



Statement of changes in Immigration Rules

*Presented to Parliament
by the Secretary of State for the Home Department
by Command of Her Majesty
September 2000*

© Crown Copyright 2000

The text in this document may be reproduced free of charge in any format or media without requiring specific permission. This is subject to the material not being used in a derogatory manner or in a misleading context. The source of the material must be acknowledged as Crown copyright and the title of the document must be included when being reproduced as part of another publication or service.

Any enquiries relating to the copyright in this document should be addressed to HMSO, The Copyright Unit, St. Clements House, 2-16 Colegate, Norwich NR3 1BQ. Fax: 01603-723000 or e-mail: copyright@hmso.gov.uk.

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) and 28 July 2000 (HC 704).

These changes take effect on 2nd October 2000.

1. Paragraph 2 is amended as follows—

- (a) for “Department” there is substituted “Directorate”; and
- (b) after “United Kingdom”, there is inserted “and in compliance with the provisions of the Human Rights Act 1998”.

2. For paragraph 5, there is substituted—

“5. Save where expressly indicated, these Rules do not apply to those persons who are entitled to enter or remain in the United Kingdom by virtue of the provisions of the Immigration (European Economic Area) Regulations 2000 or Commission Regulation 1251/70. But any person who is not entitled to rely on the provisions of those Regulations is covered by these Rules.”.

3. Paragraph 6 is amended as follows—

- (a) for “ ‘the 1994 EEA Order’ is the Immigration (European Economic Area) Order 1994.”, there is substituted “ ‘the 2000 EEA Regulations’ are the Immigration (European Economic Area) Regulations 2000.”;
- (b) the definitions of “EEA national” and “family member” are omitted; and
- (c) at the end, there is inserted—

“ ‘the Human Rights Convention’ means the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950 as it has effect for the time being in relation to the United Kingdom.”.

4. After paragraph 6, there is inserted—

“6A. For the purpose of these Rules, a person is not to be regarded as having (or potentially having) recourse to public funds merely because he is (or will be) reliant in whole or in part on public funds provided to his sponsor, unless, as a result of his presence in the United Kingdom, the sponsor is (or would be) entitled to increased or additional public funds.”.

5. For paragraph 7 there is substituted—

“A person who is neither a British citizen nor a Commonwealth citizen with the right of abode nor a person who is entitled to enter or remain in the United Kingdom by virtue of the provisions of the Immigration (European Economic Area) Regulations 2000 or Commission Regulation 1251/70 requires leave to enter the United Kingdom.”.

6. After paragraph 19 there is inserted—

“19A. Where a person who has indefinite leave to enter or remain in the United Kingdom accompanies, on a tour of duty abroad, a spouse who is a member of HM Forces serving overseas, or a permanent member of HM Diplomatic Service or a comparable UK-based staff member of the British Council, sub-paragraphs (ii) and (iii) of paragraph 18 shall not apply.”

7. In paragraph 34, the words “and the provisions of the Immigration (Variation of Leave) Order 1976 (as amended) will apply.” are deleted.

8. At the end of paragraph 35 there is inserted—

“Under the Immigration and Asylum Act 1999 the Home Office may seek to recover from the person giving such an undertaking amounts attributable to any support provided under section 95 of the Immigration and Asylum Act 1999 (support for asylum seekers) to, or in respect of, the person in respect of whom the undertaking has been given. Failure by the sponsor to maintain that person in accordance with the undertaking, may also be an offence under section 105 of the Social Security Administration Act 1992 and/or under section 108 of the Immigration and Asylum Act 1999 if, as a consequence, asylum support and/or income support is provided to, or in respect of, that person.”

9. For paragraph 54 (ii) there is substituted—

“(ii) has produced evidence from a registered medical practitioner who holds an NHS consultant post or who appears in the Specialist Register of the General Medical Council of satisfactory arrangements for private medical consultation or treatment and its likely duration; and, where treatment has already begun, evidence as to its progress; and”.

10. After paragraph 56, there is inserted—

“PARENT OF A CHILD AT SCHOOL

Requirements for leave to enter or remain as the parent of a child at school

56A. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the parent of a child at school are that:

- (i) the parent meets the requirements set out in paragraph 41 (ii)–(vii); and
- (ii) the child is attending an independent fee paying day school and meets the requirements set out in paragraph 57 (i)–(vi); and
- (iii) the child is under 12 years of age; and
- (iv) the parent can provide satisfactory evidence of adequate and reliable funds for maintaining a second home in the United Kingdom; and
- (v) the parent is not seeking to make the United Kingdom his main home.

Leave to enter or remain as the parent of a child at school

56B. A person seeking leave to enter or remain in the United Kingdom as the parent of a child at school may be admitted or allowed to remain for a period not exceeding 12 months, subject to a condition prohibiting employment, provided the Immigration Officer or, in the case of an application for limited leave to remain, the Secretary of State is satisfied that each of the requirements of paragraph 56A is met.

Refusal of leave to enter or remain as the parent of a child at school

56C. Leave to enter or remain in the United Kingdom as the parent of a child at school is to be refused if the Immigration Officer or, in the case of an application for limited leave to remain, the Secretary of State is not satisfied that each of the requirements of paragraph 56A is met.”.

11. In paragraph 60(vii), for “original”, there is substituted “official”.

12. In paragraph 67(vi), for “original”, there is substituted “official”.

13. After paragraph 69, there is inserted—

“RE-SITS OF EXAMINATIONS

Requirements for leave to enter to re-sit an examination

69A. The requirements to be met by a person seeking leave to enter the United Kingdom in order to re-sit an examination are that the applicant:

- (i) (a) meets the requirements for admission as a student set out in paragraph 57 (i)–(vi); or
(b) met the requirements for admission as a student set out in paragraph 57 (i)–(iii) in the previous academic year and continues to meet the requirements of paragraph 57 (iv)–(vi); and

- (ii) has produced written confirmation from the education institution or independent fee paying school which he attends or attended in the previous academic year that he is required to re-sit an examination; and
- (iii) can provide satisfactory evidence of regular attendance during any course which he has already begun; or any other course for which he has been enrolled in the past; and
- (iv) has not come to the end of a period of government or international scholarship agency sponsorship, or has the written consent of his official sponsor for a further period of study in the United Kingdom and satisfactory evidence that sufficient sponsorship funding is available; and
- (v) has not previously been granted leave to re-sit the examination.

