

STATEMENT OF CHANGES IN IMMIGRATION RULES

*Laid before Parliament on 19 December 2005 under section 3(2) of
the Immigration Act 1971*

*Ordered by The House of Commons to be printed
19 December 2005*

(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), 24 October 2005 (HC 582), 9 November 2005 (HC 645) and 21 November 2005 (HC 697).

The change shall take effect on 9th January 2006.

1. After paragraph 177, insert:

“177A. For the purposes of these Rules:

- (i) a visiting religious worker means a person coming to the UK for a short period to perform religious duties at one or more locations in the UK;
- (ii) a religious worker in a non-pastoral role means a person employed in the UK by the faith he is coming here to work for, whose duties include performing religious rites within the religious community, but not preaching to a congregation.

Requirements for leave to enter the United Kingdom as a visiting religious worker or a religious worker in a non-pastoral role

177B. The requirements to be met by a person seeking leave to enter as a visiting religious worker or a religious worker in a non-pastoral role are that the applicant:

- (i) (a) if seeking leave to enter as a visiting religious worker:
 - (i) is an established religious worker based overseas; and
 - (ii) submits a letter(s) from a senior member or senior representative of one or more local religious communities in the UK confirming that he is invited to perform religious duties as a visiting religious worker at one or more locations in the UK and confirming the expected duration of that employment; and
 - (iii) if he has been granted leave as a visiting religious worker in the last 12 months, is not seeking leave to enter which, when amalgamated with his previous periods of leave in this category in the last 12 months, would total more than 6 months; or
- (b) if seeking leave to enter as a religious worker in a non-pastoral role:
 - (i) has at least one year of full time training or work experience, or a period of part time training or work experience equivalent to one year full time training or work experience, accrued in the five years preceding the application in the faith with which he has employment in the UK; and
 - (ii) can show that, at the time of his application, at least one full-time member of staff of the local religious community which the applicant is applying to join in the UK has a sufficient knowledge of English; and
 - (iii) submits a letter from a senior member or senior representative of the local religious community which has invited him to the UK, confirming that he has been offered employment as religious worker in a non-pastoral role in that religious community, and confirming the duration of that employment; and
- (ii) does not intend to take employment except as a visiting religious worker or religious worker in a non-pastoral role, whichever is the basis of his application; and

- (iii) does not intend to undertake employment as a Minister of Religion, Missionary or Member of a Religious Order, as described in paragraphs 169-177 of these Rules; and
- (iv) is able to maintain and accommodate himself and any dependants without recourse to public funds, or will, with any dependants, be maintained and accommodated adequately by the religious community employing him; and
- (v) intends to leave the UK at the end of his leave in this category; and
- (vi) holds a valid entry clearance for entry in this capacity except where he 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.

Leave to enter as a visiting religious worker or a religious worker in a non-pastoral role

- 177C. Leave to enter the United Kingdom as a visiting religious worker or a religious worker in a non-pastoral role may be granted:
- (a) as a visiting religious worker, for a period not exceeding 6 months; or
 - (b) as a religious worker in a non-pastoral role, for a period not exceeding 12 months;
- provided the Immigration Officer is satisfied that each of the requirements of paragraph 177B is met.

Refusal of leave to enter as a visiting religious worker or a religious worker in a non-pastoral role

- 177D. Leave to enter as a visiting religious worker or a religious worker in a non-pastoral role is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 177B is met.

Requirements for an extension of stay as a visiting religious worker or a religious worker in a non-pastoral role

- 177E. The requirements to be met by a person seeking an extension of stay as a visiting religious worker or a religious worker in a non-pastoral role are that the applicant:
- (i) entered the United Kingdom with a valid entry clearance in this capacity or was given leave to enter as a visiting religious worker or a religious worker in a non-pastoral role; and
 - (ii) intends to continue employment as a visiting religious worker or a religious worker in a non-pastoral role; and
 - (iii) if seeking an extension of stay as a visiting religious worker:
 - (a) meets the requirement of paragraph 177B(i)(a)(i) above; and
 - (b) submits a letter from a senior member or senior representative of one or more local religious communities in the UK confirming that he is still wanted to perform religious duties as a visiting religious worker at one or more locations in the UK and confirming the expected duration of that employment; and
 - (c) would not, as the result of an extension of stay, be granted leave as a visiting religious worker which, when amalgamated with his previous periods of leave in this category in the last 12 months, would total more than 6 months; or
 - (iv) if seeking an extension of stay as a religious worker in a non-pastoral role:
 - (a) meets the requirements of paragraph 177B(i)(b)(i) and (ii); and
 - (b) submits a letter from a senior member or senior representative of the local religious community for which he works in the UK confirming that his employment as a religious worker in a non-pastoral role in that religious community will continue, and confirming the duration of that employment; and
 - (c) would not, as the result of an extension of stay, remain in the UK for a period of more than 24 months as a religious worker in a non-pastoral role; and
 - (v) meets the requirements of paragraph 177B (ii) to (v); and

Extension of stay as a visiting religious worker or a religious worker in a non-pastoral role

177F. An extension of stay as a visiting religious worker or a religious worker in a non-pastoral role may be granted:

- (a) as a visiting religious worker, for a period not exceeding 6 months; or
- (b) as a religious worker in a non-pastoral role, for a period not exceeding 24 months;

if the Secretary of State is satisfied that each of the requirements of paragraph 177E is met.

Refusal of an extension of stay as a visiting religious worker or a religious worker in a non-pastoral role

177G. An extension of stay as a visiting religious worker or a religious worker in a non-pastoral role is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 177E is met.”.

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**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
LAID ON 19 DECEMBER 2005 (HC 769)**

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 a new category for visiting religious workers and religious workers in non-pastoral roles.

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 19 December. The changes will take effect on 9 January.
- 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 It has long been recognised that religious communities in the UK face difficulties in recruiting sufficient numbers of priests from within the UK. Therefore there are longstanding provisions which enable communities to recruit such workers from abroad.
- 7.2 We have created a new category to cater for those religious workers who perform vital religious rites within their communities, but who do not preach to a congregation. Religious workers whose duties include preaching to a congregation are considered under existing rules for Ministers of Religion. But religious workers who do not preach to a congregation do not need the same skills, and should therefore not have to meet the same requirements. For example, Ministers of Religion preach to their congregation and therefore are required to speak English, but those coming to the UK under the new category will have a non-pastoral role and will not be required to speak English. Following discussions with the faith communities, they will not be eligible to stay in the UK for more than two years. We have also used this opportunity to clarify existing provisions for certain religious workers to come to the UK for short periods.
- 7.3 This new category has been created as part of an ongoing consultation with faith representatives to ensure that Ministers of Religion coming to the UK from abroad have the necessary skills to practice ministry in a diverse society, whilst at the same time allowing the admission of other religious workers who do not require the same skills.

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