

STATEMENT OF CHANGES IN IMMIGRATION RULES

*Presented to Parliament pursuant to section 3(2) of
the Immigration Act 1971*

*Ordered by the House of Commons to be printed
11 March 2013*

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Queries should be directed to the UK Border Agency's Immigration Enquiry Bureau on 0870 606 7766 or as per the the contact page on the UK Border Agency website at www.ukba.homeoffice.gov.uk/contact/.

Queries specifically regarding the definition of public funds in this Statement of Changes only should be addressed to Vincent Doran at the Home Office on 020 7035 6908 or Vincent.Doran4@homeoffice.gsi.gov.uk.

Specific written queries relating to Statement of Changes should be directed to StatementofChanges@homeoffice.gsi.gov.uk. Please note that this mailbox is only for Parliamentary use and specific technical queries regarding the drafting of this Statement of Changes. It is not a contact point for general enquiries. Queries to this e-mail address from outside Parliament about other immigration issues, including how these changes affect applicants, will not receive a response.

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¹STATEMENT 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), 24 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 (HC 1148), 19 July 2011 (HC 1436), 10 October 2011 (HC 1511), 7 November 2011 (HC 1622), 8 December 2011 (HC 1693), 20 December 2011 (HC 1719), 19 January 2012 (HC 1733), 15 March 2012 (HC 1888), 4 April 2012 (Cm 8337), 13 June 2012 (HC 194), 9 July 2012 (HC 514), 19 July 2012 (Cm 8423), 5 September 2012 (HC 565), 22 November 2012 (HC 760), 12 December 2012 (HC 820), 20 December 2012 (HC 847), 30 January 2013 (HC 943) and 7 February 2013 (HC 967).

¹ This Statement of Changes can be viewed at <http://www.ind.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/>

Implementation

All changes are to take effect on 1 April 2013.

Review

Before the end of each review period, the Secretary of State undertakes to review all of the relevant Immigration Rules including any Relevant Rule amended or added by these changes. The Secretary of State will set out the conclusions of the review in a report and publish the report.

The report must in particular:

- (a) consider each of the Relevant Rules and whether or not each Relevant Rule achieves its objectives and is still appropriate; and
- (b) 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 6 April 2012, 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.

“Relevant Rule” means an immigration rule which imposes a net burden (or cost) on business or civil society organisations.

Changes

1. In Paragraph 6 under the definition of public funds, in sub paragraph (c), after “Part 1 of the Welfare Reform Act (Northern Ireland) 2007” delete “.” and insert

“(d) Universal Credit under Part 1 of the Welfare Reform Act 2012 or Personal Independence Payment under Part 4 of that Act;

(e) Universal Credit, Personal Independence Payment or any domestic rate relief under the Northern Ireland Welfare Reform Act 2013;

(f) a council tax reduction under a council tax reduction scheme made under section 13A of the Local Government Finance Act 1992 in relation to England or Wales or a council tax reduction pursuant to the Council Tax Reduction (Scotland) Regulations 2012 or the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012”.



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**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
PRESENTED TO PARLIAMENT ON 11 MARCH 2013 (HC 1038)**

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. To incorporate Universal Credit, Personal Independence Payment and council tax reductions within the definition of “public funds” for the purposes of the Immigration Rules.

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 the Immigration Act 1971 for regulating entry into, and the stay of persons in, the United Kingdom.

4.2. This Statement of Changes in Immigration Rules will be 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. The changes will take effect on 1 April 2013.

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 Immigration Rules is subject to a negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1. By this Statement of Changes, Paragraph 6 of the Immigration Rules is amended in order that Universal Credit, Personal Independence Payment and council tax reductions fall within the definition of “public funds” for the purposes of the Immigration Rules. Migrants subject to immigration control and prohibited from accessing public funds under their conditions of stay will be ineligible for these forms of support. In such cases, entry or stay will be refused if the applicant cannot satisfy the UK Border Agency of their ability to maintain and accommodate themselves without recourse to public funds. A person subject to immigration control who knowingly receives public funds contrary to their conditions of leave commits an offence under section 24(1)(b)(ii) of the Immigration Act 1971 and may be liable to prosecution and/or administrative removal following curtailment of leave. These are consequential changes applied because of changes to the welfare support and local taxation schemes.

7.2. In April of this year, the Department for Work and Pensions (DWP) will commence the roll out of Universal Credit. Also in April, DWP will introduce the Personal Independence Payment. These two new benefits will apply to Great Britain but not Northern Ireland. In due course, income-based Jobseeker's Allowance, income-related Employment and Support Allowance, Income Support, Child Tax Credits, Working Tax Credits, Housing Benefit and Disability Living Allowance will be withdrawn.

7.3. The Department for Communities and Local Government (DCLG) is responsible for the new council tax reduction system in England which will replace Council Tax Benefit from 1 April. Similar schemes will apply in Scotland and Wales and are the responsibility of the Welsh and Scottish governments.

7.4. The Northern Ireland Welfare Reform Bill is currently being considered by the Northern Ireland Assembly. Once enacted, Regulations will be brought forward to introduce Universal Credit and Personal Independence Payment in Northern Ireland. Householders in Northern Ireland pay Domestic Rates and not Council Tax. Accordingly, once enacted, the changes to Council Tax Benefit in Great Britain will also apply to the rate rebate element of Housing Benefit or Universal Credit in Northern Ireland.

7.5 Universal Credit and Personal Independence Payment will be introduced incrementally. There will also be outstanding claims and appeals in respect of Council Tax Benefit. Accordingly, none of the existing benefits being withdrawn will be deleted from the list of "public funds" for the purposes of the Immigration Rules for the time being.

8. Consultation

8.1. As the effect of these changes is to better reflect stated policy intentions these changes were not the subject of a formal consultation.

9. Guidance

9.1. Where necessary guidance will be updated and placed on the UK Border Agency website.

10. Impact

10.1. The changes to the definition of "public funds" covered in this statement are minor and expected to be of limited impact, such that an impact assessment is unnecessary.

11. Regulating small business

11.1. The changes to the definition of "public benefits" covered in this statement has no impact on small businesses.

12. Monitoring and review

12.1. The review clauses at the beginning of this Statement of Changes require the Secretary of State to review the operation and effect of all of the relevant Immigration Rules, including any Rules amended or added by the changes in this Statement, and lay a report before Parliament within five years of 6 April 2012, and within every five years after that. Following each review the Secretary of State will decide whether the relevant Immigration Rules should remain as they are, be revoked or be amended. A further Statement of Changes would be needed to revoke or amend the relevant Rules.

13. Contact

13.1. Queries specifically regarding the definition of public funds in this Statement of Changes only should be addressed to Vincent Doran at the Home Office on 020 7035 6908 or 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/.

13.3. Queries from applicants about their applications should NOT be addressed to the contacts above. Such queries should be addressed as directed by the UK Border Agency website www.ukba.homeoffice.gov.uk/contact/.