

EQUALITY ACT 2010
SCHEDULE 3, PART 4, PARAGRAPH 17 (4) (A) MINISTERIAL
AUTHORISATION

Equality (Transit Visa, Entry Clearance, Leave to Enter, Examination of Passengers and Removal Directions) Authorisation 2011

Made 10 February 2011
Coming into Operation 10 February 2011

I make the following authorisation under Schedule 3, Part 4, paragraph 17 (4) (A) of the Equality Act 2010¹.

PART 1
GENERAL

Citation, commencement and interpretation

1. This authorisation may be cited as Equality (Transit Visa, Entry Clearance, Leave to Enter, Examination of Passengers and Removal Directions) Authorisation 2011 and shall come into operation on 10 February 2011. It replaces the Race Relations (Immigration and Asylum) Authorisation 2004 which came into operation on 12 February 2004 and that authorisation is hereby revoked.

2. In this authorisation –

“immigration laws” has the meaning given to it by section 33 of the Immigration Act 1971²;

“Immigration Rules” means the rules for the time being laid down under section 3(2) of the Immigration Act 1971;

“entry clearance” has the meaning given to it by section 33 of the Immigration Act 1971;

“transit visa” has the meaning given to it by section 41(2) of the Immigration and Asylum Act 1999³.

¹ 2010 c. 15

² 1971 c. 77

³ 1999 c. 33

PART II DISCRIMINATION ON GROUND OF NATIONALITY

Scrutiny of applications for persons seeking a transit visa or entry clearance

3. (1) This paragraph applies where a person is required to apply for a transit visa under the Immigration (Passenger Transit Visa) Order 2003⁴ or entry clearance.

(2) If the condition in paragraph 7 is satisfied the application may, by reason of the applicant's nationality, be subject to a more rigorous examination than applications from other applicants in the same circumstances.

Persons wishing to travel to the United Kingdom

4. (1) This paragraph applies where a person is outside the United Kingdom but wishes to travel to the United Kingdom.

(2) If the condition in paragraph 8 is satisfied an immigration officer or, as the case may be, the Secretary of State may, by reason of the person's nationality –

(a) decline to give or cancel to a person leave to enter before he arrives in the United Kingdom; and

(b) exercise the powers to seek information and documents under articles 7(2), 7(3) and 13(8) of the Immigration (Leave to Enter and Remain) Order 2000⁵.

Examination of passengers at the United Kingdom border

5. (1) This paragraph applies where a person is liable to be examined by an immigration officer under paragraphs 2 and 2A⁶ of Schedule 2 to the Immigration Act 1971.

(2) If the condition in paragraph 8 is satisfied, the immigration officer may, by reason of the person's nationality –

(a) subject the person to a more rigorous examination than other persons in the same circumstances;

(b) exercise powers under paragraphs 2(3), 2A, 4 and 21 of Schedule 2 to the Immigration Act 1971;

(c) detain the person pending his examination under paragraphs 16(1) and 16(1A) of Schedule 2 to the Immigration Act 1971;

⁴ 2003, No. 1185

⁵ 2000, No. 1161

⁶ Inserted by the Immigration and Asylum Act 1999 c. 33, section 169(1) and paragraphs 43 and 57 of Schedule 14

(d) decline to give the person's notice of grant or refusal of leave to enter in a form permitted by Part III of the Immigration (Leave to Enter and Remain) Order 2000, and

(e) impose a condition or restriction on the person's temporary admission to the United Kingdom.

Removal Directions

6. Persons responsible for giving directions under section 10 of the Immigration and Asylum Act 1999 or under paragraphs 8 to 10 of Schedule 2 of the Immigration Act 1971 may give priority to the setting of directions of removal of a particular nationality if the condition in paragraph 8 is satisfied.

Condition for Paragraph 3

7. (i) The condition is that the person is, or claims to be, of a nationality which appears on a list of nationalities approved personally by the Minister for the purpose of this authorisation.

(ii) The conditions for inclusion on the list of nationalities are that the Minister is satisfied that:

(a) there is statistical evidence showing that in at least one of the preceding three months, the total number of UK visa refusals, adverse decisions or breaches of the immigration laws and/or the Immigration Rules by persons of that nationality exceeds 150 in total and 50 for every 1,000 admitted persons of that nationality; or

(b) there is specific intelligence or information which has been received and processed in accordance with the IND Code of Practice for the recording and dissemination of intelligence material and which suggests that a significant number of persons of that nationality have breached or will attempt to breach the immigration laws and/or the Immigration Rules;

(c) there is statistical evidence showing an emerging trend of UK visa refusals, adverse decisions or breaches of the immigration laws and/or the Immigration Rules by persons of that nationality that exceeds the criteria expressed in paragraph 7(ii)(a) within a timeframe shorter than a single month.

Condition for Paragraphs 4 to 6

8. (i) The condition is that the person is, or claims to be, of a nationality which appears on a list of nationalities approved personally by the Minister for the purpose of this authorisation:

(ii) The conditions for inclusion on the list of nationalities are that the Minister is satisfied that:

(a) there is statistical evidence showing that in at least one of the preceding three months, the total number of adverse decisions or breaches of the immigration laws and/or the Immigration Rules by persons of that nationality exceeds 50 in total and 5 for every 1,000 admitted persons of that nationality; or

(b) there is specific intelligence or information which has been received and processed in accordance with the IND Code of Practice for the recording and dissemination of intelligence material and which suggests that a significant number of persons of that nationality have breached or will attempt to breach the immigration laws and/or the Immigration Rules; or

(c) there is statistical evidence showing an emerging trend of adverse decisions or breaches of the immigration laws and/or the Immigration Rules by persons of that nationality that exceeds the criteria expressed in paragraph 8(ii)(a) within a timeframe shorter than a single month.

Duration

9. This authorisation will remain in force until revoked.

Home Office
10 February 2011

Damian Green
Minister of State