

# STATEMENT OF CHANGES IN IMMIGRATION RULES

*Laid before Parliament on 10 February 2010 under section 3(2) of  
the Immigration Act 1971*

---

*Ordered by The House of Commons to be printed  
10 February 2010*

*(This document is accompanied by an Explanatory Memorandum)*

**© Crown Copyright 2010**

The text in this document (excluding the Royal Arms and other departmental or agency logos) may be reproduced free of charge in any format or medium providing it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the document specified.

Where we have identified any third party copyright material you will need to obtain permission from the copyright holders concerned.

For any other use of this material please contact the Office of Public Sector Information, Information Policy Team, Kew, Richmond, Surrey TW9 4DU  
or e-mail: [licensing@opsi.gsi.gov.uk](mailto:licensing@opsi.gsi.gov.uk).

ISBN: 9780102964370

Printed in the UK by The Stationery Office Limited  
on behalf of the Controller of Her Majesty's Stationery Office

ID P002349729 02/10 1729 19585

Printed on paper containing 75% recycled fibre content minimum.

## 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 (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), April 2009 (HC 413), 9 September 2009 (Cm 7701), 23 September 2009 (Cm 7711) and 10 December 2009 (HC 120).

The changes in this Statement shall take effect on 3 March 2010. However, if an applicant has made an application for entry clearance or leave to enter or remain before 3 March 2010 and the application has not been decided before that date, it will be decided in accordance with the Rules in force on 2 March 2010 and the conditions applicable to any leave granted will be those in force on 2 March 2010.

1. In paragraph 6, after the definition of “degree level study”, add:  
““**foundation degree**” means a programme of study which leads to a qualification awarded by a UK higher education institution with degree awarding powers which is at a minimum of level 5 on the revised National Qualifications Framework, or level 8 on the Scottish Credit and Qualifications Framework.”
2. In paragraph 245C(f)(xix) after “as a Tier 4 Migrant” substitute “.” with “, or” and add:  
“(xx) as the Partner of the Relevant Points Based System Migrant if the Relevant Points Based System Migrant is a Tier 4 Migrant.”
3. In paragraph 245ZF(c)(xxi), after “as a Tier 5 (Temporary Worker) Migrant substitute “.” with “, or” and add:  
“(xxii) as the Partner of the Relevant Points Based System Migrant if the Relevant Points Based System Migrant is a Tier 4 Migrant.”
4. Delete paragraph 245ZW(c)(iii)(1) and substitute:  
“(1) employment during term time of no more than 20 hours per week where the student is following a course of degree level study or a foundation degree course,  
(2) employment during term time of no more than 10 hours per week where the student is following a course of study below degree level study (excluding a foundation degree course),”
5. In paragraph 245ZW(c)(iii), renumber subsequent sub-paragraphs (2) to (5) as (3) to (6).
6. Delete paragraph 245ZY(c)(iii)(1) and substitute:  
“(1) employment during term time of no more than 20 hours per week where the student is following a course of degree level study or a foundation degree course,  
(2) employment during term time of no more than 10 hours per week where the student is following a course of study below degree level study (excluding a foundation degree course),”
7. In paragraph 245ZY(c)(iii), renumber subsequent sub-paragraphs (2) to (5) as (3) to (6).
8. In paragraph 245ZZB(c)(iv)(1) delete “20” and substitute “10”.
9. In paragraph 245ZZD(c)(iv)(1) delete “20” and substitute “10”.
10. After paragraph 319C(h)(iii), insert:  
“(i) If the Relevant Points Based System Migrant is a Tier 4 Migrant, the Tier 4 Migrant must be applying

for or have entry clearance or leave to remain for a course of study that is longer than six months.”

11. In paragraph 319D(b)(iv), after “employment” substitute “.” with “,” and insert:  
“(v) if the Relevant Points Based System Migrant is a Tier 4 Migrant who is following a course of study below degree level study (excluding a foundation degree course), no employment.”
12. After paragraph 319H(h)(iii), insert:  
“(i) If the Relevant Points Based System Migrant is a Tier 4 Migrant, the Tier 4 Migrant must be applying for or have entry clearance or leave to remain for a course of study that is longer than six months.”
13. In paragraph 319I(b)(iii), after “employment” substitute “.” with “,” and insert:  
“(iv) if the Relevant Points Based System Migrant is a Tier 4 Migrant who is following a course of study below degree level study (excluding a foundation degree course), no employment.”.



information & publishing solutions

Published by TSO (The Stationery Office) and available from:

**Online**

[www.tsoshop.co.uk](http://www.tsoshop.co.uk)

**Mail, Telephone, Fax & E-mail**

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries: 0870 600 5522

Fax orders: 0870 600 5533

E-mail: [customer.services@tso.co.uk](mailto:customer.services@tso.co.uk)

Textphone: 0870 240 3701

**The Parliamentary Bookshop**

12 Bridge Street, Parliament Square

London SW1A 2JX

Telephone orders/General enquiries: 020 7219 3890

Fax orders: 020 7219 3866

Email: [bookshop@parliament.uk](mailto:bookshop@parliament.uk)

Internet: <http://www.bookshop.parliament.uk>

**TSO@Blackwell and other Accredited Agents**

**Customers can also order publications from:**

TSO Ireland

16 Arthur Street, Belfast BT1 4GD

Tel 028 9023 8451 Fax 028 9023 5401

ISBN 978-0-10-296437-0



9 780102 964370

**EXPLANATORY MEMORANDUM TO  
THE STATEMENT OF CHANGES IN IMMIGRATION RULES  
LAID ON 10 FEBRUARY 2010 (HC 367)**

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 The purpose of these changes is to implement changes to Tier 4, the student tier of the Points-Based System following a review of the student immigration system announced by the Prime Minister on 12 November 2009.

