

STATEMENT OF CHANGES IN IMMIGRATION RULES

*Presented to Parliament pursuant to section 3(2) of
the Immigration Act 1971*

*Ordered by the House of Commons to be printed
10 December 2020*

(This document is accompanied by an Explanatory Memorandum)

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¹STATEMENT OF CHANGES IN IMMIGRATION RULES

The Home Secretary has made the changes hereinafter stated in the rules laid down by them as to the practice to be followed in the administration of the Immigration Acts 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 (HC 329), 29 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), 7 October 1998 (Cm 4065), 18 November 1999 (HC 22), 28 July 2000 (HC 704), 20 September 2000 (Cm 4851), 28 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 (HC 523), 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), 24 April 2009 (HC 413), 9 September 2009 (Cm 7701), 23 September 2009 (Cm 7711), 10 December 2009 (HC 120), 10 February 2010 (HC 367), 18 March 2010 (HC 439), 28 June 2010 (HC 59), 15 July 2010 (HC 96), 22 July 2010 (HC 382), 19 August 2010 (Cm 7929), 1 October 2010 (Cm 7944), 21 December 2010 (HC 698), 16 March 2011 (HC 863), 31 March 2011 (HC 908), 13 June 2011 (HC 1148), 19 July 2011 (HC 1436), 10 October 2011 (HC 1511), 7 November 2011 (HC 1622), 8 December 2011 (HC 1693), 20 December 2011 (HC 1719), 19 January 2012 (HC 1733), 15 March 2012 (HC 1888), 4 April 2012 (Cm 8337), 13 June 2012 (HC 194), 9 July 2012 (HC 514), 19 July 2012 (Cm 8423), 5 September 2012 (HC 565), 22 November 2012 (HC 760), 12 December 2012 (HC 820), 20 December 2012 (HC 847), 30 January 2013 (HC 943), 7 February 2013 (HC 967), 11 March 2013 (HC 1038), 14 March 2013 (HC 1039), 9 April 2013 (Cm 8599), 10 June 2013 (HC 244), 31 July 2013 (Cm 8690), 6 September 2013 (HC 628), 9 October 2013 (HC 686), 8 November 2013 (HC 803), 9 December 2013 (HC 887), 10 December 2013 (HC 901), 18 December 2013 (HC 938), 10 March 2014

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(HC 1130), 13 March 2014 (HC 1138), 1 April 2014 (HC 1201), 10 June 2014 (HC 198), 10 July 2014 (HC 532), 16 October 2014 (HC 693), 26 February 2015 (HC 1025), 16 March 2015 (HC1116), 13 July 2015 (HC 297), 17 September 2015 (HC 437), 29 October 2015 (HC535), 11 March 2016 (HC 877), 3 November 2016 (HC 667), 16 March 2017 (HC 1078), 20 July 2017 (HC 290), 7 December 2017 (HC 309), 15 March 2018 (HC 895), 15 June 2018 (HC 1154), 20 July 2018 (Cm 9675), 11 October 2018 (HC 1534), 11 December 2018 (HC 1779), 20 December 2018 (HC 1849), 7 March 2019 (HC 1919), 1 April 2019 (HC 2099), 9 September 2019 (HC 2631), 24 October 2019 (HC 170), 30 January 2020 (HC 56), 12 March 2020 (HC 120), 14 May 2020 (CP 232), 10 September 2020 (HC 707) and 22 October 2020 (HC 813).

Implementation

The following changes shall take effect at 2300 on 31 December 2020. In relation to an application for asylum made before 2300 on 31 December 2020, these changes shall not apply:

- Part 11 - Paragraphs 11.1, 11.2, 11.3 and 11.4.

The other changes set out in this statement shall take effect at 2300 on 31 December 2020 and will apply to all decisions made on or after that time.

Review

Before the end of each review period, the Secretary of State undertakes to review all of the relevant Immigration Rules including any Relevant Rule amended or added by these changes. The Secretary of State will set out the conclusions of the review in a report and publish the report.

The report must in particular:

- (a) consider each of the Relevant Rules and whether or not each Relevant Rule achieves its objectives and is still appropriate; and
- (b) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

“Review period” means:

- (a) the period of five years beginning on 6 April 2017; and
- (b) subject to the paragraph below, each successive period of five years.

If a report under this provision is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.

“Relevant Rule” means an Immigration Rule which:

- (a) imposes requirements, restrictions or conditions, or sets standards, in relation to any activity carried on by a business or voluntary or community body; or
- (b) relates to the securing of compliance with, or the enforcement of, requirements, restrictions, conditions or standards which relate to any activity carried on by a business or voluntary or community body.

Changes to the Introduction

Intro1. In paragraph 6.2, after the definition of “**Business Day**”, insert:

- “ “**Cabotage operations**” in Appendix Visitor: Permitted Activities means
- (a) in relation to goods, national carriage for hire or reward carried out on a temporary basis in the UK; or
 - (b) in relation to passengers either:
 - i. national road passenger services for hire and reward carried out on a temporary basis by a carrier in the UK, or
 - ii. the picking up and setting down of passengers within the UK, in the course of a regular international service, provided that it is not the principal purpose of the service.”.

