

STATEMENT OF CHANGES IN IMMIGRATION RULES

*Laid before Parliament on 9 November 2005 under section 3(2) of
the Immigration Act 1971*

*Ordered by The House of Commons to be printed
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(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) and 24 October 2005 (HC 582).

The changes in paragraphs 1-5 shall take effect on 13 November 2005; the changes in paragraphs 6-15 shall take effect on 30 November 2005.

1. In paragraph 6, delete the definition of a “specified national”.
2. For paragraph 23A, substitute:

“A person who is not a visa national and who is seeking leave to enter on arrival in the United Kingdom for a period not exceeding 6 months for a purpose for which prior entry clearance is not required under these Rules may be granted such leave, for a period not exceeding 6 months. This paragraph does not apply where the person is a British National (Overseas), a British overseas territories citizen, a British Overseas citizen, a British protected person, or a person who under the British Nationality Act 1981 is a British subject.”
3. After paragraph 23A, insert:

“23B. A person who is a British National (Overseas), a British overseas territories citizen, a British Overseas citizen, a British protected person, or a person who under the British Nationality Act 1981 is a British subject, and who is seeking leave to enter on arrival in the United Kingdom for a purpose for which prior entry clearance is not required under these Rules may be granted such leave, irrespective of the period of time for which he seeks entry, for a period not exceeding 6 months.”
4. For paragraph 24, substitute:

“The following must produce to the Immigration Officer a valid passport or other identity document endorsed with a United Kingdom entry clearance issued to him for the purpose for which he seeks entry:

 - (i) a visa national;
 - (ii) any other person (other than British Nationals (Overseas), a British overseas territories citizen, a British Overseas citizen, a British protected person or a person who under the British Nationality Act 1981 is a British subject) who is seeking entry for a period exceeding six months or is seeking entry for a purpose for which prior entry clearance is required under these Rules.

Such a person will be refused leave to enter if he has no such current entry clearance. Any other person who wishes to ascertain in advance whether he is eligible for admission to the United Kingdom may apply for the issue of an entry clearance.”
5. Delete Appendix 3.
6. In paragraph 63, delete “; or an overseas nurse or midwife who has been accepted on an adaptation course leading to registration as a nurse with the United Kingdom Central Council for Nursing, Midwifery and Health Visiting”.
7. For paragraph 64(iii), substitute:

“(iii) did not obtain acceptance on the course of study referred to in (ii) above by misrepresentation;”
8. In paragraph 65, delete the word “training”.
9. In paragraph 64, replace the words “United Kingdom Central Council for Nursing, Midwifery and Health Visiting” with the words “Nursing and Midwifery Council”.

10. After paragraph 69L, insert:

“Requirements for leave to enter as an overseas qualified nurse or midwife

69M. The requirements to be met by a person seeking leave to enter as an overseas qualified nurse or midwife are that the applicant:

- (i) has obtained confirmation from the Nursing and Midwifery Council that he is eligible:
 - (a) for admission to the Overseas Nurses Programme; or
 - (b) to undertake a period of supervised practice; or
 - (c) to undertake an adaptation programme leading to registration as a midwife; and
- (ii) has been offered:
 - (a) a supervised practice placement through an education provider that is recognised by the Nursing and Midwifery Council; or
 - (b) a supervised practice placement in a setting approved by the Nursing and Midwifery Council; or
 - (c) a midwifery adaptation programme placement in a setting approved by the Nursing and Midwifery Council; and
- (iii) did not obtain acceptance of the offer referred to in paragraph 69 (ii) by misrepresentation; and
- (iv) is able and intends to undertake the supervised practice placement or midwife adaptation programme; and
- (v) does not intend to engage in business or take employment, except:
 - (a) in connection with the supervised practice placement or midwife adaptation programme; or
 - (b) part-time work of a similar nature to the work undertaken on the supervised practice placement or midwife adaptation programme; and
- (vi) is able to maintain and accommodate himself and any dependants without recourse to public funds.

Leave to enter the United Kingdom as an overseas qualified nurse or midwife

69N. Leave to enter the United Kingdom as an overseas qualified nurse or midwife may be granted for a period not exceeding 18 months, provided the Immigration Officer is satisfied that each of the requirements of paragraph 69M is met.

Refusal of leave to enter as an overseas qualified nurse or midwife

69O. Leave to enter the United Kingdom as an overseas qualified nurse or midwife is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 69M is met.