Leave to enter to re-sit an examination

69B. A person seeking leave to enter the United Kingdom in order to re-sit an examination may be admitted for a period sufficient to enable him to re-sit the examination at the first available opportunity with a condition restricting his freedom to take employment, provided the Immigration Officer is satisfied that each of the requirements of paragraph 69A is met.

Refusal of leave to enter to re-sit an examination

69C. Leave to enter to re-sit an examination is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 69A is met.

Requirements for an extension of stay to re-sit an examination

69D. The requirements for an extension of stay to re-sit an examination are that the applicant:

- (i) was admitted to the United Kingdom with a valid student entry clearance if he was then a visa national; and
- (ii) meets the requirements set out in paragraph 69A (i)–(v).

Extension of stay to re-sit an examination

69E. An extension of stay to re-sit an examination may be granted for a period sufficient to enable the applicant to re-sit the examination at the first available opportunity, subject to a restriction on his freedom to take employment, provided the Secretary of State is satisfied that the applicant meets each of the requirements of paragraph 69D.

Refusal of extension of stay to re-sit an examination

69F. An extension of stay to re-sit an examination is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 69D is met.

WRITING UP A THESIS

Requirements for leave to enter to write up a thesis

69G. The requirements to be met by a person seeking leave to enter the United Kingdom in order to write up a thesis are that the applicant:

- (i) (a) meets the requirements for admission as a student set out in paragraph 57 (i)–(vi); or
(b) met the requirements for admission as a student set out in paragraph 57 (i)–(iii) in the previous academic year and continues to meet the requirements of paragraph 57 (iv)–(vi); and
- (ii) can provide satisfactory evidence that he is a postgraduate student enrolled at an education institution as either a full time, part time or writing up student; and
- (iii) can demonstrate that his application is supported by the education institution; and
- (iv) has not come to the end of a period of government or international scholarship agency sponsorship, or has the written consent of his official sponsor for a further period of study in the United Kingdom and satisfactory evidence that sufficient sponsorship funding is available; and
- (v) has not previously been granted 12 months leave to write up the same thesis.

Leave to enter to write up a thesis

69H. A person seeking leave to enter the United Kingdom in order to write up a thesis may be admitted for 12 months with a condition restricting his freedom to take employment, provided the Immigration Officer is satisfied that each of the requirements of paragraph 69G is met.

Refusal of leave to enter to write up a thesis

69I. Leave to enter to write up a thesis is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 69G is met.

Requirements for an extension of stay to write up a thesis

69J. The requirements for an extension of stay to write up a thesis are that the applicant:

- (i) was admitted to the United Kingdom with a valid student entry clearance if he was then a visa national; and
- (ii) meets the requirements set out in paragraph 69G (i)–(v).

Extension of stay to write up a thesis

69K. An extension of stay to write up a thesis may be granted for 12 months subject to a restriction on his freedom to take employment, provided the Secretary of State is satisfied that the applicant meets each of the requirements of paragraph 69J.

Refusal of extension of stay to write up a thesis

69L. An extension of stay to write up a thesis is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 69J is met.”.

14. Paragraph 77 is amended as follows—

“77. A person seeking leave to enter or remain in the United Kingdom as the spouse of a student may be admitted or allowed to remain for a period not in excess of that granted to the student provided the Immigration Officer or, in the case of an application for limited leave to remain, the Secretary of State is satisfied that each of the requirements of paragraph 76 is met. Employment may be permitted where the period of leave granted to the student is, or was, 12 months or more.”.

15. For paragraph 80 there is substituted—

“80. A person seeking leave to enter or remain in the United Kingdom as the child of a student may be admitted or allowed to remain for a period not in excess of that granted to the student provided the Immigration Officer or, in the case of an application for limited leave to remain, the Secretary of State is satisfied that each of the requirements of paragraph 79 is met. Employment may be permitted where the period of leave granted to the student is, or was, 12 months or more.”.

16. After paragraph 87, there is inserted—

“STUDENTS’ UNIONS SABBATICAL OFFICERS

Requirements for leave to enter as a sabbatical officer

87A. The requirements to be met by a person seeking leave to enter the United Kingdom as a sabbatical officer are that the person:

- (i) has been elected to a full-time salaried post as a sabbatical officer at an educational establishment at which he is registered as a student;
- (ii) meets the requirements set out in paragraph 57 (i)–(ii) or met the requirements set out in paragraph 57 (i)–(ii) in the academic year prior to the one in which he took up or intends to take up sabbatical office; and
- (iii) does not intend to engage in business or take employment except in connection with his sabbatical post; and
- (iv) is able to maintain and accommodate himself and any dependants adequately without recourse to public funds; and

- (v) at the end of the sabbatical post he intends to:
 - (a) complete a course of study which he has already begun; or
 - (b) take up a further course of study which has been deferred to enable the applicant to take up the sabbatical post; or
 - (c) leave the United Kingdom; and
- (vi) has not come to the end of a period of government or international scholarship agency sponsorship, or has the written consent of his official sponsor to take up a sabbatical post in the United Kingdom; and
- (vii) has not already completed 2 years as a sabbatical officer.

Leave to enter the United Kingdom as a sabbatical officer

87B. A person seeking leave to enter the United Kingdom as a sabbatical officer may be admitted for a period not exceeding 12 months on conditions specifying his employment provided the Immigration Officer is satisfied that each of the requirements of paragraph 87A is met.

Refusal of leave to enter the United Kingdom as a sabbatical officer

87C. Leave to enter as a sabbatical officer is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 87A is met.