**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 stay of persons in, the United Kingdom.

4.3 This Statement of Changes in Immigration Rules has been 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](http://www.ukba.homeoffice.gov.uk), where there are also copies of all the Statements of Changes in Immigration Rules issued since May 2003.

4.2 These changes to the Immigration Rules will come into force on 3 March 2010. However, if an application is made before 3 March, it will be decided in accordance with the Rules in force on 2 March 2010, regardless of the date that decision is made. The conditions applicable to any leave granted further to an application made before 3 March 2010 will be those conditions set out in the rules in force on 2 March 2010.

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

**7. Policy Background**

*What is being done and why*

7.1 A summary of the policy changes contained in this Statement of Changes in Immigration Rules follows:

*Amendments to Tier 4*

7.2 Tier 4 of the Points-Based System caters for international students who wish to study in the United Kingdom. As with other parts of the Points-Based System, Tier 4 has been implemented in phases, with the introduction of the main policy changes on 31 March 2009. Tier 4 consists two categories: Tier 4 (General) Student and Tier 4 (Child) Student. The Prime Minister's review of Tier 4 was prompted by concerns about the sharp rise in student applications since the introduction of Tier 4. The review team, comprising officials from the United Kingdom

Border Agency and the Department for Business, Innovation and Skills, were asked to assess whether the current Tier 4 policy strikes the appropriate balance between facilitating the access of genuine students to education in the United Kingdom and preventing abuse by economic migrants.

7.3 The following change to the Immigration Rules is being made to the Tier 4 (General) category, following recommendations stemming from the review:

- A new restriction on students studying courses below degree level (except for those on a foundation degree course), so that such students may only work up to 10 hours per week during term-time. These students will still be permitted to take full-time employment during their vacation periods, as now. This change is to reinforce the message that the student route is one for study rather than work, and redresses the balance as the rules currently require such students to spend a minimum of 15 hours a week in organised daytime study, but allow them to work 20 hours a week term-time.

7.4 The Tier 4 (Child) Student category is being amended in the same way, so a Tier 4 (Child) Student, aged 16 or over, will be permitted to work 10 hours per week during term-time, and full-time during vacations.

#### ***Amendments to Rules for family members***

7.5 The Immigration Rules are being amended so that a family member of a Tier 4 Migrant who is following a course of study which is six months or less in duration, will not be permitted to accompany the Tier 4 Migrant to the UK.

7.6 In addition, where a Tier 4 Migrant is following a course of study which is below degree level (except for those on a foundation degree course), family members will not be permitted to take employment, unless they qualify in their own right under Tier 1 (General), Tier 2 (General), Tier 2 (Minister of Religion) or Tier 2 (Sportsperson) of the Points-Based System. The Immigration Rules for these categories of Tier 1 and Tier 2 are being amended to allow the Partners of Tier 4 Migrants to apply for leave to remain in the United Kingdom.

7.7 Transitional arrangements are being put in place so that applications will be decided in accordance with the Immigration Rules in place on the date the application was made, that is, any applications made before 3 March 2010 will be decided in accordance with the Rules in place on 2 March 2010, before these changes take effect.

### **8. Consultation**

8.1 The Tier 4 review team considered all of the available data and evidence in considering the questions posed by the Prime Minister, including the potential impacts of the proposals on the different parts of the education sector, and meetings were held with all the main representative bodies of the education sector, including representatives of further education, higher education and the English language sector. Written responses to the review were also gathered to confirm the views of different parts of the education sector and individual providers on the specific questions that needed to be answered.

### **9. Guidance**

9.1 Information on these changes will be made available to migrants, sponsors and UK Border Agency staff, through updates to websites and guidance.

### **10. Impact**

10.1 An impact assessment of all the changes stemming from the Tier 4 review will be published on the UK Border Agency website in March 2010 and will be found at:  
[www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs](http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs).

## **11. Regulating small business**

11.1 The legislation applies to small businesses. The impact on small businesses will be considered in the impact assessment to be published in March 2010.

## **12. Monitoring and review**

12.1 All the changes introduced by this Statement will be monitored on an on-going basis as part of the review of progress towards meeting Public Service Agreement 3: 'ensure fair, controlled migration that protects the public and contributes to economic growth.'

## **13. Contact**

13.1 Queries should be addressed to Suzanne Barnes at the Home Office. Tel: 020 8604 6478 or e-mail: [Suzanne.Barnes@homeoffice.gsi.gov.uk](mailto:Suzanne.Barnes@homeoffice.gsi.gov.uk).