Requirements for an extension of stay as an overseas qualified nurse or midwife

69P. The requirements to be met by a person seeking an extension of stay as an overseas qualified nurse or midwife are that the applicant:

- (i) has leave to enter or remain in the United Kingdom as a prospective student in accordance with paragraphs 82 – 87 of these Rules; or
- (ii) has leave to enter or remain in the United Kingdom as a student in accordance with paragraphs 57 to 69L of these Rules; or
- (iii) has leave to enter or remain in the United Kingdom as a working holidaymaker in accordance with paragraphs 95 to 97 of these Rules and has spent more than 12 months in total in the UK in this capacity; or
- (iv) has leave to enter or remain as an overseas qualified nurse or midwife in accordance with paragraphs 69M – 69R of these Rules; and
- (v) meets the requirements set out in paragraph 69M (i) – (vi); and
- (vi) can provide satisfactory evidence of regular attendance during any previous period of supervised practice or midwife adaptation course; and
- (vii) if he has previously been granted leave:
 - (a) as an overseas qualified nurse or midwife under paragraphs 69M-69R of these Rules, or
 - (b) to undertake an adaptation course as a student nurse under paragraphs 63 – 69 of these Rules;

is not seeking an extension of stay in this category which, when amalgamated with those previous periods of leave, would total more than 18 months; and

- (viii) if his previous studies, supervised practice placement or midwife adaptation programme placement were sponsored by a government or international scholarship agency, he has the written consent of his official sponsor to remain in the United Kingdom as an overseas qualified nurse or midwife.

Extension of stay as an overseas qualified nurse or midwife

69 Q. An extension of stay as an overseas qualified nurse or midwife may be granted for a period not exceeding 18 months, provided that the Secretary of State is satisfied that each of the requirements of paragraph 69P is met.

Refusal of extension of stay as an overseas qualified nurse or midwife

69 R. An extension of stay as an overseas qualified nurse or midwife is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 69P is met.”

11. In paragraph 131B, after the words “student nurse”, add the words “overseas qualified nurse or midwife.”.
12. In paragraph 131B, between 131B(i) and (ii), insert:
 - “(ia) entered the United Kingdom or was given leave to remain as an overseas qualified nurse or midwife in accordance with paragraphs 69M to 69R of these Rules; and”.
13. For paragraph 82(i), substitute:
 - “(i) can demonstrate a genuine and realistic intention of undertaking, within 6 months of his date of entry:
 - (a) a course of study which would meet the requirements for an extension of stay as a student under paragraphs 60 to 67 of these Rules; or
 - (b) a supervised practice placement or midwife adaptation course which would meet the requirements for an extension of stay as an overseas qualified nurse or midwife under paragraphs 69P to 69R of these Rules; and”
14. For paragraph 82(ii), substitute:
 - “(ii) intends to leave the United Kingdom on completion of his studies or on the expiry of his leave to enter if he is not able to meet the requirements for an extension of stay:
 - (a) as a student in accordance with paragraph 60 or 67 of these Rules; or
 - (b) as an overseas qualified nurse or midwife in accordance with paragraph 69P of these Rules; and”
15. For paragraph 135I (ii), substitute:
 - “is aged between 18 and 30 inclusive or was so aged at the date of his application for leave to enter; and”.

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**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
LAID ON 9 NOVEMBER 2005 (HC 645)**

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

2. Description

2.1 This Statement of Changes in Immigration Rules contains the following three changes:

- A new provision to allow overseas trained nurses to enter the UK to undertake a period of supervised practice leading to registration with the Nursing and Midwifery Council.
- An extension of the mandatory entry clearance requirement for non-visa nationals seeking leave to enter the UK for a period of more than six months.
- Incorporation of age eligibility of candidates for the Sectors Based Scheme.

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

3.1 None.

4. Legislative Background

4.1 The Immigration Rules are the rules made under section 3(2) of the Immigration Act 1971. These constitute a statement of practice, as laid before Parliament by the Home Secretary, to be followed in regulating entry into, and stay of persons in, the United Kingdom. Under section 3(2) the Secretary of State is obliged “.. from time to time (and as soon as may be) lay before Parliament statements of the rules, or any changes in the rules, laid down by him as to the practice to be followed in the administration of this Act ..”.

4.2 This Statement of Changes in Immigration Rules will be laid on 9 November 2005. A Written Ministerial Statement was made on 17 June 2003 announcing changes to the Immigration Rules to require all non-EEA nationals who wish to come to the UK for more than six months to obtain prior entry clearance, and that these arrangements would be introduced in stages over a two-year period, starting on 13 November 2003, with ten nationalities. A further Written Ministerial Statement was made on 12 July 2005 confirming the roll-out to all remaining nationalities on 13 November 2005, when this change to the Immigration Rules will take effect. The other two changes will take effect on 30 November 2005.

