

STATEMENT OF CHANGES IN IMMIGRATION RULES

*Laid before Parliament on 1 March 2006 under section 3(2) of
the Immigration Act 1971*

*Ordered by The House of Commons to be printed
1 March 2006*

(This document is accompanied by an Explanatory Memorandum)

STATEMENT OF CHANGES IN IMMIGRATION RULES

The Home Secretary has made the changes hereinafter stated in the Rules laid down by him as to the practice to be followed in the administration of the Immigration Act 1971 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 (Cmnd 2663), 26 October 1995 (HC 797), 4 January 1996 (Cmnd 3073), 7 March 1996 (HC 274), 2 April 1996 (HC 329), 30 August 1996 (Cmnd 3365), 31 October 1996 (HC 31), 27 February 1997 (HC 338), 29 May 1997 (Cmnd 3669), 5 June 1997 (HC 26), 30 July 1997 (HC 161), 11 May 1998 (Cmnd 3953), 8 October 1998 (Cmnd 4065), 18 November 1999 (HC 22), 28 July 2000 (HC 704), 20 September 2000 (Cmnd 4851), 27 August 2001 (Cmnd 5253), 16 April 2002 (HC 735), 27 August 2002 (Cmnd 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 (Cmnd 5829), 24 August 2003 (Cmnd 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 (HC 523), 3 August 2004 (Cmnd 6297), 24 September 2004 (Cmnd 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 (HC 645), 21 November 2005 (HC 697) and 19 December 2005 (HC 769).

The changes in paragraphs 1-2 shall take effect on 2 March 2006; the changes in paragraph 3 shall take effect on 22 March 2006.

1. In Appendix 1 (Visa requirements for the United Kingdom), sub-paragraph 1(a), after “Madagascar”, insert “Malawi”.
2. A national of Malawi granted leave to enter or remain for any purpose before 2 March 2006, who applies, before that leave expires, for an extension of stay for the purpose of studying in accordance with paragraphs 60 to 62 or 67 to 69, shall be treated for the purposes of that application, and any further such application made before the expiry of any existing leave, as if he is not a person specified in Appendix 1 to the Rules.
3. In Appendix 1 (Visa requirements for the United Kingdom), sub-paragraph 1(a), delete “Republic of Croatia”.

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**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
LAID ON 1 MARCH 2006 (HC 949)**

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

- 2.1 This Statement of Changes in the Immigration Rules introduces the following changes:
- 2.2 With effect from 2nd March, nationals or citizens of Malawi will require a visa to travel to the UK.
- 2.3 With effect from 22nd March, nationals or citizens of Croatia will no longer require a visa to travel to the UK.

3. Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

4. Legislative Background

- 4.1 The Home Secretary is making the stated changes to Appendix 1 (Visa requirements for the United Kingdom) of the Immigration Rules laid down by him as to the practice to be followed in the administration of the Immigration Act 1971 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 Home Secretary makes this statement of changes under section 3(2) of the Immigration Act 1971.

5. Extent

- 5.1 This instrument applies to passengers travelling to all parts of the United Kingdom.

6. European Convention on Human Rights

- 6.1 As this Statement of Changes in the Immigration Rules is subject to the procedure in section 3(2) of the Immigration Act 1971 and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 The introduction of a visa requirement for nationals of Malawi reflects the rising trend in asylum applications and other immigration abuse by Malawian nationals. Intelligence also suggests that third country nationals of neighbouring countries are using passports issued by the Malawian authorities to travel to the United Kingdom in order to circumvent the United Kingdom's immigration controls.
- 7.2 Effective from the same date, a separate Order will also amend the Immigration (Passenger Transit Visa) Order 2003, as amended, by adding Malawi to the list of countries the nationals or citizens of which require a transit visa to pass through, without entering, the United Kingdom. The Order which amends the transit visa requirements will minimise any displacement effect arising from passengers attempting to circumvent the new visa requirements by purporting to be transit passengers in order to reach the UK.
- 7.3 The removal of the visa requirement for nationals or citizens of Croatia reflects the decision that levels of immigration abuse by nationals or citizens of Croatia has been reduced to manageable levels. The numbers of Croatians abusing the immigration control have fallen dramatically since the regime was introduced in 1999.

- 7.4 There may be concern that, despite the low immigration threat at present, large numbers of Croatian nationals will attempt to come to the UK if the visa regime was removed. However, the immigration and asylum statistics support this decision. The changes will be of interest in the countries concerned.
- 7.5 These changes reflect a need to effectively control immigration to the United Kingdom, specifically those seeking to come to the United Kingdom to make unfounded asylum claims.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument. It is believed that this change may have some impact in the short-term on the volume of nationals or citizens of Malawi travelling to the United Kingdom. It is not considered that this effect will be sustained in the long-term. Furthermore it is not considered that the impact on genuine passengers or airlines will be disproportionate to the likely reduction in abuse of the United Kingdom's immigration control and subsequent burden on the Exchequer resulting from unfounded asylum applications or other immigration abuse. In relation to Croatia, it is considered that this change may have a positive impact on the numbers nationals or citizens of Croatia travelling to the UK.
- 8.2 In order to avoiding treating unfairly those who have made travel plans prior to the announcement of the new requirements, but are now subject to the requirement to hold a visa, there will be administrative arrangements in place. These arrangements will ensure that a passenger who is a national or citizen of Malawi will not be refused permission to enter the United Kingdom solely for the lack of a valid visa if he purchased tickets on or before 23:59 hours on 1st March 2006 and arrives in the United Kingdom on a direct journey on or before 23:59 hours on 8th March 2006. A transitional arrangement will also allow those who already hold entry clearance to continue to enjoy the same ability as non-visa nationals to seek further leave to remain for the purpose of studying without being required to return to their country of origin to obtain entry clearance, if they were granted leave to enter or remain before 2nd March 2006.

9. Contact

- 9.1 Queries should be addressed to the Home Office's Immigration and Nationality Enquiry Bureau on telephone: 0870 606 7766 or by e-mail: indpublicenquiries@ind.homeoffice.gsi.gov.uk