Requirements for an extension of stay as a sabbatical officer

87D. The requirements for an extension of stay as a sabbatical officer are that the applicant:

- (i) was admitted to the United Kingdom with a valid student entry clearance if he was then a visa national; and
- (ii) meets the requirements set out in paragraph 87A (i)–(vi); and
- (iii) would not, as a result of an extension of stay, remain in the United Kingdom as a sabbatical officer to a date beyond 2 years from the date on which he was first given leave to enter the United Kingdom in this capacity.

Extension of stay as a sabbatical officer

87E. An extension of stay as a sabbatical officer may be granted for a period not exceeding 12 months on conditions specifying his employment provided the Secretary of State is satisfied that the applicant meets each of the requirements of paragraph 87D.

Refusal of extension of stay as a sabbatical officer

87F. An extension of stay as a sabbatical officer is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 87D is met.”.

17. For paragraph 213 (i), there is substituted—

“(i) that he is a national of Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia or Slovenia; and”.

18. For paragraph 214 (i), there is substituted—

“(i) that he is a national of Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania or Slovakia; and”.

19. For paragraph 218 (i), there is substituted—

“(i) that he is a national of Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia or Slovenia; and”.

20. For paragraph 219 (i), there is substituted—

“(i) that he is a national of Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania or Slovakia; and”.

21. For paragraphs 246, 247 and 248 there is substituted—

“Requirements for leave to enter the United Kingdom as a person exercising rights of access to a child resident in the United Kingdom

246. The requirements to be met by a person seeking leave to enter the United Kingdom to exercise access rights to a child resident in the United Kingdom are that:

- (i) the applicant is the parent of a child who is resident in the United Kingdom; and
- (ii) the parent or carer with whom the child permanently resides is resident in the United Kingdom; and
- (iii) the applicant produces evidence that he has access rights to the child in the form of:
 - (a) a Residence Order or a Contact Order granted by a Court in the United Kingdom; or
 - (b) a certificate issued by a district judge confirming the applicant’s intention to maintain contact with the child; and
- (iv) the applicant intends to continue to take an active role in the child’s upbringing; and
- (v) the child is under the age of 18; and
- (vi) there will be adequate accommodation for the applicant and any dependants without recourse to public funds in accommodation which the applicant owns or occupies exclusively; and
- (vii) the applicant will be able to maintain himself and any dependants adequately without recourse to public funds; and
- (viii) the applicant holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter the United Kingdom as a person exercising rights of access to a child resident in the United Kingdom

247. Leave to enter as a person exercising access rights to a child resident in the United Kingdom may be granted for 12 months in the first instance, provided that a valid United Kingdom entry clearance for entry in this capacity is produced to the Immigration Officer on arrival.

Refusal of leave to enter the United Kingdom as a person exercising rights of access to a child resident in the United Kingdom

248. Leave to enter as a person exercising rights of access to a child resident in the United Kingdom is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.”.

22. After paragraph 248, there is inserted—

“Requirements for leave to remain in the United Kingdom as a person exercising rights of access to a child resident in the United Kingdom

248A. The requirements to be met by a person seeking leave to remain in the United Kingdom to exercise access rights to a child resident in the United Kingdom are that:

- (i) the applicant is the parent of a child who is resident in the United Kingdom; and
- (ii) the parent or carer with whom the child permanently resides is resident in the United Kingdom; and
- (iii) the applicant produces evidence that he has access rights to the child in the form of:
 - (a) a Residence Order or a Contact Order granted by a Court in the United Kingdom; or
 - (b) a certificate issued by a district judge confirming the applicant’s intention to maintain contact with the child; or
 - (c) a statement from the child’s other parent (or, if contact is supervised, from the supervisor) that the applicant is maintaining contact with the child; and
- (iv) the applicant takes and intends to continue to take an active role in the child’s upbringing; and

- (v) the child visits or stays with the applicant on a frequent and regular basis and the applicant intends this to continue; and
- (vi) the child is under the age of 18; and
- (vii) the applicant has limited leave to remain in the United Kingdom as the spouse or unmarried partner of a person present and settled in the United Kingdom who is the other parent of the child; and
- (viii) the applicant has not remained in breach of the immigration laws; and
- (ix) there will be adequate accommodation for the applicant and any dependants without recourse to public funds in accommodation which the applicant owns or occupies exclusively; and
- (x) the applicant will be able to maintain himself and any dependants adequately without recourse to public funds.

Leave to remain in the United Kingdom as a person exercising rights of access to a child resident in the United Kingdom

248B. Leave to remain as a person exercising access rights to a child resident in the United Kingdom may be granted for 12 months in the first instance, provided the Secretary of State is satisfied that each of the requirements of paragraph 248A is met.

Refusal of leave to remain in the United Kingdom as a person exercising rights of access to a child resident in the United Kingdom

248C. Leave to remain as a person exercising rights of access to a child resident in the United Kingdom is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 248A is met.

Indefinite leave to remain in the United Kingdom as a person exercising rights of access to a child resident in the United Kingdom

248D. The requirements for indefinite leave to remain in the United Kingdom as a person exercising rights of access to a child resident in the United Kingdom are that:

- (i) the applicant was admitted to the United Kingdom or granted leave to remain in the United Kingdom for a period of 12 months as a person exercising rights of access to a child and has completed a period of 12 months as a person exercising rights of access to a child; and
- (ii) the applicant takes and intends to continue to take an active role in the child's upbringing; and
- (iii) the child visits or stays with the applicant on a frequent and regular basis and the applicant intends this to continue; and
- (iv) there will be adequate accommodation for the applicant and any dependants without recourse to public funds in accommodation which the applicant owns or occupies exclusively; and
- (v) the applicant will be able to maintain himself and any dependants adequately without recourse to public funds; and
- (vi) the child is under 18 years of age.

