

STATEMENT OF CHANGES IN IMMIGRATION RULES

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

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STATEMENT OF CHANGES IN IMMIGRATION RULES

The Home Secretary has made the changes hereinafter stated in the rules laid down by her 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 (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), 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) and 4 April 2012 (Cm 8337).

Implementation

With the exception of paragraphs 6 to 72, 74 to 80, 82, 86, 88 to 90, 93, 97, 98, 100, 102, 103 and 106 the changes set out in this Statement shall take effect on 9 July 2012. Paragraphs 6 to 72, 74 to 80, 82, 86, 88 to 90, 93, 97, 98, 100, 102, 103 and 106 shall take effect on 1 October 2012.

However, if an application for entry clearance, leave to remain or indefinite leave to remain has been made before 9 July 2012 and the application has not been decided, it will be decided in accordance with the rules in force on 8 July 2012.

Appendix FM applies to applications made on or after 9 July 2012 as set out in paragraph 91 of this Statement of Changes.

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 2012, 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 imposes a net burden (or cost) on business or civil society organisations.

Changes

1. In paragraph 6 –

After the definition of ‘**adoption**’ insert “In Appendix FM references to ‘**application for leave to remain**’ include an application for variation of leave to enter or remain of a person in the UK.”.

For the definition of ‘**Immigration Acts**’ substitute “‘**Immigration Acts**’ has the same meaning as it has in the Interpretation Act 1978.”.

After the definition of ‘**civil partner**’ insert “‘**conviction**’ means conviction for a criminal offence in the UK or any other country.”.

In the definition of ‘**intention to live permanently with the other**’ add after that phrase “‘and **intend to live together permanently**’” and delete the words after “thereafter”.

Insert at the end of the definition of ‘**present and settled**’ “For the purposes of Appendix FM 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, or a staff member of the Department for

International Development or the Home Office, who is a British Citizen or settled in the UK, is to be regarded as present and settled in the UK.”.

Insert at the end of the definition of ‘**sponsor**’ “or the person in relation to whom an applicant is seeking entry clearance or leave as their partner or dependent relative under Appendix FM.”.

After the definition of ‘**sponsor**’ insert “‘**prohibited degree of relationship**’ has the same meaning as in the Marriage Act 1949, the Marriage (Prohibited Degrees of Relationship) Act 1986 and the Civil Partnership Act 2004.”.

Then insert “‘**overcrowded**’ means overcrowded within the meaning of the Housing Act 1985, the Housing (Scotland) Act 1987 or the Housing (Northern Ireland) Order 1988 (as appropriate).”.

Then insert “‘**working illegally**’ means working in breach of conditions of leave or working when in the UK without valid leave where such leave is required.”.

Then insert “‘**in breach of immigration laws**’ means without valid leave where such leave is required, or in breach of the conditions of leave.”.

Then insert “‘**adequate**’ and ‘**adequately**’ in relation to a maintenance and accommodation requirement shall mean that, after housing costs have been deducted, there must be available to the family the level of gross income that would be available to them if the family was in receipt of income support.”.

Then insert “‘**occupy exclusively**’ in relation to accommodation shall mean that part of the accommodation must be for the exclusive use of the partner and their dependants.”.

Then insert “‘**must not be leading an independent life**’ means that the applicant does not have a partner as defined in Appendix FM; is living with their parents (except where they are at boarding school as part of their full-time education); is not employed full-time or for a significant number of hours per week (unless aged 18 years or over); is wholly or mainly dependent upon their parents for financial support (unless aged 18 years or over); and is wholly or mainly dependent upon their parents for emotional support.”.

After the definition of ‘**a parent**’ insert “‘**date of application**’ means the date of application determined in accordance with paragraph 30 or 34G of these rules as appropriate.”.

After the definition of ‘**date of application**’ insert “‘**a valid application**’ means an application made in accordance with the requirements of Part 1 of these Rules.”.

After the definition of ‘**a valid application**’ insert “‘**refugee leave**’ means limited leave granted pursuant to paragraph 334 or 335 of these rules and has not been revoked pursuant to paragraph 339A or 339B of these rules.”.

After the definition of ‘**refugee leave**’ insert ‘**humanitarian protection**’ means limited leave granted pursuant to paragraph 339C of these rules and has not been revoked pursuant to paragraph 339G or 339H of these rules.”.

After the definition of ‘**humanitarian protection**’ insert “‘**a period of imprisonment**’ referred to in these rules has the same meaning as set out in section 38(2) of the UK Borders Act 2007.”.

