



Statement of changes in Immigration Rules

*Presented to Parliament
by the Secretary of State for the Home Department
by Command of Her Majesty
October 2010*

(This document is accompanied by an Explanatory Memorandum)

© Crown Copyright 2010

The text in this document (excluding the Royal Arms and other departmental or agency logos) may be reproduced free of charge in any format or medium providing it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the document specified.

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

ISBN: 978 0 10 179442 8

Printed in the UK by The Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office

ID P002392249 10/10 5504 19585

Printed on paper containing 75% recycled fibre content minimum.

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 (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), 28 June 2010 (HC 59), 15 July 2010 (HC 96), 22 July 2010 (HC 382) and 19 August 2010 (Cm 7929).

The changes in this Statement shall take effect on 22 October 2010, excepting paragraphs 6 to 20. However, if an applicant has made an application for leave before 22 October 2010 and the application has not been decided before that date, it will be decided in accordance with the Rules in force on 21 October 2010.

The changes in paragraphs 6 to 20 shall take effect on 29 November 2010. However, if an applicant has made an application for entry clearance or leave to enter or remain as the spouse, civil partner, unmarried partner, same-sex partner, fiancée or proposed civil partner of a British citizen or a person settled in the United Kingdom and the application has not been decided before the 29 November 2010, it will be decided in accordance with the Rules in force on 28 November 2010.

1. In paragraph 6 “public funds” sub paragraph (b) after “Jobseekers Act 1995” insert, “income related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance)”. In paragraph 6 “public funds” sub paragraph (c) after “council tax benefit” insert “and”. After “child benefit under Part IX of that Act” delete, “or”. After “Jobseekers (Northern Ireland) Order 1995” insert “or income related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007”.
2. In paragraph 6, insert after the last sentence, “A **refugee**” is a refugee as defined in regulation 2 of The Refugee or Person in Need of International Protection (Qualification) Regulation 2006.
3. In paragraph 34B, change the current subparagraph (iii) to (iv). Under subparagraph (iii) insert, “an applicant may submit an application online where this option is available on the United Kingdom Border Agency’s website”.
4. In paragraph 196F, delete “paragraph 194D” and substitute “paragraph 196D”.
5. In paragraph 245ZZC(g), delete “(not a parent of guardian)” and substitute “(not a parent or guardian)”.
6. In paragraph 281 after “(i) (a)” insert “(i)”
7. At the end of paragraph 281 (i) (a)(i) for “or” substitute “and”
8. After paragraph 281(i) (a)(i) insert:
 - “(ii) the applicant provides an original English language test certificate in speaking and listening from an English language test provider approved by the Secretary of State for these purposes, which clearly shows the applicant’s name and the qualification obtained (which must meet or exceed level A1 of the Common European Framework of Reference) unless:
 - (a) the applicant is aged 65 or over at the time he makes his application; or
 - (b) the Secretary of State considers that the applicant has a physical or mental condition that would prevent him from meeting the requirement; or
 - (c) the Secretary of State considers there are exceptional compassionate circumstances that would prevent the applicant from meeting the requirement; or”
 - (iii) the applicant is a national of one of the following countries: Antigua and Barbuda; Australia; the Bahamas; Barbados; Belize; Canada; Dominica; Grenada; Guyana; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; United States of America; or

