

STATEMENT OF CHANGES IN IMMIGRATION RULES

*Laid before Parliament on 24 October 2005 under section 3(2) of
the Immigration Act 1971*

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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) and 12 July 2005 (HC 299).

These changes take effect on 5th December 2005, except for the changes in paragraphs 1(a) and 4 which shall take effect on 14th November 2005.

1. Paragraph 6 is amended as follows:
 - (a) after the definition of “Approved Destination Status Agreement with China”, insert:
““civil partner” means a civil partnership which exists under or by virtue of the Civil Partnership Act 2004 (and any reference to a civil partner is to be read accordingly);”;
 - (b) in the definition of “a parent”:
 - (i) after “the stepfather of a child whose father is dead” insert “(and the reference to stepfather includes a relationship arising through civil partnership)”, and
 - (ii) after “the stepmother of a child whose mother is dead” insert “(and the reference to stepmother includes a relationship arising through civil partnership)”; and
 - (c) in the definition of “sponsor”, for “spouse, fiancé, unmarried partner” substitute:
“spouse, fiancé, civil partner, proposed civil partner, unmarried partner, same-sex partner”.
2. In paragraph 19A, for “spouse or unmarried partner” substitute “spouse, civil partner, unmarried partner or same-sex partner”.
3. In paragraphs 23 and 33, after “spouse” insert “or civil partner”.
4. Paragraphs 56D to F are amended as follows:
 - (a) after the word “marriage”, wherever appearing (including in headings), insert “or civil partnership”;
 - (b) in paragraph 56D(ii), after “or marry” insert “or form a civil partnership”; and
 - (c) in paragraph 56D(iii), after “wedding” insert “or civil partnership”.
5. Paragraphs 76 to 78 are amended as follows:
 - (a) for the heading “Spouses of students” substitute “Spouses or civil partners of students”;
 - (b) after the word “spouse”, wherever appearing (including in headings), insert “or civil partner”;
 - (c) in paragraph 76(i), after “is married to” insert “, or the civil partner of,”; and
 - (d) in paragraph 76(ii), after “marriage” insert “or civil partnership”.
6. In paragraph 89(iii), after “unmarried” insert “and is not a civil partner”.
7. For paragraph 95(iii), substitute:
 - “(iii) (a) is unmarried and is not a civil partner, or
 - (b) is married to, or the civil partner of, a person who meets the requirements of this paragraph and the parties to the marriage or civil partnership intend to take a working holiday together; and”
8. Paragraphs 122 to 124 are amended as follows:
 - (a) in the heading “Spouses of persons with limited leave to enter or remain under paragraphs 110 – 121”, after “Spouses” insert “or civil partners”;
 - (b) after the word “spouse”, wherever appearing (including in headings), insert “or civil partner”;
 - (c) in paragraph 122(i), after “is married to” insert “, or the civil partner of,”; and
 - (d) in paragraph 122(ii), after “marriage” insert “or civil partnership”.