Intro2. In paragraph 6.2, after the definition of “**International Agreement Worker**”, insert:

- “ “**International Operator Licence**” in Appendix Visitor: Permitted Activities means:
- (a) a licence issued by the competent authority of a country other than the United Kingdom authorising an operator to undertake international carriage of goods or passengers by road in accordance with an international agreement to which the United Kingdom is a party; or
 - (b) a community licence issued by a Member State of the Union in accordance with Regulation (EC) No 1072/2009 or Regulation (EC) No 1073/2009.”.

Intro3. In paragraph 6.2, after the definition of “ “**Overstayed**” or “**overstaying**”, insert:

- “ “**Own Account**” in Appendix Visitor: Permitted Activities means the transport of goods by a business where the following conditions are fulfilled:
- (a) the goods carried are the property of the business or have been sold, bought, let out on hire or hired, produced, extracted, processed or repaired by the business; and

- (b) the purpose of the journey is to carry the goods to or from the premises of the business or to move them, either inside or outside the business for its own requirements; and
- (c) the vehicles used for such transport are driven by personnel employed by, or put at the disposal of, the business under a contractual obligation; and
- (d) the vehicles carrying the goods are owned by the business, have been bought by it on deferred terms or have been hired; and
- (e) such transport is no more than ancillary to the overall activities of the business.”.

Changes to Part 11

- 11.1 In paragraph 327, for “Under the Rules an asylum applicant is a person who either;”, substitute “Under the Rules, an asylum applicant is a person who, in person and at a designated place of asylum claim, either:”.
- 11.2 After paragraph 327A, insert
“327B. A designated place of asylum claim is:
 - (i) an asylum intake unit;
 - (ii) an immigration removal centre;
 - (iii) a port or airport;
 - (iv) a location to which the person has been directed by the Secretary of State to make a claim for asylum; or
 - (v) any other location where an officer authorised to accept an asylum application is present and capable of receiving the claim.”.
- 11.3 After paragraph 327B, insert
“327C. If the officer is not capable of receiving the claim, they will direct the applicant to a designated place of asylum claim.”.
- 11.4 After paragraph 327C, insert
“327D. An officer is not capable of receiving the claim in the territorial waters of the United Kingdom”.
- 11.5 For paragraphs 345A to 345D, substitute:
“345A. An asylum application may be treated as inadmissible and not substantively considered if the Secretary of State determines that:
 - (i) the applicant has been recognised as a refugee in a safe third country and they can still avail themselves of that protection; or

(ii) the applicant otherwise enjoys sufficient protection in a safe third country, including benefiting from the principle of non-refoulement; or
(iii) the applicant could enjoy sufficient protection in a safe third country, including benefiting from the principle of non-refoulement because:

- (a) they have already made an application for protection to that country; or
- (b) they could have made an application for protection to that country but did not do so and there were no exceptional circumstances preventing such an application being made, or
- (c) they have a connection to that country, such that it would be reasonable for them to go there to obtain protection.

Safe Third Country of Asylum

345B. A country is a safe third country for a particular applicant, if:

- (i) the applicant's life and liberty will not be threatened on account of race, religion, nationality, membership of a particular social group or political opinion in that country;
- (ii) the principle of non-refoulement will be respected in that country in accordance with the Refugee Convention;
- (iii) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected in that country; and
- (iv) the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Refugee Convention in that country."

345C. When an application is treated as inadmissible, the Secretary of State will attempt to remove the applicant to the safe third country in which they were previously present or to which they have a connection, or to any other safe third country which may agree to their entry."

Exceptions for admission of inadmissible claims to UK asylum process

345D. When an application has been treated as inadmissible and either

- (i) removal to a safe third country within a reasonable period of time is unlikely; or
- (ii) upon consideration of a claimant's particular circumstances the Secretary of State determines that removal to a safe third country is inappropriate

the Secretary of State will admit the applicant for consideration of the claim in the UK."

11.6 Delete Paragraph 345E.

Changes to Appendix V: Visitor

V1. In V 4.6. after sub paragraph (a), insert:

“(aa) International drivers undertaking activities permitted under PA 9.2.; or”.

Changes to Appendix Visitor: Permitted Activities

PA1. Delete paragraph PA 9. and insert:

“PA 9.1. Individuals employed outside the UK may visit the UK to take part in the following activities in relation to their employment overseas:

- (a) a translator and/or interpreter may support a business person in the UK, provided they will attend the same event(s) as the business person and are employed by that business person outside of the UK; or
- (b) personal assistants and bodyguards may support an overseas business person in carrying out permitted activities, provided they will attend the same event(s) as the business person and are employed by them outside the UK. They must not be providing personal care or domestic work for the business person; or
- (c) a tour group courier, contracted to a company with its headquarters outside the UK, who is entering and departing the UK with a tour group organised by their company; or
- (d) a journalist, correspondent, producer or cameraman gathering information for an overseas publication, programme or film; or
- (e) archaeologists taking part in a one-off archaeological excavation; or
- (f) a professor from an overseas academic institution accompanying students to the UK as part of a study abroad programme, may provide a small amount of teaching to the students at the host organisation (however this must not amount to filling a permanent teaching role for that institution).

PA 9.2. Drivers on a genuine international route between the UK and a country outside the UK may:

- (a) deliver or collect goods or passengers from a country outside the UK to the UK; and
- (b) undertake *cabotage operations*.

Drivers must be employed or contracted to an operator registered in a country outside the UK or be a self-employed operator and driver based outside the UK. The operator must hold an *International Operators Licence* or be operating on an *own account* basis.”.

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