- (iv) the applicant has obtained an academic qualification (not a professional or vocational qualification), which is deemed by UK NARIC to meet the recognised standard of a Bachelor's degree in the UK, from an educational establishment in 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; the UK; the USA; and provides the specified documents; or
 - (v) the applicant has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor's degree in the UK, and
 - (1) provides the specified evidence to show he has the qualification, and
 - (2) UK NARIC has confirmed that the degree was taught or researched in English, or
 - (vi) has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor's degree in the UK, and provides the specified evidence to show:
 - (1) he has the qualification, and
 - (2) that the qualification was taught or researched in English.
- or”
9. In paragraph 282(a), for “within paragraph 281(i)(a)” substitute “who meets the requirements of paragraph 281(i)(a)(i) and one of the requirements of paragraph 281(i)(a)(ii) – (vi)”
 10. At the end of paragraph 284(viii) replace “.” with “; and”
 11. After paragraph 284 (viii) insert:
 - “(ix)(a) the applicant provides an original English language test certificate in speaking and listening from an English language test provider approved by the Secretary of State for these purposes, which clearly shows the applicant's name and the qualification obtained (which must meet or exceed level A1 of the Common European Framework of Reference) unless:
 - (i) the applicant is aged 65 or over at the time he makes his application; or
 - (ii) the Secretary of State considers that the applicant has a physical or mental condition that would prevent him from meeting the requirement; or;
 - (iii) the Secretary of State considers there are exceptional compassionate circumstances that would prevent the applicant from meeting the requirement; or”
 - “(ix)(b) the applicant is a national of one of the following countries: Antigua and Barbuda; Australia; the Bahamas; Barbados; Belize; Canada; Dominica; Grenada; Guyana; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; United States of America; or”
 - “(ix)(c) the applicant has obtained an academic qualification (not a professional or vocational qualification), which is deemed by UK NARIC to meet the recognised standard of a Bachelor's degree in the UK, from an educational establishment in 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; the UK; the USA; and provides the specified documents; or”
 - “(ix)(d) the applicant has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor's degree in the UK, and
 - (1) provides the specified evidence to show he has the qualification, and
 - (2) UK NARIC has confirmed that the degree was taught or researched in English, or
 - “(ix)(e) has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor's degree in the UK, and provides the specified evidence to show:
 - (1) he has the qualification, and
 - (2) that the qualification was taught or researched in English.”
 12. At paragraph 290 (vii) replace “the applicant holds a valid United Kingdom entry clearance for entry in this capacity.” with:
 - “(vii)(a) the applicant provides an original English language test certificate in speaking and listening from an English language test provider approved by the Secretary of State for these purposes, which clearly shows the applicant's name and the qualification obtained (which must meet or exceed level A1 of the Common European Framework of Reference) unless:

- (i) the applicant is aged 65 or over at the time he makes his application; or
 - (ii) the Secretary of State considers that the applicant has a physical or mental condition that would prevent him from meeting the requirement; or;
 - (iii) the Secretary of State considers there are exceptional compassionate circumstances that would prevent the applicant from meeting the requirement; or”
- “(vii)(b) the applicant is a national of one of the following countries: Antigua and Barbuda; Australia; the Bahamas; Barbados; Belize; Canada; Dominica; Grenada; Guyana; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; United States of America; or”
- “(vii)(c) the applicant has obtained an academic qualification (not a professional or vocational qualification), which is deemed by UK NARIC to meet the recognised standard of a Bachelor’s degree in the UK, from an educational establishment in 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; the UK; the USA; and provides the specified documents; or
- “(vii)(d) the applicant has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor’s degree in the UK, and
- (1) provides the specified evidence to show he has the qualification, and
 - (2) UK NARIC has confirmed that the degree was taught or researched in English, or
- (vii)(e) has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor’s degree in the UK, and provides the specified evidence to show:
- (1) he has the qualification, and
 - (2) that the qualification was taught or researched in English.

and”

13. After paragraph 290 (vii) (e) insert:

“(viii) the applicant holds a valid United Kingdom entry clearance for entry in this capacity.”

14. In paragraph 293 (iv), replace “290 (ii)-(vi)” with “290 (ii)-(vii)”

15. In paragraph 295A, after “(i) (a)” insert “(i)”

16. At the end of paragraph 295A(i) (a)(i) for “or” substitute “and”

17. After paragraph 295A(i) (a)(i) insert:

“(ii) the applicant provides an original English language test certificate in speaking and listening from an English language test provider approved by the Secretary of State for these purposes, which clearly shows the applicant’s name and the qualification obtained (which must meet or exceed level A1 of the Common European Framework of Reference) unless:

- (a) the applicant is aged 65 or over at the time he makes his application; or
- (b) the Secretary of State considers that the applicant has a physical or mental condition that would prevent him from meeting the requirement; or;
- (c) the Secretary of State considers there are exceptional compassionate circumstances that would prevent the applicant from meeting the requirement; or”

