertaken in respect of these corrections, given their relatively minor nature and the relatively small numbers likely to be affected by them.

### ***PBS T4***

- 8.6 The Government has held a formal public consultation on major reform of the student system. However these are minor, technical changes that do not result from a change in policy and therefore, in respect of these amendments, no formal public consultation has been undertaken.

### ***Settlement***

- 8.7 The changes effected by this Statement are minor changes of current Rules, no further formal public consultation has been undertaken in respect of them.

### ***Elderly Dependent Relatives***

- 8.8 A public consultation has not taken place as these are minor, technical changes to the Rules. They are intended to improve the drafting of the Rule, and do not reflect a substantial policy change

## **9. Guidance**

### ***Olympics***

- 9.1 The UK Border Agency will provide instructions and guidance to its officers to ensure GFM applications for leave to enter and remain the UK are correctly and efficiently processed. The UK Border Agency will also publish guidance on its website relating to the new visitor categories and will work with LOCOG to ensure GFM understand the requirements of this instrument before they travel to the UK.
- 9.2 Information on the remainder of these changes will be made available to applicants and UK Border Agency Staff, through updates to websites and guidance.

## **10. Impact**

### ***Olympics***

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is an impact on the public sector; however this impact is below the threshold requiring an Impact Assessment to be undertaken.

### ***PBS T4***

- 10.3 There is no impact on business, charities or voluntary bodies.

10.4 There is no impact on the public sector.

***Settlement***

10.5 These changes are minor and the impacts on business, education providers, and the public sector are expected to be minimal. An impact assessment was prepared to accompany earlier rules changes which were introduced in April 2011 (HC863). The impacts identified in that document, which can be accessed on the UK Border Agency website, in so far as they related to the introduction of new requirements for settlement applications, are unchanged by this latest rules change. The original impact assessment was published on the UK Border Agency website and can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/ia/migration-perm-limit-pbs/>

10.6 There is no impact on charities or voluntary bodies.

***NHS***

10.7 An impact assessment on the changes in respect of outstanding NHS charges has been published on the UK Border Agency website at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/consultations/nhs-debtors/>.

10.8 There is no impact on business, charities or voluntary bodies or on the public sector from the changes in respect of outstanding NHS charges.

***Other family members of refugees and beneficiaries of humanitarian protection***

10.9 There is no impact on business, charities or voluntary bodies or on the public sector.

***Family members***

10.10 There is no impact on business, charities or voluntary bodies or on the public sector.

***Elderly Dependent Relatives***

10.11 There is no impact on business, charities or voluntary bodies or on the public sector.

**11. Regulating small business**

***Settlement***

11.1 The legislation potentially applies to small businesses. The changes are minor and are not expected to have an adverse impact on small businesses.

11.2 For the remainder of these changes, the legislation has no impact on small businesses.

**12 Monitoring & review**



### *Olympics*

- 12.1 The UK Border Agency will keep the provisions of this instrument under review. This instrument will cease to have effect on 9 November 2012.

### *NHS*

- 12.2 The changes made by this Statement in respect of outstanding NHS charges will be monitored on an on-going basis as part of the review of progress towards meeting Public Service Agreement 3: 'ensure controlled, fair migration that protects the public and contributes to economic growth.'
- 12.3 All the other changes introduced by this Statement will be monitored on an on-going basis as part of the review of progress towards meeting Public Service Agreement 3: 'ensure controlled, fair migration that protects the public and contributes to economic growth.'

### **13. Contact**

- 13.1 Queries specifically regarding this Statement of Changes only should be addressed as follows:

- Refugee Family reunion: to Fountza Antoniou at the Home Office on 020 8760 2534 or email to: [Fountza.Antoniou3@homeoffice.gsi.gov.uk](mailto:Fountza.Antoniou3@homeoffice.gsi.gov.uk)
- Family Members: to Catherine Lyon at the UK Border Agency on 0151 237 5505 or email: [Catherine.lyon6@homeoffice.gsi.gov.uk](mailto:Catherine.lyon6@homeoffice.gsi.gov.uk)
- Olympics: to Laurence Jessup, at the UK Border Agency on 020 8760 2166 or 07789 946132 [Laurence.Jessup4@homeoffice.gsi.gov.uk](mailto:Laurence.Jessup4@homeoffice.gsi.gov.uk)
- Settlement (changes to PBS and work permit settlement rules only): to Alan Boyd at the Home Office on 020 8760 2349 : [Alan.Boyd@homeoffice.gsi.gov.uk](mailto:Alan.Boyd@homeoffice.gsi.gov.uk)
- Students: to Gareth Morris at the Home Office on 020 7035 4298 or email [Gareth.morris12@homeoffice.gsi.gov.uk](mailto:Gareth.morris12@homeoffice.gsi.gov.uk)
- Elderly Dependant Relatives: Tracy Liennard at the Home Office on 020 7035 1033 or email to: [tracy.liennard2@homeoffice.gsi.gov.uk](mailto:tracy.liennard2@homeoffice.gsi.gov.uk)
- Outstanding NHS charges : to Vincent Doran at the Home Office on 020 8760 2176 or email to: [Vincent.Doran4@homeoffice.gsi.gov.uk](mailto:Vincent.Doran4@homeoffice.gsi.gov.uk)

- 13.2 Other queries not related to this Statement of Changes, such as queries relating to individual cases should be addressed as per the Contact page on the UK Border Agency website at [www.ukba.homeoffice.gov.uk/contact/](http://www.ukba.homeoffice.gov.uk/contact/)