Delete the definition of ‘**Overstayed**’ or ‘**Overstaying**’ and after the definition of “‘**a period of imprisonment**” insert “‘**Overstayed**’ or ‘**Overstaying**’ means the applicant has stayed in the UK beyond the latest of:

- (i) the time limit attached to the last period of leave granted, or
- (ii) beyond the period that his leave was extended under sections 3C or 3D of the Immigration Act 1971, or
- (iii) the date that an applicant receives the notice of invalidity declaring that an application for leave to remain is not a valid application, provided the application was submitted before the time limit attached to the last period of leave expired.”.

After the definition of ‘**a bona fide private education institution**’ insert “‘**Business day**’ means any day other than Saturday or Sunday, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom to which the notice is sent, Christmas Day or Good Friday.”.

2. In paragraph 27 after “paragraphs 296-316” insert “or paragraph EC-C of Appendix FM”.
3. After paragraph 34C insert “Notice of invalidity will be given in writing and deemed to be received on the date it is given, except where it is sent by post, in which case it will be deemed to be received on the second day after it was posted excluding any day which is not a business day.”
4. After paragraph 34CA insert “Notice of invalidity will be given in writing and deemed to be received on the date it is given, except where it is sent by post, in which case it will be deemed to be received on the second day after it was posted excluding any day which is not a business day.”
5. In paragraph 35 in the first sentence
 - (a) delete “or variation of leave to enter”; and
 - (b) delete “maintenance and accommodation” and insert “maintenance, accommodation and (as appropriate) personal care”; and
 - (c) after “further variation” add “, or for a period of 5 years from date of grant where indefinite leave to enter or remain is granted”.
6. After paragraph 44(iii) insert “; and
 - (iv) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
7. After paragraph 46D(vi) insert “; and
 - (vii) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”

8. After paragraph 46J(iv) insert “; and
(v) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
9. After paragraph 46P(iii) insert “; and
(iv) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
10. After paragraph 46V(iii) insert “; and
(iv) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
11. After paragraph 54(v) insert “; and
(vi) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
12. After paragraph 56A(vi) insert “; and
(vii) if seeking leave to remain must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
13. After paragraph 75D(v) insert “; and
(vi) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
14. After paragraph 75K(vi) insert “; and
(vii) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
15. After paragraph 76(vi) insert “; and
(vii) if seeking leave to remain must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
16. After paragraph 79(vi) insert “; and
(vii) if seeking leave to remain must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
17. After paragraph 85(iii) insert “; and
(iv) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
18. After paragraph 122(vi) insert “; or
(vii) if seeking leave to remain, must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”

19. In paragraph 123 after “each of the requirements of paragraph 122 (i)-(v)” insert “and (vii)”
20. In paragraph 124 after “each of the requirements of paragraph 122 (i)-(v)” insert “and (vii)”
21. After paragraph 125(vii) insert “; or (viii) if seeking leave to remain, must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
22. In paragraph 126 after “each of the requirements of paragraph 125 (i)-(vi)” insert “and (viii)”
23. In paragraph 127 after “each of the requirements of paragraph 125 (i)-(vi)” insert “and (viii)”
24. After paragraph 134(vii) insert “; and (viii) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
25. After paragraph 135G(v) insert “; and (vi) unless the applicant is applying under the terms of the HSMP ILR Judicial Review Policy Document, must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
26. After paragraph 142(v) insert “and; (vi) he is not in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
27. After paragraph 147(v) insert “; and (vi) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
28. After paragraph 150(v) insert “; and (vi) he is not in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
29. After paragraph 158(v) insert “; and (vi) he is not in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
30. After paragraph 159D(vi) insert “; and (vii) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
31. After paragraph 159EA(v) insert “; and (vi) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”

32. After paragraph 159G(vi) insert “; and
(vii) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
33. After paragraph 167(v) insert “; and
(vi) he is not in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
34. After paragraph 176(v) insert “; and
(vi) he is not in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
35. After paragraph 184(v) insert “; and
(vi) he is not in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
36. After paragraph 189(ii) insert “; and
(iii) he is not in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
37. After paragraph 192(iv) insert “; and
(v) he is not in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
38. After paragraph 196A(v) insert “; and
(vi) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
39. After paragraph 196D(vi) insert “; and
(vii) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
40. After paragraph 197(vii) insert “; or
(viii) if seeking leave to remain, must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
41. In paragraph 198 after “each of the requirements of paragraph 197 (i)-(vi)” insert “and (viii)”
42. In paragraph 199 after “each of the requirements of paragraph 197 (i)-(vi)” insert “and (viii)”
43. After paragraph 209(v) insert “; and
(vi) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
44. After paragraph 210G(iv) insert “; and

(v) he is not in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”