Indefinite leave to remain as a person exercising rights of access to a child resident in the United Kingdom

248E. Indefinite leave to remain as a person exercising rights of access to a child may be granted provided the Secretary of State is satisfied that each of the requirements of paragraph 248D is met.

Refusal of indefinite leave to remain in the United Kingdom as a person exercising rights of access to a child resident in the United Kingdom

248F. Indefinite leave to remain as a person exercising rights of access to a child is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 248D is met."

23. For paragraph 255, there is substituted—

“255. Any person (other than a student) who under, either the Immigration (European Economic Area) Order 1994, or the 2000 EEA Regulations has been issued with a residence permit or residence document valid for 5 years, and who has remained in the United Kingdom in accordance with the provisions of that Order or those Regulations (as the case may be) for 4 years and continues to do so may, on application, have his residence permit or residence document (as the case may be) endorsed to show permission to remain in the United Kingdom indefinitely.”

24. Paragraph 256 is deleted.

25. Paragraph 257 is amended as follows—

- (a) after “in the United Kingdom indefinitely” there is inserted “in accordance with Commission Regulation 1251/70”; and
- (b) in paragraph 257(iv), delete “as defined in the 1994 EEA Order”; and
- (c) in paragraph 257(v), delete “as defined in the 1994 EEA Order”; and
- (d) at the end, there is inserted—

“For the purposes of this paragraph:

‘EEA national’ means a national of a State other than the United Kingdom which is a Contracting Party to the European Economic Area Agreement, but for the purposes of (iv) and (v) includes a national of the United Kingdom where the conditions set out in regulation 11 of the 2000 EEA Regulations are satisfied.

A ‘member of the family’ is a family member as defined in regulation 6 of the 2000 EEA Regulations, or a person whom it has been decided to treat as a family member in accordance with the principles set out in regulation 10 of those Regulations.”

26. Paragraphs 258 to 261 are deleted.

27. For paragraph 278, there is substituted—

“278. Nothing in these Rules shall be construed as allowing a person to be granted entry clearance, leave to enter, leave to remain or variation of leave as the spouse of a man or woman (the sponsor) if:

- (i) his or her marriage to the sponsor is polygamous; and
- (ii) there is another person living who is the husband or wife of the sponsor and who:
 - (a) is, or at any time since his or her marriage to the sponsor has been, in the United Kingdom; or
 - (b) has been granted a certificate of entitlement in respect of the right of abode mentioned in Section 2(1)(a) of the Immigration Act 1988 or an entry clearance to enter the United Kingdom as the husband or wife of the sponsor.

For the purpose of this paragraph a marriage may be polygamous although at its inception neither party had any other spouse.”

28. For paragraph 279, there is substituted—

“279. Paragraph 278 does not apply to any person who seeks entry clearance, leave to enter, leave to remain or variation of leave where:

- (i) he or she has been in the United Kingdom before 1 August 1988 having been admitted for the purpose of settlement as the husband or wife of the sponsor; or
- (ii) he or she has, since their marriage to the sponsor, been in the United Kingdom at any time when there was no such other spouse living as is mentioned in paragraph 278 (ii).

But where a person claims that paragraph 278 does not apply to them because they have been in the United Kingdom in circumstances which cause them to fall within sub-paragraphs (i) or (ii) of that paragraph, it shall be for them to prove that fact.”

29. For paragraph 280, there is substituted—

“280. For the purposes of paragraphs 278 and 279 the presence of any wife or husband in the United Kingdom in any of the following circumstances shall be disregarded:

- (i) as a visitor; or
- (ii) as an illegal entrant; or
- (iii) in circumstances whereby a person is deemed by virtue of Section 11(1) of the Immigration Act 1971 not to have entered the United Kingdom.”

30. In paragraph 281 for “For the purposes of this paragraph, a member of HM forces based in the United Kingdom but serving overseas is to be regarded as present and settled in the United Kingdom” there is substituted “For the purposes of this paragraph and paragraphs 282–289 a member of HM Forces serving overseas, or a permanent member of HM Diplomatic Service or a comparable UK-based staff member of the British Council on a tour of duty abroad, is to be regarded as present and settled in the United Kingdom.”

31. For paragraph 287, there is substituted—

“287. (a) The requirements for indefinite leave to remain for the spouse of a person present and settled in the United Kingdom are that:

- (i) the applicant was admitted to the United Kingdom or given an extension of stay for a period of 12 months and has completed a period of 12 months as the spouse of a person present and settled in the United Kingdom; and
- (ii) the applicant is still the spouse of the person he or she was admitted or granted an extension of stay to join and the marriage is subsisting; and
- (iii) each of the parties intends to live permanently with the other as his or her spouse; and
- (iv) there will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
- (v) the parties will be able to maintain themselves and any dependants adequately without recourse to public funds.

(b) The requirements for indefinite leave to remain for the bereaved spouse of a person who was present and settled in the United Kingdom are that:

- (i) the applicant was admitted to the United Kingdom or given an extension of stay for a period of 12 months as the spouse of a person present and settled in the United Kingdom; and
- (ii) the person whom the applicant was admitted or granted an extension of stay to join died during that 12 month period; and
- (iii) the applicant was still the spouse of the person he or she was admitted or granted an extension of stay to join at the time of the death; and
- (iv) each of the parties intended to live permanently with the other as his or her spouse and the marriage was subsisting at the time of the death.”