4.3 This Statement of Changes in Immigration Rules will be incorporated into a consolidated version of the Immigration Rules which can be found under the ‘Laws & Policy’ page at: www.ind.homeoffice.gov.uk, where there are also copies of all the Statement of Changes in Immigration Rules issued since May 2003.

5. Extent

5.1 This Statement of Changes in Immigration Rules applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 Not applicable.

7. Policy background

7.1 A summary of each change contained in this Statement of Changes in Immigration Rules follows:

Overseas Nurses Programme

- In order to practice in the UK, all overseas qualified nurses must be registered with the Nursing and Midwifery Council (NMC). From 1 September 2005, overseas qualified nurses seeking to register with the NMC will normally be expected to do so through the NMC's Overseas Nurses Programme. After 1 September 2006, it will be compulsory for them to do so. It is necessary to make amendments to existing provisions of the Immigration Rules to reflect this.
- Under the Overseas Nurses Programme all overseas qualified nurses seeking to register with the NMC will be required to undertake a 20 day period of protected learning time. This standard is to ensure consistency and transparency in preparing applicants for registration in the UK. In addition, the NMC may also require that they undertake a period of supervised practice in a practice setting that has been audited and quality assured by an education provider approved by the NMC.
- Where an overseas qualified nurse has an offer of employment and is required only to undertake the 20-day period of protected learning, they may qualify for a work permit and enter or remain on that basis. Those required by the NMC to complete a period of supervised practice should be admitted, or given leave to remain, under a new permit-free employment category as an overseas qualified nurse or midwife.

Extension of mandatory entry clearance requirements

- This amendment to the Immigration Rules represents the second phase of changes to UK entry clearance requirements designed to accompany the implementation of a more secure, EU uniform format residence permit for third country nationals, a format agreed under European Council Regulation No 1030/2002.
- The initial phase came into effect on 13 November 2003. This introduced an entry clearance requirement for those wishing to stay in the UK for more than six months who are nationals of 10 countries: United States, Canada, South Africa, Singapore, Malaysia, South Korea, Hong Kong (but not British Nationals (Overseas)), Japan, Australia and New Zealand.
- A written Ministerial Statement was made on 12 July 2005 confirming the date for roll-out to all remaining nationalities. From 13 November, all non-EEA non-visa nationals seeking leave to enter for a period of more than 6 months will require prior entry clearance.
- As well as being part of efforts to prevent people entering or remaining in the United Kingdom using forged travel documents, the mandatory requirement to obtain entry clearance from a British diplomatic mission overseas before travelling brings with it a number of benefits. Although the conditions on which a person may enter the UK are not altered, prior entry clearance enables the more effective management of flows through UK airports and reduces delays experienced by passengers. For those planning a long-term stay in the UK, prior entry clearance also provides greater certainty of their status and will be less expensive than applying for a residence permit in the UK.
- In recognition of their special status it has been decided not to extend these requirements to British Nationals (Overseas) and other categories of British nationals without right of abode in the UK. Such people will continue to be able to travel to this country without entry clearance and apply for leave to enter the UK on arrival.

- The new requirements have been publicised in advance. However, it is recognised that some of those affected who have already bought their airline tickets will be unaware of these changes and so there will be transitional arrangements in place to ensure that genuine passengers are not unduly inconvenienced. A “grace period” will operate until 23.59 on 13 January 2006 during which time any passenger arriving at a UK port seeking entry for a period greater than six months, who would have qualified for entry prior to this Rules change, will be admitted for a maximum of six months and will then need to apply for any further extension of leave in-country. After this date, such persons will be refused leave to enter.

Incorporation of age eligibility of candidates for the Sectors Based Scheme

- Participants on the Sectors Based Scheme must be aged between 18 and 30. Although this requirement is currently one of the criteria in the work permit guidance, it is not in the Immigration Rules and, accordingly, needs to be incorporated into these Rules. This amendment to the Rules will help to ensure that decisions made by Work Permits (UK) caseworkers and entry clearance officers are consistent.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this Statement of Changes in Immigration Rules as it has no impact on business, charities or voluntary bodies.

9. Contact

- 9.1 Queries should be addressed to the Home Office’s Immigration and Nationality Enquiry Bureau on telephone: 0870-6067766 or by e-mail: indpublicenquiries@ind.homeoffice.gsi.gov.uk