45. After paragraph 222(viii) insert “; and
(ix) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
46. After paragraph 230(iv) insert “; and
(v) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
47. After paragraph 238(iv) insert “; and
(v) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
48. After paragraph 242A(v) insert “; and
(vi) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
49. After paragraph 242D(vi) insert “; and
(vii) must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
50. After paragraph 243(vii) insert “; or
(viii) if seeking leave to remain, must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
51. In paragraph 244 after “each of the requirements of paragraph 243 (i)-(vi)” insert “and
(viii)”
52. In paragraph 245 after “each of the requirements of paragraph 243 (i)-(vi)” insert “and
(viii)”
53. After paragraph 245BD(d) insert “(e) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
54. After paragraph 245BF(e) insert “(f) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
55. After paragraph 245CA(f) insert “(g) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
56. After paragraph 245CD(h) insert “(i) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”

57. After paragraph 245CE(ii) insert “(iia) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded”
58. After paragraph 245DD(f) insert “(g) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
59. After paragraph 245DF(d) insert “(e) The applicant must not be in the UK in breach of
be disregarded.”
60. After paragraph 245ED(d) insert “(e) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
61. After paragraph 245EF(d) insert “(e) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
62. After paragraph 245FA(h) insert “(i) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
63. After paragraph 245GD(k) insert “(l) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
64. After paragraph 245GF(g) insert “(h) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
65. After paragraph 245HD(o) insert “(p) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
66. After paragraph 245HF(f) insert “(g) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
67. After paragraph 245ZQ(h) insert “(i) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
68. After paragraph 245ZS(c) insert “(d) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
69. Delete paragraph 245ZX(l) and insert “245ZX(l) The applicant must be applying for leave to remain for the purpose of studies which commence within 28 days of the expiry

of the applicant's current leave to enter or remain or, where the applicant has overstayed, within 28 days of when that period of overstaying began.”

70. After paragraph 245ZX(l) insert “(m) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
71. Delete paragraph 245ZZC(j) and insert “245ZZC(j) The applicant must be applying for leave to remain for the purpose of studies which commence within 28 days of the expiry of the applicant's current leave to enter or remain or, where the applicant has overstayed, within 28 days of when that period of overstaying began.”
72. After paragraph 245ZZC(k) insert “(l) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
73. Before paragraph 246 insert –

“A246. Paragraphs 246 to 248F apply only to a person who has made an application before 9 July 2012 for leave to enter or remain or indefinite leave to remain as a person exercising rights of access to a child resident in the UK.

AB246. Where an application for leave to enter or remain is made on or after 9 July 2012 as a person exercising rights of access to a child resident in the UK Appendix FM will apply.”
74. After paragraph 266(iii) insert “; and
(iv) must not be in the UK in breach of immigration laws, except that any period of overstaying for a period of 28 days or less will be disregarded.”
75. After paragraph 269(iii) insert “; and
(iv) must not be in the UK in breach of immigration laws, except that any period of overstaying for a period of 28 days or less will be disregarded.”
76. After paragraph 273A(v) insert “; and
(vi) must not be in the UK in breach of immigration laws, except that any period of overstaying for a period of 28 days or less will be disregarded.”
77. After paragraph 273D(vi) insert “; and
(vii) must not be in the UK in breach of immigration laws, except that any period of overstaying for a period of 28 days or less will be disregarded.”
78. After paragraph 274(vii) insert “; or
(viii) if seeking leave to remain, must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
79. In paragraph 275 after each reference to “each of the requirements of paragraph 274 (i)-(vi)” insert “and (viii)”

80. In paragraph 276 after each reference to “each of the requirements of paragraph 274 (i)-(vi)” insert “and (viii)”
81. In paragraph 276A. At the end of the first line add “and 276ADE.”
82. In paragraph 276A1 after “each of the requirements in paragraph 276B(i)-(ii)” insert “and (v)”
83. In paragraph 276A3 (i) delete “14” and insert “20”, and in (ii) delete “14” and insert “20”
84. In paragraph 276B(i)(a) delete “; or” and insert “.”
85. Delete paragraph 276B(i)(b)
86. After paragraph 276B(iv) insert “(v) the applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
87. After paragraph 276D insert:

“
Private life
Requirements to be met by an applicant for leave to remain on the grounds of private life
 276ADE. The requirements to be met by an applicant for leave to remain on the grounds of private life in the UK are that at the date of application, the applicant:
 (i) does not fall for refusal under any of the grounds in Section S-LTR 1.2 to S-LTR 1.5 in Appendix FM; and
 (ii) does not fall for refusal under any of the grounds in Section S-LTR 1.6 to 2.3 in Appendix FM; and
 (iii) has lived continuously in the UK for at least 20 years (discounting any period of imprisonment); or
 (iv) is under the age of 18 years and has lived continuously in the UK for at least 7 years (discounting any period of imprisonment); or
 (v) is aged 18 years or above and under 25 years and has spent at least half of his life residing continuously in the UK (discounting any period of imprisonment); or
 (vi) is aged 18 years or above, has lived continuously in the UK for less than 20 years (discounting any period of imprisonment) but has no ties (including social, cultural or family) with the country to which he would have to go if required to leave the UK.