9. In paragraph 125(iii), after “unmarried” insert “and is not a civil partner”.
10. In paragraph 159A(iii) after “employer’s spouse” insert “or civil partner”.
11. Paragraphs 194 to 196 are amended as follows:
 - (a) in the heading “Spouses of persons with limited leave to enter or remain under paragraph 128 – 193”, after “Spouses” insert “or civil partners”;
 - (b) after the word “spouse”, wherever appearing (including in headings), insert “or civil partner”;
 - (c) in paragraph 194(i), after “is married to” insert “, or the civil partner of,”; and
 - (d) in paragraph 194(ii), after “marriage” insert “or civil partnership”.
12. In paragraph 197(iii), after “unmarried” insert “and is not a civil partner”.
13. Paragraphs 240 to 242 are amended as follows:
 - (a) in the heading “Spouses of persons with limited leave to enter or remain under paragraphs 200 – 239”, after “Spouses” insert “or civil partners”;
 - (b) after the word “spouse”, wherever appearing (including in headings), insert “or civil partner”;
 - (c) in paragraph 240(i), after “is married to” insert “, or the civil partner of,”; and
 - (d) in paragraph 240(ii), after “marriage” insert “or civil partnership”.
14. In paragraph 243(iii), after “unmarried” insert “and is not a civil partner”.
15. In paragraph 248A(vii) for “spouse or unmarried partner” substitute “spouse, civil partner, unmarried partner or same-sex partner”.
16. In paragraph 257C(iii)(b), after “is unmarried” insert “and is not a civil partner”.
17. Paragraphs 271 to 273 are amended as follows:
 - (a) in the heading “Spouses of persons with limited leave to enter or remain in the United Kingdom as retired persons of independent means”, after “Spouses” insert “or civil partners”;
 - (b) after the word “spouse”, wherever appearing (including in headings), insert “or civil partner”;
 - (c) in paragraph 271(i), after “is married to” insert “, or the civil partner of,”; and
 - (d) in paragraph 271(ii), after “marriage” insert “or civil partnership”.
18. In paragraph 274(iii), after “unmarried” insert “and is not a civil partner”.
19. Paragraphs 276R to 276W are amended as follows:
 - (a) in the heading “Spouses of persons settled or seeking settlement in the United Kingdom in accordance with paragraphs 276E to 276Q (HM Forces rules), after “Spouses” insert “or civil partners”;
 - (b) after the word “spouse”, wherever appearing (including in headings), insert “or civil partner”;
 - (c) after the words “is married to”, wherever appearing, insert “, or the civil partner of,”;
 - (d) after the word “marriage”, wherever appearing, insert “or civil partnership”; and
 - (e) in paragraphs 276R(iii) and 276U(iii), after “were married” insert “or formed a civil partnership”.
20. In paragraph 276X(iii), after “unmarried” insert “and is not a civil partner”.
21. In paragraph 276AA(iii), after “unmarried” insert “and is not a civil partner”.
22. Paragraphs 276AD to 276AF are amended as follows:
 - (a) in the heading “Spouses of Armed Forces members who are exempt from immigration control under Section 8(4) of the Immigration Act 1971”, after “Spouses” insert “or civil partners”;
 - (b) after the word “spouse”, wherever appearing (including in headings), insert “or civil partner”;
 - (c) in paragraph 276AD(i), after “is married to” insert “, or the civil partner of,”;
 - (d) in paragraph 276AD(ii), after “marriage” insert “or civil partnership,”; and
 - (e) in paragraph 276AD(v), after “spouse’s” insert “or civil partner’s”.
23. In paragraph 276AG(iii), after “unmarried” insert “and is not a civil partner”.
24. Paragraphs 277 and 281 to 289 are amended as follows:
 - (a) for the heading “Spouses” substitute “Spouses and civil partners”;
 - (b) in the heading “Spouses of persons present and settled in the United Kingdom or being admitted on the same occasion for settlement”, after “Spouses” insert “or civil partners”;