“(iii) the applicant is a national of one of the following countries: Antigua and Barbuda; Australia; the Bahamas; Barbados; Belize; Canada; Dominica; Grenada; Guyana; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; United States of America; or”

“(iv) the applicant has obtained an academic qualification (not a professional or vocational qualification), which is deemed by UK NARIC to meet the recognised standard of a Bachelor’s degree in the UK, from an educational establishment in 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; the UK; the USA; and provides the specified documents; or

“(v) the applicant has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor’s degree in the UK, and

- (1) provides the specified evidence to show he has the qualification, and
- (2) UK NARIC has confirmed that the degree was taught or researched in English, or

- (vi) has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor's degree in the UK, and provides the specified evidence to show:
 - (1) he has the qualification, and
 - (2) that the qualification was taught or researched in English.
- or”
18. In paragraph 295B (a), for “within paragraph 295A(i)(a)” substitute “who meets the requirements of paragraph 295A(i)(a)(i), and one of the requirements of paragraph 295A(i)(a)(ii) – (vi)”
 19. At the end of paragraph 295D (x) replace “.” with “; and”
 20. After paragraph 295D (x) insert:
 - “(xi)(a) the applicant provides an original English language test certificate in speaking and listening from an English language test provider approved by the Secretary of State for these purposes, which clearly shows the applicant's name and the qualification obtained (which must meet or exceed level A1 of the Common European Framework of Reference) unless:
 - (i) the applicant is aged 65 or over at the time he makes his application; or
 - (ii) the Secretary of State considers that the applicant has a physical or mental condition that would prevent him from meeting the requirement; or;
 - (iii) the Secretary of State considers there are exceptional compassionate circumstances that would prevent the applicant from meeting the requirement; or”
 - “(xi)(b) the applicant is a national of one of the following countries: Antigua and Barbuda; Australia; the Bahamas; Barbados; Belize; Canada; Dominica; Grenada; Guyana; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; United States of America; or”
 - “(xi)(c) the applicant has obtained an academic qualification (not a professional or vocational qualification), which is deemed by UK NARIC to meet the recognised standard of a Bachelor's degree in the UK, from an educational establishment in 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; the UK; the USA; and provides the specified documents; or
 - “(xi)(d) the applicant has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor's degree in the UK, and
 - (1) provides the specified evidence to show he has the qualification, and
 - (2) UK NARIC has confirmed that the degree was taught or researched in English, or
 - “(xi)(e) has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor's degree in the UK, and provides the specified evidence to show:
 - (1) he has the qualification, and
 - (2) that the qualification was taught or researched in English.”
 21. In paragraph 339BA, insert after the last sentence, “However, where a person acquires British citizenship status, his refugee status is automatically revoked in accordance with paragraph 339A (iii) upon acquisition of that status without the need to follow the procedure set out above.
 22. In paragraph 352A (i), delete “granted asylum” and insert after the word person, “who is currently a refugee granted status as such under the immigration rules”.
 23. In paragraph 352AA (i), delete “granted asylum in the UK” and insert after the word person, “who is currently a refugee granted status as such under the immigration rules in the United Kingdom and was granted that status”.
 24. In paragraph 352D, delete “who has been granted asylum”, and insert after the word parent, “who is currently a refugee granted status as such under the immigration rules”.
 25. In paragraph 352D (i), delete “who has been granted asylum”, and insert after the word parent, “who is currently a refugee granted status as such under the immigration rules”.
 26. In paragraph 352FA, delete “who has been granted humanitarian protection in the United Kingdom”, and insert after the word person, “who is currently a beneficiary of humanitarian protection granted under the immigration rules in the United Kingdom and was granted that status”.
 27. In paragraph 352FA (i), delete “granted humanitarian protection”, and insert after the word person, “who is currently a beneficiary of humanitarian protection granted under the immigration rules and was granted that status”.