In considering applications under this paragraph, the Secretary of State shall attach less weight to private life in the UK established following refusal of an earlier application for leave to remain made under paragraph 276ADE.

Leave to remain on the grounds of private life in the UK

276BE. Limited leave to remain on the grounds of private life in the UK may be granted for a period not exceeding 30 months provided that the Secretary of State is satisfied that the requirements in paragraph 276ADE are met. Such leave shall be given subject to such conditions as the Secretary of State deems appropriate.

Refusal of limited leave to remain on the grounds of private life in the UK

276CE. Limited leave to remain on the grounds of private life in the UK is to be refused if the Secretary of State is not satisfied that the requirements in paragraph 276ADE are met.

Requirements for indefinite leave to remain on the grounds of private life in the UK

276DE. The requirements to be met for the grant of indefinite leave to remain on the grounds of private life in the UK are that:

- (a) the applicant has been in the UK with continuous leave on the grounds of private life for a period of at least 120 months;
- (b) the applicant meets the requirements of paragraph 276ADE;
- (c) the applicant has no unspent convictions;
- (d) the applicant has sufficient knowledge of the English language and sufficient knowledge about life in the UK unless the applicant is under the age of 18 or aged 65 or over at the time the applicant makes the application; and
- (e) there are no reasons why it would be undesirable to grant the applicant indefinite leave to remain based on the applicant's conduct, character or associations or because the applicant represents a threat to national security.

Indefinite leave to remain on the grounds of private life in the UK

276DF. Indefinite leave to remain on the grounds of private life in the UK may be granted provided that the Secretary of State is satisfied that each of the requirements of paragraph 276DE is met.

276DG. If the applicant does not meet the requirements for indefinite leave to remain on the grounds of private life in the UK only for one or both of the following reasons-

- (a) the applicant has an unspent conviction;
- (b) the applicant has not met the requirements of paragraphs 33B to 33G of these Rules,

the applicant may be granted further limited leave to remain on the grounds of private life in the UK for a period not exceeding 30 months, and subject to such conditions as the Secretary of State deems appropriate.

Refusal of indefinite leave to remain on the grounds of private life in the UK

276DH. Indefinite leave to remain on the grounds of private life in the UK is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 276DE is met, subject to paragraph 276DG.”

- 88. In paragraph 276I(iv) delete “on the date of application has leave to enter or remain in the United Kingdom” and insert “is not in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”
- 89. In paragraph 276O(iv) delete “on the date of application has leave to enter or remain in the United Kingdom” and insert “is not in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”

90. In paragraph 276AA(iv) delete “has leave to enter or remain in the United Kingdom” and insert “is not in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.”

91. At the beginning of Part 8 insert a new section:

“Transitional provisions and interaction between Part 8 and Appendix FM

A277 From 9 July 2012 Appendix FM will apply to all applications to which Part 8 of these rules applied on or before 8 July 2012 except where the provisions of Part 8 are preserved and continue to apply, as set out in paragraph A280.

A278 The requirements to be met under Part 8 after 9 July 2012 may be modified or supplemented by the requirements in Appendix FM.

A279 The requirements of sections “S-EC: Suitability – entry clearance” and “S-LTR: Suitability – leave to remain” of Appendix FM shall apply to all applications made under Part 8 and paragraphs 276A-276D and paragraphs 398-399A shall apply to all immigration decisions made further to applications under Part 8 and paragraphs 276A-276D where a decision is made on or after 9 July 2012, irrespective of the date the application was made.

A280 The following provisions of Part 8 apply in the manner and circumstances specified:

(a) The following paragraphs apply in respect of all applications made under Part 8, irrespective of the date of application or decision:

277-280
289AA
295AA
296

(b) The following paragraphs of Part 8 continue to apply to all applications made on or after 9 July 2012. The paragraphs apply in their current form unless an additional requirement by reference to Appendix FM is specified:

Paragraph number	Additional requirement
295J	None
297 - 300	None
304-309	None
309 – 316F	Where the applicant: <ul style="list-style-type: none"> • falls under paragraph 314(i)(a); or • falls under paragraph 316A(i)(d) or (e); and • is applying on or after 9 July 2012 the application must also meet the requirements of paragraphs E-ECC 2.1-2.3 (entry clearance applications) or E-LTRC 2.1-2.3 (leave to remain applications) of Appendix FM.

