

Statement of Change in Immigration Rules - HC486

March 2005

The Home Secretary has made the changes hereinafter stated in the Rules laid down by him as to the practice to be followed in the administration of the Immigration Act 1971 for regulating entry into and the stay of persons in the United Kingdom and contained in the Statement laid before Parliament on 23 May 1994 (HC 395), as amended. The amending statements were laid before, or presented to, Parliament on 20 September 1994 (Cmnd 2663), 26 October 1995 (HC 797), 4 January 1996 (Cmnd 3073), 7 March 1996 (HC 274), 2 April 1996 (HC 329), 30 August 1996 (Cmnd 3365), 31 October 1996 (HC 31), 27 February 1997 (HC 338), 29 May 1997 (Cmnd 3669), 5 June 1997 (HC 26), 30 July 1997 (HC 161), 11 May 1998 (Cmnd 3953), 8 October 1998 (Cmnd 4065), 18 November 1999 (HC 22), 28 July 2000 (HC 704), 20 September 2000 (Cmnd 4851), 27 August 2001 (Cmnd 5253), 16 April 2002 (HC 735), 27 August 2002 (Cmnd 5597), 7 November 2002 (HC 1301), 26 November 2002 (HC 104), 8 January 2003 (HC 180), 10 February 2003 (HC 389), 31 March 2003 (HC 538), 30 May 2003 (Cmnd 5829), 24 August 2003 (Cmnd 5949), 12 November 2003 (HC 1224), 17th December 2003 (HC 95), 12 January 2004 (HC 176), 26 February 2004 (HC 370), 31 March 2004 (HC 464), 29 April 2004 (HC 523), 3 August 2004 (Cmnd 6297), 24 September 2004 (Cmnd 6339), 18 October 2004 (HC 1112), 20 December 2004 (HC 164), 11 January 2005 (HC 194), 7 February 2005 (HC 302) and 22 February 2005 (HC 346).

These changes take effect on 5 April 2005.

1 In paragraph 6 after the definition of "adoption" insert:

"Approved Destination Status Agreement with China" means the Memorandum of Understanding on visa and related issues concerning tourist groups from the People's Republic of China to the United Kingdom as a approved destination, signed on 21 January 2005."

2 After paragraph 44 (ii) insert:

"; and

(iii) was not last admitted to the United Kingdom under the Approved Destination Status Agreement with China."

3 After paragraph 54 (iv) insert:

"; and

(v) was not last admitted to the United Kingdom under the Approved Destination Status Agreement with China."

4 After paragraph 56A (v) insert:

"; and

(vi) the parent was not last admitted to the United Kingdom under the Approved Destination Status Agreement with China."

5 After paragraph 56F insert:

"Visitors seeking leave to enter under the Approved Destination Status (ads) agreement with China

Requirements for leave to enter as a visitor under the Approved Destination Status Agreement with China ("ADS Agreement ").

56G The requirements to be met by a person seeking leave to enter the United Kingdom as a visitor under the ADS agreement with China are that he:

- (i) meets the requirements set out in paragraph 41 (ii) - (vii) ; and
- (ii) is a national of the People's Republic of China; and
- (iii) is genuinely seeking entry as a visitor for a limited period as stated by him, not exceeding 30 days; and
- (iv) intends to enter, leave and travel within the territory of the United Kingdom as a member of a tourist group under the ADS agreement; and
- (v) holds a valid ADS agreement visit visa.

Leave to enter as a visitor under the ADS agreement with China

56H A person seeking leave to enter the United Kingdom as a visitor under the ADS Agreement may be admitted for a period not exceeding 30 days, subject to a condition prohibiting employment, provided they hold an ADS Agreement visit visa.

Refusal of leave to enter as a visitor under the ADS agreement with China

56I Leave to enter as a visitor under the ADS agreement with China is to be refused if the person does not hold an ADS Agreement visit visa.

Extension of stay as a visitor under the ADS agreement with China

56J Any application for an extension of stay as a visitor under the ADS Agreement with China is to be refused."