28. In paragraph 352FD, delete “who has been granted humanitarian protection”, and insert after the word person, “who is currently a beneficiary of humanitarian protection granted under the immigration rules”.
29. In paragraph 352FD (i), delete “granted humanitarian protection” and insert after the word person, “who is currently a beneficiary of humanitarian protection granted under the immigration rules and was granted that status”.
30. In paragraph 352FG, delete “who has been granted humanitarian protection in the United Kingdom”, and insert after the word parent, “who is currently a beneficiary of humanitarian protection granted under the immigration rules in the United Kingdom and was granted that status”.
31. In paragraph 352FG (i), delete “who has been granted humanitarian protection in the United Kingdom”, and insert after the word parent, “who is currently a beneficiary of humanitarian protection granted under the immigration rules in the United Kingdom and was granted that status”.
32. After paragraph 352FI, insert a new paragraph 352FJ “Nothing in paragraphs 352A-352FI shall allow a person to be granted leave to enter or remain in the United Kingdom as the spouse or civil partner, unmarried or same sex partner or child of a refugee, or of a person granted humanitarian protection under the immigration rules in the United Kingdom on or after 30 August 2005, if the refugee or, as the case may be, person granted humanitarian protection, is a British Citizen.”



information & publishing solutions

Published by TSO (The Stationery Office) and available from:

Online

www.tsoshop.co.uk

Mail, Telephone, Fax & E-mail

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries: 0870 600 5522

Order through the Parliamentary Hotline Lo-Call 0845 7 023474

Fax orders: 0870 600 5533

E-mail: customer.services@tso.co.uk

Textphone: 0870 240 3701

The Parliamentary Bookshop

12 Bridge Street, Parliament Square

London SW1A 2JX

Telephone orders/General enquiries: 020 7219 3890

Fax orders: 020 7219 3866

Email: bookshop@parliament.uk

Internet: <http://www.bookshop.parliament.uk>

TSO@Blackwell and other Accredited Agents

Customers can also order publications from:

TSO Ireland

16 Arthur Street, Belfast BT1 4GD

Tel 028 9023 8451 Fax 028 9023 5401

ISBN 978-0-10-179442-8



**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
LAID ON 1 OCTOBER 2010 (CM 7944)**

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 purpose of these changes is to
 - (a) To add Employment and Support Allowance (Income Related) (ESA(IR)) to rule 6 to align the definition of public funds in the Immigration Rules with the list of benefits from which persons subject to immigration control are excluded;
 - (b) To add the definition of a refugee into the list of definitions that appear in the Immigration Rules (rule 6);
 - (c) To further enable the use of online application forms (rule 34);
 - (d) To enable automatic cessation of refugee status once a refugee acquires British citizenship and preventing that person bringing in family except through the normal settlement rules (rules 339 and 352);
 - (e) To introduce an English language requirement for migrants applying for leave to enter or remain as the spouse or civil partner, fiancé(e) or proposed civil partner, unmarried partner or same sex partner of a British citizen or person settled in the United Kingdom;
 - (f) To make technical changes to correct minor typographical errors.
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 (the Rules), as laid before Parliament by the Home Secretary, constitute a statement of practice to be followed in the administration of the Immigration Act 1971 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, where there are also copies of all the Statements of Changes in Immigration Rules issued since May 2003.
 - 4.3 These changes to the Rules will come into force on 22 October 2010, excepting paragraphs 6 to 20. However, if an application is made before 21 October, it will be decided in accordance with the Rules in force on 21 October 2010, regardless of the date that decision is made.
 - 4.4 The changes to the Rules at paragraphs 6 to 20 will come into force on 29 November 2010. However, if an applicant has made an application for entry clearance or leave to enter or remain before 29 November as the spouse, civil partner, unmarried partner, same-sex partner, fiancée or proposed civil partner of a British citizen or a person settled in the United Kingdom and the application has not been decided before that date, it will be decided in accordance with the Rules in force on 28 November 2010.
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 the 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:

Amendment to the interpretation rule defining Public Funds

- 7.2 To add Employment and Support Allowance (Income Related) (ESA(IR)) to rule 6 to align the definition of public funds in the Rules with the list of benefits from which persons subject to immigration control are excluded.