32. After paragraph 295, there is inserted—

“LEAVE TO ENTER AS THE UNMARRIED PARTNER OF A PERSON PRESENT AND SETTLED IN THE UNITED KINGDOM OR BEING ADMITTED ON THE SAME OCCASION FOR SETTLEMENT

Requirements for leave to enter the United Kingdom with a view to settlement as the unmarried partner of a person present and settled in the United Kingdom or being admitted on the same occasion for settlement

295A. The requirements to be met by a person seeking leave to enter the United Kingdom with a view to settlement as the unmarried partner of a person present and settled in the United Kingdom or being admitted on the same occasion for settlement, are that:

- (i) the applicant is the unmarried partner of a person present and settled in the United Kingdom or who is on the same occasion being admitted for settlement; and

- (ii) any previous marriage (or similar relationship) by either partner has permanently broken down; and
- (iii) the parties are legally unable to marry under United Kingdom law (other than by reason of consanguineous relationships or age); and
- (iv) the parties have been living together in a relationship akin to marriage which has subsisted for two years or more; and
- (v) there will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
- (vi) the parties will be able to maintain themselves and any dependants adequately without recourse to public funds; and
- (vii) the parties intend to live together permanently; and
- (viii) the applicant holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter the United Kingdom with a view to settlement as the unmarried partner of a person present and settled in the United Kingdom or being admitted on the same occasion for settlement

295B. Leave to enter the United Kingdom with a view to settlement as the unmarried partner of a person present and settled in the United Kingdom or being admitted on the same occasion for settlement, may be granted for an initial period not exceeding 2 years provided that a valid United Kingdom entry clearance for entry in this capacity is produced to the Immigration Officer on arrival.

Refusal of leave to enter the United Kingdom with a view to settlement as the unmarried partner of a person present and settled in the United Kingdom or being admitted on the same occasion for settlement

295C. Leave to enter the United Kingdom with a view to settlement as the unmarried partner of a person present and settled in the United Kingdom or being admitted on the same occasion for settlement, is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

LEAVE TO REMAIN AS THE UNMARRIED PARTNER OF A PERSON PRESENT AND SETTLED IN THE UNITED KINGDOM

Requirements for leave to remain as the unmarried partner of a person present and settled in the United Kingdom

295D. The requirements to be met by a person seeking leave to remain as the unmarried partner of a person present and settled in the United Kingdom are that:

- (i) the applicant has limited leave to remain in the United Kingdom; and
- (ii) any previous marriage (or similar relationship) by either partner has permanently broken down; and
- (iii) the applicant is the unmarried partner of a person who is present and settled in the United Kingdom; and
- (iv) the applicant has not remained in breach of the immigration laws; and
- (v) the parties are legally unable to marry under United Kingdom law (other than by reason of consanguineous relationships or age); and
- (vi) the parties have been living together in a relationship akin to marriage which has subsisted for two years or more; and
- (vii) the parties' relationship pre-dates any decision to deport the applicant, recommend him for deportation, give him notice under Section 6(2) of the Immigration Act 1971, or give directions for his removal under section 10 of the Immigration and Asylum Act 1999; and
- (viii) there will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
- (ix) the parties will be able to maintain themselves and any dependants adequately without recourse to public funds; and
- (x) the parties intend to live together permanently.

Leave to remain as the unmarried partner of a person present and settled in the United Kingdom

295E. Leave to remain as the unmarried partner of a person present and settled in the United Kingdom may be granted for a period of 2 years in the first instance provided that the Secretary of State is satisfied that each of the requirements of paragraph 295D are met.

Refusal of leave to remain as the unmarried partner of a person present and settled in the United Kingdom

295F. Leave to remain as the unmarried partner of a person present and settled in the United Kingdom is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 295D is met.

INDEFINITE LEAVE TO REMAIN AS THE UNMARRIED PARTNER OF A PERSON PRESENT AND SETTLED IN THE UNITED KINGDOM

Requirements for indefinite leave to remain as the unmarried partner of a person present and settled in the United Kingdom

295G. The requirements to be met by a person seeking indefinite leave to remain as the unmarried partner of a person present and settled in the United Kingdom are that:

- (i) the applicant was admitted to the United Kingdom or given an extension of stay for a period of 2 years and has completed a period of 2 years as the unmarried partner of a person present and settled here; and
- (ii) the applicant is still the unmarried partner of the person he was admitted or granted an extension of stay to join and the relationship is still subsisting; and
- (iii) each of the parties intends to live permanently with the other as his partner; and
- (iv) there will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
- (v) the parties will be able to maintain themselves and any dependants adequately without recourse to public funds.

Indefinite leave to remain as the unmarried partner of a person present and settled in the United Kingdom

295H. Indefinite leave to remain as the unmarried partner of a person present and settled in the United Kingdom may be granted provided that the Secretary of State is satisfied that each of the requirements of paragraph 295G is met.

Refusal of indefinite leave to remain as the unmarried partner of a person present and settled in the United Kingdom

295I. Indefinite leave to remain as the unmarried partner of a person present and settled in the United Kingdom is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 295G is met.

LEAVE TO ENTER OR REMAIN AS THE UNMARRIED PARTNER OF A PERSON WITH LIMITED LEAVE TO ENTER OR REMAIN IN THE UNITED KINGDOM UNDER PARAGRAPHS 128-193; 200-239; OR 263-270

Requirements for leave to enter or remain as the unmarried partner of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128-193; 200-239; or 263-270

295J. The requirements to be met by a person seeking leave to enter or remain as the unmarried partner of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128-193; 200-239; or 263-270; are that:

- (i) the applicant is the unmarried partner of a person who has limited leave to enter or remain in the United Kingdom under paragraphs 128-193; 200-239; or 263-270; and
- (ii) any previous marriage (or similar relationship) by either partner has permanently broken down; and

- (iii) the parties are legally unable to marry under United Kingdom law (other than by reason of consanguineous relationship or age); and
- (iv) the parties have been living together in a relationship akin to marriage which has subsisted for 2 years or more; and
- (v) each of the parties intends to live with the other as his partner during the applicant's stay; and
- (vi) there will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
- (vii) the parties will be able to maintain themselves and any dependants adequately without recourse to public funds; and
- (viii) the applicant does not intend to stay in the United Kingdom beyond any period of leave granted to his partner; and
- (ix) if seeking leave to enter, the applicant holds a valid United Kingdom entry clearance for entry in this capacity or, if seeking leave to remain, was admitted with a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter or remain as the unmarried partner of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193; 200–239; or 263–270

295K. Leave to enter as the unmarried partner of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193; 200–239; or 263–270; may be granted provided that a valid United Kingdom entry clearance for entry in this capacity is produced to the Immigration Officer on arrival. Leave to remain as the unmarried partner of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193; 200–239; or 263–270; may be granted provided that the Secretary of State is satisfied that each of the requirements of paragraph 295J is met.