Explanatory Memorandum to the Statement of Changes in Immigration Rules laid on 24 March 2005 (HC 486)

1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2 Description

2.1 This Statement of Changes in Immigration Rules contains a provision to create a new category of "ADS visitor" for those seeking to enter the UK under the terms of the Memorandum of Understanding (MoU) on visa and related issues concerning tourist groups from the People's Republic of China to the United Kingdom as an approved destination, signed on 21 January 2005.

3 Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4 Legislative Background

4.1 The Immigration Rules are the rules made under section 3(2) of the Immigration Act 1971. These constitute a statement of practice, as laid before Parliament by the Home Secretary, to be followed in regulating entry into, and stay of persons in, the United Kingdom. Under section 3(2) the Secretary of State is obliged "... from time to time (and as soon as may be) lay before Parliament statements of the rules, or any changes in the rules, laid down by him as to the practice to be followed in the administration of this Act."

4.2 This Statement in Changes to the Immigration Rules was laid on 24 March 2005 to create a new category of ADS visitor for those seeking entry under the UK/China MOU. The changes will take effect from 5 April 2005.

4.3 These Changes in Immigration Rules will be incorporated into a consolidated version of the Immigration Rules which can be found under the 'Laws & Policy' page at: www.ind.homeoffice.gov.uk, where there are also copies of all the Statement of Changes in Immigration Rules issued since May 2003.

5 Extent

5.1 This Statement of Changes in Immigration Rules applies to all of the United Kingdom.

6 European Convention on Human Rights

6.1 Not applicable.

7 Policy background

7.1 The UK/China ADS MOU which was signed on 21 January 2005 is intended to regulate outward tourism from China to the UK by providing a mechanism for issuing visas for groups of Chinese tourists to authorised travel agents.

7.2 This change to the Immigration Rules creates a new category of "ADS visitor" to cater for those seeking to enter the UK under the UK/China ADS MOU. The new category is necessary because the terms of the MoU differ from the existing requirements for visitors under the Immigration Rules. Paragraph 41 of the Immigration Rules provides that an individual seeking entry to the UK as a visitor must demonstrate that he is genuinely seeking entry to the UK as a visitor for a maximum period of 6 months; that he has sufficient funds to support and accommodate himself and any dependants without working or having recourse to public funds

and that he will leave the UK at the end of his visit. Under paragraph 44 of the Rules, a visitor is also permitted to apply for an extension of stay in cases where less than 6 months leave is granted in the first instance.

7.3 Those seeking entry to the UK under the ADS arrangements will have to meet the requirements for ordinary visitors at paragraph 41 (ii) - (vii) of the Rules, but in addition, applicants must be Chinese nationals; must be genuinely seeking entry as a visitor for a maximum period of 30 days; must intend to enter, travel and leave the UK as part of a group and will not be permitted to extend their stay beyond the maximum 30 day period. The ADS visitor category will reflect these requirements.

7.4 In order to prevent ADS tourists being able to extend their stay by applying for an extension in another visitor category, amendments are also being made to paragraph 44 (extension of stay as an ordinary visitor); paragraph 54 (extension of stay as a visitor for private medical treatment) and paragraph 56A (leave to enter or remain for a parent of a child at school).

7.5 In conjunction with these Rules changes, the Immigration (Leave to Enter and Remain) (Amendment) Order 2005 was laid on 21 February. This provides that visas issued pursuant to the MoU shall have effect as single entry visas and have effect as leave to enter on one occasion unless endorsed as dual entry visas; in which case they shall have effect as leave to enter on two occasions.

The Order will come into force on 5 April 2005.

8 Impact

8.1 A Regulatory Impact Assessment has not been prepared for this Statement of Changes in Immigration Rules as it has no impact on legitimate business, charities or voluntary bodies.

9 Contact

9.1 The following leads can answer any queries regarding this Statement of Changes in Immigration Rules:

Visitor policy: Jill Rice, Home Office, tel: 020-8760 8798 or e-mail:
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