

# Statement of Changes in Immigration Rules - HC194

## January 2005

Laid before Parliament on 11 January 2005 under section 3(2) of the Immigration Act 1971

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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) and 20 December 2004 (HC 164).

These changes take effect on 4 February 2005.

1. Delete paragraph 324A.

2. For paragraphs 325 and 326 substitute:

"325 For the purposes of paragraph 326, a "relevant foreign national" is a person aged 16 or over who is:

- (i) a national or citizen of a country or territory listed in Appendix 2 to these Rules;
- (ii) a stateless person; or
- (iii) a person holding a non-national travel document.

326 (1) Subject to sub-paragraph (2) below, a condition requiring registration with the police should normally be imposed on any relevant foreign national who is:

- (i) given limited leave to enter the United Kingdom for longer than six months; or
- (ii) given limited leave to remain which has the effect of allowing him to remain in the United Kingdom for longer than six months, reckoned from the date of his arrival (whether or not such a condition was imposed when he arrived).

(2) Such a condition should not normally be imposed where the leave is given:

- (i) as a seasonal agricultural worker;
- (ii) as a private servant in a diplomatic household;
- (iii) as a minister of religion, missionary or member of a religious order;

(iv) on the basis of marriage to a person settled in the United Kingdom or as the unmarried partner of a person settled in the United Kingdom;

(v) as a person exercising access rights to a child resident in the United Kingdom;

(vi) as the parent of a child at school; or

(vii) following the grant of asylum.

(3) Such a condition should also be imposed on any foreign national given limited leave to enter the United Kingdom where, exceptionally, the Immigration Officer considers it necessary to ensure that he complies with the terms of the leave."

3. After Part 11A insert:

## **"PART 11B**

### **Reception Conditions for non-EU asylum applicants**

357 Part 11B only applies to asylum applicants (within the meaning of these Rules) who are not nationals of a member State.

### **Information to be provided to asylum applicants**

358 The Secretary of State shall inform asylum applicants within a reasonable time not exceeding fifteen days after their claim for asylum has been recorded of the benefits and services that they may be eligible to receive and of the rules and procedures with which they must comply relating to them. The Secretary of State shall also provide information on non-governmental organisations and persons that provide legal assistance to asylum applicants and which may be able to help asylum applicants or provide information on available benefits and services.

358A The Secretary of State shall ensure that the information referred to in paragraph 358 is available in writing and, to the extent possible, will provide the information in a language that asylum applicants may reasonably be supposed to understand. Where appropriate, the Secretary of State may also arrange for this information to be supplied orally.

### **Information to be provided by asylum applicants**

358B An asylum applicant must notify the Secretary of State of his current address and of any change to his address or residential status. If not notified beforehand, any change must be notified to the Secretary of State without delay after it occurs.

### **Documentation**

359 The Secretary of State shall ensure that, within three working days of recording an asylum application, a document is made available to that asylum applicant, issued in his own name, certifying his status as an asylum applicant or testifying that he is allowed to remain in the United Kingdom while his asylum application is pending. For the avoidance of doubt, in cases where the Secretary of State declines to examine an application it will no longer be pending for the purposes of this rule.

359A The obligation in paragraph 359 above shall not apply where the asylum applicant is detained under the Immigration Acts, the Immigration and Asylum Act 1999 or the Nationality, Immigration and Asylum Act 2002.

359B A document issued to an asylum applicant under paragraph 359 does not constitute evidence of the asylum applicant's identity.

359C In specific cases the Secretary of State or an Immigration Officer may provide an asylum applicant with evidence equivalent to that provided under rule 359. This might be, for example, in circumstances in which it is only possible or desirable to issue a time-limited document.

### **Right to request permission to take up employment**

360 An asylum applicant may apply to the Secretary of State for permission to take up employment which shall not include permission to become self employed or to engage in a business or professional activity if a decision at first instance has not been taken on the applicant's asylum application within one year of the date on which it was recorded. The Secretary of State shall only consider such an application if, in his opinion, any delay in reaching a decision at first instance cannot be attributed to the applicant.

360A If an asylum applicant is granted permission to take up employment under rule 360 this shall only be until such time as his asylum application has been finally determined.

### **Interpretation**

361 For the purposes of this Part -

(a) 'working day' means any day other than a Saturday or Sunday, a bank holiday, Christmas day or Good Friday;

(b) "member State" has the same meaning as in Schedule 1 to the European Communities Act 1972."