Refusal of leave to enter or remain as the unmarried partner of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193; 200–239; or 263–270

295L. Leave to enter as the unmarried partner of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193; 200–239; or 263–270; is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival. Leave to remain as the unmarried partner of a person with limited leave to enter or remain in the United Kingdom under paragraphs 128–193; 200–239; or 263–270; is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 295J is met.

INDEFINITE LEAVE TO REMAIN FOR THE BEREAVED UNMARRIED PARTNER OF A PERSON PRESENT AND SETTLED IN THE UNITED KINGDOM

Requirements for indefinite leave to remain for the bereaved unmarried partner of a person present and settled in the United Kingdom

295M. The requirements to be met by a person seeking indefinite leave to remain as the bereaved unmarried partner of a person present and settled in the United Kingdom, are that:

- (i) the applicant was admitted to the United Kingdom or given an extension of stay for a period of 2 years as the unmarried partner of a person present and settled in the United Kingdom; and
- (ii) the person whom the applicant was admitted or granted an extension of stay to join died during that 2 year period; and
- (iii) the applicant was still the unmarried partner of the person he was admitted or granted an extension of stay to join at the time of the death; and
- (iv) each of the parties intended to live permanently with the other as his partner and the relationship was subsisting at the time of the death.

Indefinite leave to remain for the bereaved unmarried partner of a person present and settled in the United Kingdom

295N. Indefinite leave to remain for the bereaved unmarried partner of a person present and settled in the United Kingdom, may be granted provided that the Secretary of State is satisfied that each of the requirements of paragraph 295M is met.

Refusal of indefinite leave to remain for the bereaved unmarried partner of a person present and settled in the United Kingdom

295O. Indefinite leave to remain for the bereaved unmarried partner of a person present and settled in the United Kingdom, is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 295M is met.”.

33. For paragraph 296, there is substituted—

“296. Nothing in these Rules shall be construed as permitting a child to be granted entry clearance, leave to enter or remain, or variation of leave where his parent is party to a polygamous marriage and any application by that parent for admission or leave to remain for settlement or with a view to settlement would be refused pursuant to paragraphs 278 or 278A.”.

34. For paragraph 297(iv) and (v) there is substituted—

“(iv) can, and will, be accommodated adequately by the parent, parents or relative the child is seeking to join without recourse to public funds in accommodation which the parent, parents or relative the child is seeking to join, own or occupy exclusively; and

(v) can, and will, be maintained adequately by the parent, parents or relative the child is seeking to join, without recourse to public funds; and

(vi) holds a valid United Kingdom entry clearance for entry in this capacity.”

35. For paragraph 298(iv) there is substituted—

“(iv) can, and will, be accommodated adequately by the parent, parents or relative the child was admitted to join, without recourse to public funds in accommodation which the parent, parents or relative the child was admitted to join, own or occupy exclusively; and

(v) can, and will, be maintained adequately by the parent, parents or relative the child was admitted to join, without recourse to public funds.”

36. For paragraph 301(iv) there is substituted—

“(iv) can, and will, be accommodated adequately without recourse to public funds, in accommodation which the parent or parents own or occupy exclusively; and

(iva) can, and will, be maintained adequately by the parent or parents without recourse to public funds; and

37. After paragraph 303, there is inserted—

“LEAVE TO ENTER AND EXTENSION OF STAY IN THE UNITED KINGDOM AS THE CHILD OF A PARENT WHO IS BEING, OR HAS BEEN ADMITTED TO THE UNITED KINGDOM AS A FIANCÉ(E)

Requirements for limited leave to enter the United Kingdom as the child of a fiancé(e)

303A. The requirements to be met by a person seeking limited leave to enter the United Kingdom as the child of a fiancé(e), are that:

(i) he is seeking to accompany or join a parent who is, on the same occasion that the child seeks admission, being admitted as a fiancé(e), or who has been admitted as a fiancé(e); and

(ii) he is under the age of 18; and

(iii) he is not leading an independent life, is unmarried, and has not formed an independent family unit; and

(iv) he can, and will, be maintained and accommodated adequately without recourse to public funds with the parent admitted or being admitted as a fiancé(e); and

- (v) there are serious and compelling family or other considerations which make the child's exclusion undesirable, that suitable arrangements have been made for his care in the United Kingdom, and there is no other person outside the United Kingdom who could reasonably be expected to care for him; and
- (vi) he holds a valid United Kingdom entry clearance for entry in this capacity.

Limited leave to enter the United Kingdom as the child of a parent who is being, or has been admitted to the United Kingdom as a fiancé(e)

303B. A person seeking limited leave to enter the United Kingdom as the child of a fiancé(e), may be granted limited leave to enter the United Kingdom for a period not in excess of that granted to the fiancé(e), provided that a valid United Kingdom entry clearance for entry in this capacity is produced to the Immigration Officer on arrival. Where the period of limited leave granted to a fiancé(e) will expire in more than 6 months, a person seeking limited leave to enter as the child of the fiancé(e) should be granted leave for a period not exceeding six months.

Refusal of limited leave to enter the United Kingdom as the child of a parent who is being, or has been admitted to the United Kingdom as a fiancé(e)

303C. Limited leave to enter the United Kingdom as the child of a fiancé(e), is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay in the United Kingdom as the child of a fiancé(e)

303D. The requirements to be met by a person seeking an extension of stay in the United Kingdom as the child of a fiancé(e) are that:

- (i) the applicant was admitted with a valid United Kingdom entry clearance as the child of a fiancé(e); and
- (ii) the applicant is the child of a parent who has been granted limited leave to enter, or an extension of stay, as a fiancé(e); and
- (iii) the requirements of paragraph 303A (ii)–(v) are met.