	<p>Where the applicant:</p> <ul style="list-style-type: none"> • falls under paragraph 314(i)(d); • is applying on or after 9 July 2012; and • has two parents or prospective parents and one of the applicant's parents or prospective parents does not have right of abode, indefinite leave to enter or remain, is not present and settled in the UK or being admitted for settlement on the same occasion as the applicant is seeking admission <p>the application must also meet the requirements of paragraphs E-ECC 2.1-2.3 (entry clearance applications) or E-LTRC 2.1-2.3 (leave to remain applications) of Appendix FM.</p>
319X	None

(c) The following provisions of Part 8 continue to apply to applications made on or after 9 July 2012, and are not subject to any additional requirement listed in (b) above:

- (i) by persons who have made an application before 9 July 2012 under Part 8 which was not decided as at 9 July 2012; and
- (ii) by persons who have been granted entry clearance or limited leave to enter or remain under Part 8 before 9 July 2012:

281-289
289A-289C
290-295
295A-295O
297-316F
317-319
319L-319U
319V-319Y

(d) The following provisions of Part 8 continue to apply to applications made on or after 9 July 2012, and are not subject to any additional requirement listed in (b) above, by persons who have made an application for entry clearance, leave to enter or remain as the fiancé(e), proposed civil partner, spouse, civil partner, unmarried partner, same sex partner, or child or other dependant relative of a British citizen or settled person who is a full-time member of HM Forces:

281-289
289A-289C
290-295
295A-295O
297-316F
317-319

- (e) The following provisions of Part 8 shall continue to apply to applications made on or after 9 July 2012, and are not subject to any additional requirement listed in (b) above, by a spouse, civil partner, unmarried partner or same sex partner who was admitted to the UK before 9 July 2012 further to paragraph 282(c) or 295B(c) of these Rules who has not yet applied for indefinite leave to remain:

284-286
287(a)(i)(c)
287(a)(ii)-(vii)
287(b)
288-289
289A-289C
295D-295F
295G(i)(c)
295G(ii)-(vii)
295H-295I

92. At the end of paragraph 277 insert “In these rules the term “sponsor” includes “partner” as defined in GEN 1.2 of Appendix FM.”

93. After paragraph 319C(i) add “(j) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days will be disregarded.”

94. In paragraph 319E(b), delete “who is, at the same time, being granted” and substitute “who is being, or has been, granted”

95. In paragraph 319E(c), after “who is being” insert “, or has been,”

96. Delete paragraph 319E(d) and substitute:

“(d) The applicant and the Relevant Points Based System Migrant must have been living together in the UK in marriage or civil partnership, or in a relationship similar to marriage or civil partnership, for at least the period specified in (i) or (ii).

(i) If the applicant was granted leave as the Partner of the Relevant Points Based System Migrant under the Rules in place before 9 July 2012, and since then has had continuous leave as the Partner of the Relevant Points Based System Migrant, the specified period is at least 2 years.

(ii) If (i) does not apply, the specified period is 5 years, during which the applicant must have had continuous leave as the Partner of the Relevant Points Based System Migrant, and during that period have met all of the requirements of paragraph 319C(a) to (e).”

97. In paragraph 319E(g) delete “and;” and insert “.”

98. After paragraph 319E(h) add “and;

(i) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days will be disregarded.”

99. In paragraph 319H(f)(iii), delete “serious or compelling” and substitute “serious and compelling”
100. After paragraph 319H(j) add “(k) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days will be disregarded.”
101. In paragraph 319J(e)(iii), delete “serious or compelling” and substitute “serious and compelling”
102. In paragraph 319J(f) delete “and;” and insert “.”
103. After paragraph 319J(g) add “and;
(h) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days will be disregarded.”
104. At the beginning of Part 9 insert –
“A320. Paragraphs 320 (except subparagraph (3), (10) and (11)) and 322 do not apply to an application for entry clearance, leave to enter or leave to remain as a Family Member under Appendix FM.”
105. In paragraph 320(7B) delete “subject to paragraph 320(7C) where the applicant has previously breached the UK’s immigration laws by” and substitute “where the applicant has previously breached the UK’s immigration laws (and was over 18 at the time of his most recent breach) by”
106. In paragraph 320(7B)(d)(i) delete “28 days” and insert “90 days”
107. Delete paragraph 320(7C)
108. In paragraph 320(13) delete “or a spouse or civil partner eligible for admission under paragraph 282”.
109. After paragraph 326A insert –
“326B. Where the Secretary of State is considering a claim for asylum or humanitarian protection under this Part, she will consider any Article 8 elements of that claim in line with the provisions of Appendix FM (family life) and paragraphs 276ADE to 276DH (private life) of these Rules.”
110. After paragraph 353B insert – “This paragraph does not apply where the person is liable to deportation.”
111. At the beginning of Part 13 insert: “A362. Where Article 8 is raised in the context of deportation under Part 13 of these Rules, the claim under Article 8 will only succeed where the requirements of these rules as at 9 July 2012 are met, regardless of when the notice of intention to deport or the deportation order, as appropriate, was served.”
112. Delete paragraphs 364, 364A, 367 and 380.