- (c) after the word “spouse”, wherever appearing (including in headings), insert “or civil partner”;
 - (d) after the words “is married to”, wherever appearing, insert “, or the civil partner of;”;
 - (e) after the word “marriage”, wherever appearing, insert “or civil partnership;”;
 - (f) in paragraph 281(i)(b), after “were married” insert “or formed a civil partnership”; and
 - (g) in paragraphs 287(a)(i)(b) and 287(b)(i)(b), after “during that 2 year period married” insert “or formed a civil partnership with”, and after “unmarried” insert “or same-sex”.
25. Paragraph 289A is amended as follows:
- (a) in paragraph 289A(i), after “spouse” insert “or civil partner”;
 - (b) in paragraph 289A(ii), after “unmarried” insert “or same-sex”; and
 - (c) in paragraph 289A(iii), for “spouse or unmarried partner” insert “spouse, civil partner, unmarried partner or same-sex partner”.
26. Paragraphs 289AA to 295 are amended as follows:
- (a) for the heading “Fiancé(e)s” substitute “Fiancé(e)s and proposed civil partners”;
 - (b) after the word “fiancé(e)”, wherever appearing (including in headings), insert “or proposed civil partner”;
 - (c) after the word “marriage”, wherever appearing (including in headings), insert “or civil partnership”; and
 - (d) in paragraph 290(iii), after the word “spouse” insert “or civil partner”.
27. Paragraphs 295AA to 295O are amended as follows:
- (a) after the word “unmarried”, wherever appearing (including in headings), insert “or same-sex”; and
 - (b) after the word “marriage”, wherever appearing, insert “or civil partnership”;
28. In paragraphs 297(iii), 298(iii) and 301(iii), after “unmarried” insert “and is not a civil partner”.
29. Paragraphs 303A-303F are amended as follows:
- (a) after the word “fiancé(e)”, wherever appearing (including in headings), insert “or proposed civil partner”; and
 - (b) in paragraph 303A(iii), after “unmarried” insert “and is not a civil partner”;
30. In paragraph 304, delete “unmarried” and, after the words “18 years of age”, insert “who are unmarried and are not civil partners and”.
31. In paragraphs 305(iv), 310(iii), 311(iii) and 314(iii) after “unmarried” insert “and is not a civil partner”.
32. Paragraph 316A is amended as follows:
- (a) in paragraph 316A(iii), after “unmarried” insert “and is not a civil partner”; and
 - (b) in paragraph 316A(v), after “marriage” insert “or civil partnership”.
33. For paragraph 317(i)(d), substitute:
- “(d) a parent or grandparent aged 65 or over who has entered into a second relationship of marriage or civil partnership but cannot look to the spouse, civil partner or children of that second relationship for financial support; and where the person settled in the United Kingdom is able and willing to maintain the parent or grandparent and any spouse or civil partner or child of the second relationship who would be admissible as a dependant;”.
34. In paragraphs 320(13), 322(8) and 324 after “spouse” insert “or civil partner”.
35. In paragraph 326(2)(iv), after “marriage to” insert “,or civil partnership with;” and after “unmarried” insert “same-sex”.
36. In paragraph 349, after “spouse”, wherever occurring, insert “, civil partner”.
37. Paragraphs 352A to 352C are amended as follows:
- (a) after the word “spouse”, wherever occurring, insert “or civil partner”;
 - (b) in paragraph 352A(i), after “is married to” insert “, or the civil partner of;” and
 - (c) in paragraphs 352A(ii) and (iv), after “marriage” insert “or civil partnership”.
38. In paragraph 352D, after “unmarried” insert “and is not a civil partner”.

39. In paragraph 356:
 - (a) in the definition of “family member”:
 - (i) after “spouse” insert “or civil partner”,
 - (ii) for “unmarried partner” substitute “unmarried or same-sex partner”,
 - (iii) after “marriage” insert “or civil partnership”, and
 - (iv) for “unmarried minor child” substitute “minor child (who is unmarried and not a civil partner)”; and
 - (b) in the definition of “close relative”:
 - (i) for “parent, grandparent or unmarried adult child” substitute “adult child (who is unmarried and not a civil partner), parent or grandparent”, and
 - (ii) for “unmarried sibling” substitute “sibling (who is unmarried and not a civil partner)”.
40. In paragraph 363(ii), after “spouse” insert “or civil partner”.
41. Paragraph 365 is amended as follows:
 - (a) for “spouse or child” substitute “spouse, civil partner or child”; and
 - (b) after “deport the spouse” insert “or civil partner”.
42. In paragraph 366(iii), after “married” insert “or formed a civil partnership”.
43. In paragraph 367, after “spouse”, wherever occurring, insert “or civil partner”.
44. For paragraph 389(ii), substitute:

“in the case of a spouse or civil partner, the marriage or civil partnership comes to an end”.
45. In paragraph 395B(iii), after “spouse” insert “, civil partner,”.

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**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
LAID ON 24 OCTOBER 2005 (HC 582)**

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 amends all existing provision for spouses and fiancés to also cover civil partners and proposed civil partners.

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 24 October. The amendments which insert into the rules a definition of civil partnership, and which amend the rules relating to visitors for marriage to cover visitors for civil partnership in the United Kingdom, will take effect on 14 November, which (if an entry clearance is granted) will allow applicants to give notice of their proposed civil partnership on 5 December when the substantive provisions of the Civil Partnership Act 2004 come into force. The other changes will take effect on 5 December.

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 The Civil Partnership Act 2004 will come into force on 5 December 2005. Civil partnerships are a new legal relationship which can be registered by two people of the same sex and give couples legal recognition for their relationship. The Immigration and Nationality Directorate is committed to treating civil partners in precisely the same way as it treats spouses. This Immigration Rules changes reflect this commitment, by amending the rules to ensure that civil partners and proposed civil partners are afforded the same treatment as spouses and fiancés throughout.

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.