Extension of stay in the United Kingdom as the child of a fiancé(e)

303E. An extension of stay as the child of a fiancé(e) may be granted provided that the Secretary of State is satisfied that each of the requirements of paragraph 303D is met.

Refusal of an extension of stay in the United Kingdom as the child of a fiancé(e)

303F. An extension of stay as the child of a fiancé(e) is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 303D is met.”.

38. For paragraph 310(iv) there is substituted–

- “(iv) can, and will, be accommodated adequately without recourse to public funds in accommodation which the adoptive parent or parents own or occupy exclusively; and
- (v) can, and will, be maintained adequately by the adoptive parent or parents without recourse to public funds; and”

Existing sub-paragraphs (v)–(xi) are re-numbered (vi)–(xii).

39. Paragraph 311 is amended as follows–

- (a) In paragraph 311(ii)(b), after “paragraph 315”, there is inserted “or paragraph 316B”.
- (b) For paragraph 311(iv) there is substituted–

- “(iv) can, and will, be accommodated adequately without recourse to public funds in accommodation which the adoptive parent or parents own or occupy exclusively; and
- (v) can, and will, be maintained adequately by the adoptive parent or parents without recourse to public funds; and”

Existing sub-paragraphs (v)–(x) are re-numbered (vi)–(xi).

40. For paragraph 314(iv) there is substituted–

“(iv) can, and will, be accommodated adequately without recourse to public funds in accommodation which the adoptive parent or parents own or occupy exclusively; and
(iva) can, and will, be maintained adequately by the adoptive parent or parents without recourse to public funds; and”.

41. After paragraph 316, there is inserted—

“Requirements for limited leave to enter the United Kingdom with a view to settlement as a child for adoption

316A. The requirements to be satisfied in the case of a child seeking limited leave to enter the United Kingdom for the purpose of being adopted in the United Kingdom are that he:

- (i) is seeking limited leave to enter to accompany or join a person or persons who wish to adopt him in the United Kingdom (the “prospective parent(s)”), in one of the following circumstances:
 - (a) both prospective parents are present and settled in the United Kingdom; or
 - (b) both prospective parents are being admitted for settlement on the same occasion that the child is seeking admission; or
 - (c) one prospective parent is present and settled in the United Kingdom and the other is being admitted for settlement on the same occasion that the child is seeking admission; or
 - (d) one prospective parent is present and settled in the United Kingdom and the other is being given limited leave to enter or remain in the United Kingdom with a view to settlement on the same occasion that the child is seeking admission, or has previously been given such leave; or
 - (e) one prospective parent is being admitted for settlement on the same occasion that the other is being granted limited leave to enter with a view to settlement, which is also on the same occasion that the child is seeking admission; or
 - (f) one prospective parent is present and settled in the United Kingdom or is being admitted for settlement on the same occasion that the child is seeking admission, and has had sole responsibility for the child’s upbringing; or
 - (g) one prospective parent is present and settled in the United Kingdom or is being admitted for settlement on the same occasion that the child is seeking admission, and there are serious and compelling family or other considerations which would make the child’s exclusion undesirable, and suitable arrangements have been made for the child’s care; and
- (ii) is under the age of 18; and
- (iii) is not leading an independent life, is unmarried, and has not formed an independent family unit; and
- (iv) can, and will, be maintained and accommodated adequately without recourse to public funds in accommodation which the prospective parent or parents own or occupy exclusively; and
- (v) will have the same rights and obligations as any other child of the marriage; and
- (vi) is being adopted due to the inability of the original parent(s) or current carer(s) (or those looking after him immediately prior to him being physically transferred to his prospective parent or parents) to care for him, and there has been a genuine transfer of parental responsibility to the prospective parent or parents; and
- (vii) has lost or broken or intends to lose or break his ties with his family of origin; and
- (viii) will be adopted in the United Kingdom by his prospective parent or parents, but the proposed adoption is not one of convenience arranged to facilitate his admission to the United Kingdom.

Limited leave to enter the United Kingdom with a view to settlement as a child for adoption

316B. A person seeking limited leave to enter the United Kingdom with a view to settlement as a child for adoption may be admitted for a period not exceeding 12 months provided he is

able, on arrival, to produce to the Immigration Officer a valid United Kingdom entry clearance for entry in this capacity.

Refusal of limited leave to enter the United Kingdom with a view to settlement as a child for adoption

316C. Limited leave to enter the United Kingdom with a view to settlement as a child for adoption is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.”.

42. For paragraph 317(iv) there is substituted—

“(iv) can, and will, be accommodated adequately, together with any dependants, without recourse to public funds, in accommodation which the sponsor owns or occupies exclusively; and

(iva) can, and will, be maintained adequately, together with any dependants, without recourse to public funds; and”.

43. In paragraph 329 after the words “issued a certificate under” there is inserted “section 11 or section 12 of the Immigration and Asylum Act 1999”. Delete the words “section 2(1)(a) of the 1996 Act”.

44. Paragraph 333 is deleted.

45. In paragraph 338, after the words “illegal entrant” there is inserted “, removal under section 10 of the Immigration and Asylum Act 1999”.

46. Paragraph 339 is deleted.

47. In paragraph 345, after the words “set out in” there is inserted “either 11(2), or section 12(7) of the Immigration and Asylum Act 1999” and after “issue a certificate under” there is inserted “section 11 or section 12 of the Immigration and Asylum Act 1999 (as the case may be)”. Delete the words “section 2(1) of the 1996 Act”.

48. Paragraph 348 is deleted.

49. In paragraph 349, the words “The notice of refusal will also explain any rights of appeal available to the applicant and will inform him of the means by which he may exercise those rights.” are deleted.