113. After paragraph 390 insert –

390A. Where paragraph 398 applies the Secretary of State or Entry Clearance Officer assessing the application will consider whether paragraph 399 or 399A applies and, if it does not, it will only be in exceptional circumstances that the public interest in maintaining the deportation order will be outweighed by other factors.

114. After paragraph 395 insert –

“396. Where a person is liable to deportation the presumption shall be that the public interest requires deportation. It is in the public interest to deport where the Secretary of State must make a deportation order in accordance with section 32 of the UK Borders Act 2007.

397. A deportation order will not be made if the person’s removal pursuant to the order would be contrary to the UK’s obligations under the Refugee Convention or the Human Rights Convention. Where deportation would not be contrary to these obligations, it will only be in exceptional circumstances that the public interest in deportation is outweighed.

398. Where a person claims that their deportation would be contrary to the UK’s obligations under Article 8 of the Human Rights Convention, and

- (a) the deportation of the person from the UK is conducive to the public good because they have been convicted of an offence for which they have been sentenced to a period of imprisonment of at least 4 years;
- (b) the deportation of the person from the UK is conducive to the public good because they have been convicted of an offence for which they have been sentenced to a period of imprisonment of less than 4 years but at least 12 months; or
- (c) the deportation of the person from the UK is conducive to the public good because, in the view of the Secretary of State, their offending has caused serious harm or they are a persistent offender who shows a particular disregard for the law,

the Secretary of State in assessing that claim will consider whether paragraph 399 or 399A applies and, if it does not, it will only be in exceptional circumstances that the public interest in deportation will be outweighed by other factors.

399. This paragraph applies where paragraph 398 (b) or (c) applies if –

- (a) the person has a genuine and subsisting parental relationship with a child under the age of 18 years who is in the UK, and
 - (i) the child is a British Citizen; or
 - (ii) the child has lived in the UK continuously for at least the 7 years immediately preceding the date of the immigration decision; and in either case
- (a) it would not be reasonable to expect the child to leave the UK; and

(b) there is no other family member who is able to care for the child in the UK; or

(b) the person has a genuine and subsisting relationship with a partner who is in the UK and is a British Citizen, settled in the UK, or in the UK with refugee leave or humanitarian protection, and

(i) the person has lived in the UK with valid leave continuously for at least the 15 years immediately preceding the date of the immigration decision (discounting any period of imprisonment); and

(ii) there are insurmountable obstacles to family life with that partner continuing outside the UK.

399A. This paragraph applies where paragraph 398(b) or (c) applies if –

(a) the person has lived continuously in the UK for at least 20 years immediately preceding the date of the immigration decision (discounting any period of imprisonment) and he has no ties (including social, cultural or family) with the country to which he would have to go if required to leave the UK; or

(b) the person is aged under 25 years, he has spent at least half of his life living continuously in the UK immediately preceding the date of the immigration decision (discounting any period of imprisonment) and he has no ties (including social, cultural or family) with the country to which he would have to go if required to leave the UK.

399B. Where paragraph 399 or 399A applies limited leave may be granted for a period not exceeding 30 months. Such leave shall be given subject to such conditions as the Secretary of State deems appropriate.

399C. Where limited leave has been granted under paragraph 399B, the person may qualify for further limited leave, subject to such conditions as the Secretary of State deems appropriate. The requirements for further leave are that the applicant continues to meet the criteria set out in paragraph 399 or 399A.

400. Where a person claims that their removal under paragraphs 8 to 10 of Schedule 2 to the Immigration Act 1971, section 10 of the Immigration and Asylum Act 1999 or section 47 of the Immigration, Asylum and Nationality Act 2006 would be contrary to the UK's obligations under Article 8 of the Human Rights Convention, the Secretary of State may require an application under paragraph 276ADE (private life) or Appendix FM (family life) of these rules. Where an application is not required, in assessing that claim the Secretary of State or an immigration officer will, subject to paragraph 353, consider that claim against the requirements to be met under paragraph 276ADE or Appendix FM and if appropriate the removal decision will be cancelled.”

115. After Appendix F insert:

“

APPENDIX FM FAMILY MEMBERS

This Appendix applies to applications under this route made on or after 9 July 2012 and to applications under Part 8 as set out in the Statement of Changes laid on 13 June 2012 (HC 194), except as otherwise set out at paragraphs A277-A280.