Amendment to add the definition of a refugee into the list of definitions

- 7.3 A new definition has been added to Paragraph 6 of the Rules in order to define the meaning of a refugee. This definition already appears in Part 11 of the Rules, however the Secretary of State wishes to ensure that it is clear at the outset in the Rules that a refugee is a person who is recognised as such under the 1951 Convention Relating to the Status of Refugees.

Amendment to general provisions for the rule on specified forms and procedures for applications or claims in connection with immigration

- 7.4 Matters relating to the procedure for making and refusing applications are set out in Paragraph 34 of the Rules. Where an application form is specified, Paragraph 34A sets out the requirements that must be complied with. Paragraph 34B sets out the methods of submitting a specified application form, which at present is either by prepaid post or in person at a Public Enquiry Office save for a number of exceptions.
- 7.5 Under paragraph 34B(iii) one of the exceptions requires that some applications are to be made online but this is currently limited to applications for a Tier 2, Tier 4 or Tier 5 sponsorship licence.
- 7.6 The UK Border Agency intends to increase its current online presence and allow more immigration products to be applied for online. To enable this, a further exception will be included under paragraph 34B allowing customers to apply online where this option is available. Immigration products that can be applied for online will be signposted on the UK Border Agency website.
- 7.7 Enabling more customers to apply online would improve the quality of the applications received by the UK Border Agency (reducing the requirement for any re-work) and ensure that all the information needed to consider an application was submitted at the appropriate time.

Amendments to rule for revocation of refugee status and to rules enabling family members to join

- 7.8 Paragraph 339BA of the Rules is being amended to reflect the fact that a refugee who acquires British nationality is no longer a refugee for the purposes of the 1951 Convention Relating to the Status of Refugees. In order to reduce bureaucracy, the Secretary of State wishes to ensure that the UK Border Agency is not obliged to give people an unnecessary opportunity to make representations before confirming they are no longer a refugee once they have become a British citizen. This would not prevent the UK Border Agency from writing to that refugee to inform them their status will cease when they acquire citizenship.
- 7.9 Paragraphs 352A-FJ are being amended to provide explicitly that only a person who is currently a refugee, or a person who is currently a beneficiary of humanitarian protection is able to benefit from the family reunion provisions under Part 11 of the Immigration Rules. The way these Rules are currently drafted means that a person previously recognised as a refugee or granted humanitarian protection, that has since acquired British citizenship can still benefit from those provisions, even though they are no longer considered to be a refugee or person with humanitarian protection. That is not, and never was, the policy intention.

7.10 In the Secretary of State's view, a former refugee who is now a British citizen should not be able to reunite with his or her family under Part 11. That does not mean that family reunion should not be allowed, but it is the Secretary of State's policy that it should be subject to the normal settlement Rules under Part 8 where accommodation and maintenance requirements should be met. This will avoid discriminating between British citizens who were not formerly refugees, who can only apply for family reunion under the normal settlement route, and a former refugee who has acquired British citizenship and who could, under the Rules as they are currently drafted, still take advantage of the more generous family reunion provisions for refugees.

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

7.11 The Rules are being amended to introduce an English language requirement for migrants applying to come to or stay in the UK as the spouse or partner of a British citizen or person settled here.

7.12 The new requirements will apply to non-EEA nationals applying for leave to enter or remain in the UK as a spouse, civil partner, fiancé(e), proposed civil partner, unmarried partner or same sex partner unless they are a national of a majority English-speaking country or have a degree taught in English.

7.13 Spouses and partners will have to demonstrate a command of English speaking and listening at A1 level or above of the Common European Framework of Reference. The new rules are aimed at helping those who come to the UK to integrate into British society. The English language requirement for spouses and partners will help promote the economic well-being of the UK, for example by encouraging integration and protecting public services. The new rules will help ensure that migrant spouses and partners are equipped to play a full part in British life from the outset.

7.14 Migrants who are aged 65 or over at the time their application is made or who have a mental or physical impairment which would make it unreasonable to expect an individual to learn English will be exempt from the language requirement.