50. After paragraph 352 there is inserted—

“352A. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the spouse of a refugee are that:

- (i) the applicant is married to a person granted asylum in the United Kingdom; and
- (ii) the marriage did not take place after the person granted asylum left the country of his former habitual residence in order to seek asylum; and
- (iii) the applicant would not be excluded from protection by virtue of article 1F of the United Nations Convention and Protocol relating to the Status of Refugees if he were to seek asylum in his own right; and
- (iv) if seeking leave to enter, the applicant holds a valid United Kingdom entry clearance for entry in this capacity.

352B. Limited leave to enter the United Kingdom as the spouse of a refugee may be granted provided a valid United Kingdom entry clearance for entry in this capacity is produced to the Immigration Officer on arrival. Limited leave to remain in the United Kingdom as the spouse of a refugee may be granted provided the Secretary of State is satisfied that each of the requirements of paragraph 352A (i)–(iii) are met.

352C. Limited leave to enter the United Kingdom as the spouse of a refugee is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival. Limited leave to remain as the spouse of a refugee is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 352A (i)–(iii) are met.

352D. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the child of a refugee are that the applicant:

- (i) is the child of a parent who has been granted asylum in the United Kingdom; and
- (ii) is under the age of 18, and
- (iii) is not leading an independent life, is unmarried, and has not formed an independent family unit; and
- (iv) was part of the family unit of the person granted asylum at the time that the person granted asylum left the country of his habitual residence in order to seek asylum; and
- (v) would not be excluded from protection by virtue of article 1F of the United Nations Convention and Protocol relating to the Status of Refugees if he were to seek asylum in his own right; and
- (vi) if seeking leave to enter, holds a valid United Kingdom entry clearance for entry in this capacity.

352E. Limited leave to enter the United Kingdom as the child of a refugee may be granted provided a valid United Kingdom entry clearance for entry in this capacity is produced to the Immigration Officer on arrival. Limited leave to remain in the United Kingdom as the child of a refugee may be granted provided the Secretary of State is satisfied that each of the requirements of paragraph 352D (i)–(v) are met.

352F. Limited leave to enter the United Kingdom as the child of a refugee is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival. Limited leave to remain as the child of a refugee is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 352D (i)–(v) are met.”.

51. Paragraphs 353 to 361 are deleted.

52. In the heading after paragraph 361, after “DEPORTATION”, there is inserted “AND ADMINISTRATIVE REMOVAL UNDER SECTION 10 OF THE 1999 ACT”.

53. For paragraph 363, there is substituted–

“363. The circumstances in which a person is liable to deportation include:

- (i) where the Secretary of State deems the person’s deportation to be conducive to the public good;
- (ii) where the person is the spouse or child under 18 of a person ordered to be deported; and
- (iii) where a court recommends deportation in the case of a person over the age of 17 who has been convicted of an offence punishable with imprisonment.”

54. After paragraph 363, there is inserted–

“363A. Prior to 2 October 2000, a person would have been liable to deportation in certain circumstances in which he is now liable to administrative removal. These circumstances are listed in paragraph 394B below. However, such a person remains liable to deportation, rather than administrative removal where:

- (i) a decision to make a deportation order against him was taken before 2 October 2000; or
- (ii) the person has made a valid application under the Immigration (Regularisation Period for Overstayers) Regulations 2000.”

55. Paragraph 364 is amended as follows–

- (a) at the beginning, there is inserted “Subject to paragraph 380,”
- (b) before “deportation will normally be the proper course”, there is inserted “In the cases detailed in paragraph 363A,”.

56. Paragraphs 369 to 377 are deleted.

57. For paragraph 378, there is substituted–

“378. A deportation order may not be made while it is still open to the person to appeal against the Secretary of State’s decision, or while an appeal is pending. There is no appeal within the

immigration appeal system against the making of a deportation order on the recommendation of a court; but there is a right of appeal to a higher court against the recommendation itself. A deportation order may not be made while it is still open to the person to appeal against the relevant conviction, sentence or recommendation, or while such an appeal is pending.”.

58. Paragraphs 379 and 379A are deleted.

59. In paragraph 380, after “Convention and Protocol relating to the Status of Refugees”, there is inserted “or the Human Rights Convention”.

60. In paragraph 381 “, or facility to make representations in the case of the security and political cases subject to the advisory procedure” is deleted.

61. For paragraph 382 there is substituted—

“Following the issue of such a notice the Secretary of State may authorise detention or make an order restricting a person as to residence, employment or occupation and requiring him to report to the police, pending the making of a deportation order.”.

62. Paragraph 383 is deleted.

63. In paragraph 384, after “will be sent to the”, there is inserted “appropriate”.

64. Paragraph 387 is deleted.

65. Paragraphs 393 and 394 are deleted.

66. In paragraph 395, at the beginning, there is inserted “There may be a right of appeal against refusal to revoke a deportation order.”.

67. After paragraph 395, there is inserted—

“Administrative Removal

395A. A person is now liable to administrative removal in certain circumstances in which he would, prior to 2 October 2000, have been liable to deportation.

395B. These circumstances are set out in section 10 of the 1999 Act. They are:

- (i) failure to comply with a condition attached to his leave to enter or remain, or remaining beyond the time limited by the leave;
- (ii) where the person has obtained leave to remain by deception; and
- (iii) where the person is the spouse or child under 18 of someone in respect of whom directions for removal have been given under section 10.

395C. Before directions for removal under section 10 are given, regard will be had to any compassionate circumstances of the case, taking into account all the relevant factors known to the Secretary of State, as listed in paragraph 364. In the case of family members, the factors listed in paragraphs 365–368 will also be taken into account.

395D. No one shall be removed under section 10 if his removal would be contrary to the United Kingdom’s obligations under the Convention and Protocol relating to the Status of Refugees or under the Human Rights Convention.

Procedure

395E. When directions for a person’s removal under section 10 have been given, a notice will be given to the person concerned informing him of the decision.

395F. Following the issue of such a notice an Immigration Officer may authorise detention or make an order restricting a person as to residence, employment or occupation and requiring him to report to the police, pending the removal.”.