The sections of this Appendix are set out in the following order –

General

Section GEN: General

Family life as a partner

Section EC-P: Entry clearance as a partner

Section S-EC: Suitability-entry clearance

Section E-ECP: Eligibility for entry clearance as a partner

Section D-ECP: Decision on application for entry clearance as a partner

Section R-LTRP: Requirements for limited leave to remain as a partner

Section S-LTR: Suitability-leave to remain

Section E-LTRP: Eligibility for limited leave to remain as a partner

Section D-LTRP: Decision on application for limited leave to remain as a partner

Section R-ILRP: Requirements for indefinite leave to remain (settlement) as a partner

Section E-ILRP: Eligibility for indefinite leave to remain as a partner

Section D-ILRP: Decision on application for indefinite leave to remain as a partner

Exception

Section EX: Exception

Bereaved partner

Section BPILR: Indefinite leave to remain (settlement) as a bereaved partner

Section E-BPILR: Eligibility for indefinite leave to remain as a bereaved partner

Section D-BPILR: Decision on application for indefinite leave to remain as a bereaved partner

Victim of domestic violence

Section DVILR: Indefinite leave to remain (settlement) as a victim of domestic violence

Section E-DVILR: Eligibility for indefinite leave to remain as a victim of domestic violence

Section D-DVILR: Decision on application for indefinite leave to remain as a victim of domestic violence

Family life as a child of a parent with limited leave as a partner or parent

Section EC-C: Entry clearance as a child

Section E-ECC: Eligibility for entry clearance as a child

Section D-ECC: Decision on application for entry clearance as a child

Section R-LTR-C: Requirements for leave to remain as a child

Section E-LTRC: Eligibility for leave to remain as a child

Section D-LTRC: Decision on application for leave to remain as a child

Family life as a parent

Section EC-PT: Entry clearance as a parent

Section E-ECPT: Eligibility for entry clearance as a parent

Section D-ECPT: Decision on application for entry clearance as a parent

Section R-LTRPT: Requirements for limited leave to remain as a parent

Section E-LTRPT: Eligibility for limited leave to remain as a parent

Section D-LTRPT: Decision on application for limited leave to remain as a parent

Section R-ILRPT: Requirements for indefinite leave to remain (settlement) as a parent

Section E-ILRPT: Eligibility for indefinite leave to remain as a parent

Section D-ILRPT: Decision on application for indefinite leave to remain as a parent

Adult dependent relatives

Section EC-DR: Entry clearance as an adult dependent relative

Section E-ECDR: Eligibility for entry clearance as an adult dependent relative

Section D-ECDR: Decision on application for entry clearance as an adult dependent relative

Section R-ILRDR: Requirements for indefinite leave to remain as an adult dependent relative

Section E-ILRDR: Eligibility for indefinite leave to remain as an adult dependent relative

Section D-ILRDR: Decision on application for indefinite leave to remain as an adult dependent relative

General

Section GEN: General

Purpose

GEN.1.1. This route is for those seeking to enter or remain in the UK on the basis of their family life with a person who is a British Citizen, is settled in the UK, or is in the UK with limited leave as a refugee or person granted humanitarian protection. It sets out the requirements to be met and, in considering applications under this route, it reflects how, under Article 8 of the Human Rights Convention, the balance will be struck between the right to respect for private and family life and the legitimate aims of protecting national security, public safety and the economic well-being of the UK; the prevention of disorder and crime; the protection of health or morals; and the protection of the rights and freedoms of others. It also takes into account the need to safeguard and promote the welfare of children in the UK.

Definitions

GEN.1.2. For the purposes of this Appendix “partner” means-

- (i) the applicant’s spouse;
- (ii) the applicant’s civil partner;
- (iii) the applicant’s fiancé(e) or proposed civil partner; or
- (iv) a person who has been living with the applicant in a relationship akin to a marriage or civil partnership for at least two years prior to the date of application,

unless the context otherwise requires.

GEN.1.3. For the purposes of this Appendix-

- (a) “application for leave to remain” also includes an application for variation of leave to enter or remain by a person in the UK;
- (b) references to a person being present and settled in the UK also include a person who is being admitted for settlement on the same occasion as the applicant; and
- (c) references to a British Citizen in the UK also include a British Citizen who is coming to the UK with the applicant as their partner or parent.

GEN.1.4. In this Appendix “specified” means specified in the application or related guidance.

GEN.1.5. If the Entry Clearance Officer, or Secretary of State, has reasonable cause to doubt the genuineness of any document submitted in support of an application, and having taken reasonable steps to verify the document, is unable to verify that it is genuine, the document will be discounted for the purposes of the application.