7.15 There will be provision to exempt migrants from the language requirement on a case by case basis where there are compelling compassionate circumstances.

7.16 Transitional arrangements are being put in place so that applications will be decided in accordance with the Immigration Rules in place on the date the application was made. Therefore, any applications made before 29 November 2010 will be decided in accordance with the Rules in place on 28 November 2010.

Technical amendments

7.17 To make two a technical changes to correct a typographical errors, changing "194D" to "196D" in paragraph 196F for partners of migrants in non-PBS employment categories and "of" to "or" in rule 245ZZC(G) for child students under Part 6A of the Points Based System.

8. Consultation

8.1 The amendments in respect of the definition of public funds clarify the Rules in relation to Employment and Support Allowance which was consulted upon prior to its introduction by the Department for Work and Pensions.

8.2 The amendments in respect of asylum have not been subject to consultation as this would be disproportionate given the minor nature of the changes and the fact that they reinforce rather than change existing policy.

8.3 The amendment in respect of application procedures has not been subject to consultation as this is a minor procedural change to allow applicants to apply for immigration products and services on-line, and as such extends the existing on-line capability.

- 8.4 The document *Marriage Visas: Pre-Entry English Requirement for spouses* published in December 2007 consulted on a pre-entry language requirement for those applying for a spouse visa and planning to settle in the UK. This was a 12 week public consultation. Proposals for the requirement received mixed responses from the 101 respondents to the question (the majority of organisations disagreed with the proposal; individuals were more divided). There was, however, general appreciation of the importance of learning English, particularly to support integration. The consultation findings are based on the responses of a self-selected group and not a random sample. The relatively small findings show the range of perspectives that exist and cannot be considered representative of the general population. The policy response, together with an analysis of responses to this consultation was published in *Marriage Visas: The Way Forward* in July 2008.
- 8.5 There has not been consultation on changes to the Rules which make minor and technical amendments to the Rules.

9. Guidance

- 9.1 Information on these changes will be made available to migrants, sponsors and UK Border Agency staff, through updates to websites and guidance.

10. Impact

- 10.1 An Impact Assessment was carried out by the Department for Work and Pensions prior to introduction of the Employment and Support Allowance. A separate Impact Assessment was not carried out on the change to the Rules because there are no financial implications involved.
- 10.2 An Impact Assessment was not carried out on the changes to the Rules on Asylum because there are no financial implications involved.
- 10.3 An Impact Assessment has not been prepared for the change to enable on-line applications under rule 34, as there is no impact on business, charities or voluntary bodies. The costs to the public sector for the technology changes required are limited to the Home Office and have been factored in to overall costs of the Immigration Case Work Programme.
- 10.4 The impact on the public sector business, charities or voluntary bodies from the change to the marriage visa requirement is considered in an Impact Assessment. The Impact Assessment was published on the UK Border Agency website on 1 October 2010 and can be found at: www.ukba.homeoffice.gov.uk/policyandlaw/ia/.
- 10.5 An Impact Assessment is not necessary for changes to the Immigration Rules which make minor and technical amendments.

11. Regulating small business

- 11.1 The legislation applies to small businesses, however, only the changes in relation to English language requirements for spouses are expected to have an impact on business. The impact on small businesses has been considered in the Impact Assessment on the UK Border Agency website as at 10.4.

12. Monitoring and review

- 12.1 All the 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 should be addressed to the following:

Public Funds – James Davison at the United Kingdom Border Agency on 0208 760 2564 or by e-mail to James.Davison@homeoffice.gsi.gov.uk

On-line applications – Cheryl Sinclair at the United Kingdom Border Agency on 0207 147 5587 or by e-mail to Cheryl.Sinclair@homeoffice.gsi.gov.uk

Asylum – Fourentza Antoniou at the United Kingdom Border Agency on 0208 760 3508 or by e-mail to Fourentza.Antoniou3@homeoffice.gsi.gov.uk

English language for spouses/partners – Helen Sayeed at the United Kingdom Border Agency on 0208 760 2533 or by e-mail to Helen.Sayeed4@homeoffice.gsi.gov.uk