GEN.1.6. For the purposes of paragraph E-ECP.4.1.(a); E-LTRP.4.1.(a); E-ECPT.4.1(a) and E-LTRPT.5.1.(a) the applicant must be a national of Antigua and Barbuda; Australia; the Bahamas; Barbados; Belize; Canada; Dominica; Grenada; Guyana; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; or the United States of America.

GEN.1.7. In this Appendix references to paragraphs are to paragraphs of this Appendix unless the context otherwise requires.

GEN.1.8. Paragraphs 277-280, 289AA, 295AA and 296 of Part 8 of these Rules shall apply to this Appendix.

Leave to enter

GEN.2.1. The requirements to be met by a person seeking leave to enter the UK under this route are that the person-

- (a) must have a valid entry clearance for entry under this route; and
- (b) must produce to the Immigration Officer on arrival a valid national passport or other document satisfactorily establishing their identity and nationality.

GEN.2.2. If a person does not meet the requirements of paragraph GEN.2.1. entry will be refused.

Family life with a Partner

Section EC-P: Entry clearance as a partner

EC-P.1.1. The requirements to be met for entry clearance as a partner are that-

- (a) the applicant must be outside the UK;
- (b) the applicant must have made a valid application for entry clearance as a partner;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-EC: Suitability—entry clearance; and
- (d) the applicant must meet all of the requirements of Section E-ECP: Eligibility for entry clearance as a partner.

Section S-EC: Suitability-entry clearance

S-EC.1.1. The applicant will be refused entry clearance on grounds of suitability if any of paragraphs S-EC.1.2. to 1.7. apply.

S-EC.1.2. The Secretary of State has personally directed that the exclusion of the applicant from the UK is conducive to the public good.

S-EC.1.3. The applicant is at the date of application the subject of a deportation order.

S-EC.1.4. The exclusion of the applicant from the UK is conducive to the public good because they have been convicted of an offence for which they have been sentenced to imprisonment for at least 12 months.

S-EC.1.5. The exclusion of the applicant from the UK is conducive to the public good or because, for example, the applicant's conduct (including convictions which do not fall within paragraph S-EC.1.4.), character, associations, or other reasons, make it undesirable to grant them entry clearance.

S-EC.1.6. The applicant has failed without reasonable excuse to-

- (a) attend an interview when required to do so;
- (b) provide specified information, including physical data, when required to do so; or
- (c) undergo a medical examination, or provide a medical report, when required to do so.

S-EC.1.7. It is undesirable to grant entry clearance to the applicant for medical reasons.

S-EC.2.1. The applicant will normally be refused on grounds of suitability if any of paragraphs S-EC.2.2. to 2.4. apply.

S-EC.2.2. Whether or not to the applicant's knowledge –

- (a) false information, representations or documents have been submitted in relation to the application (including false information submitted to any person to obtain a document used in support of the application); or
- (b) there has been a failure to disclose material facts in relation to the application.

S-EC.2.3. One or more relevant NHS body has notified the Secretary of State that the applicant has failed to pay charges in accordance with the relevant NHS regulations on charges to overseas visitors and the outstanding charges have a total value of at least £1000.

S-EC.2.4. A maintenance and accommodation undertaking has been requested or required under paragraph 35 of these Rules or otherwise and has not been provided.

Section E-ECP: Eligibility for entry clearance as a partner

E-ECP.1.1. To meet the eligibility requirements for entry clearance as a partner all of the requirements in paragraphs E-ECP.2.1. to 4.2. must be met.

Relationship requirements

E-ECP.2.1. The applicant's partner must be-

- (a) a British Citizen in the UK; or
- (b) present and settled in the UK; or
- (c) in the UK with refugee leave or with humanitarian protection.

E-ECP.2.2. The applicant must be aged 18 or over at the date of application.

E-ECP.2.3. The partner must be aged 18 or over at the date of application.

E-ECP.2.4. The applicant and their partner must not be within the prohibited degree of relationship.

E-ECP.2.5. The applicant and their partner must have met in person.

E-ECP.2.6. The relationship between the applicant and their partner must be genuine and subsisting.

E-ECP.2.7. If the applicant and partner are married or in a civil partnership it must be a valid marriage or civil partnership, as specified.

E-ECP.2.8. If the applicant is a fiancé(e) or proposed civil partner they must be seeking entry to the UK to enable their marriage or civil partnership to take place.

E-ECP.2.9. Any previous relationship of the applicant or their partner must have broken down permanently, unless it is a relationship which falls within paragraph 278(i) of these Rules.

E-ECP.2.10. The applicant and partner must intend to live together permanently in the UK.

Financial requirements

E-ECP.3.1. The applicant must provide specified evidence, from the sources listed in paragraph E-ECP.3.2., of-

- (a) a specified gross annual income of at least-
 - (i) £18,600;
 - (ii) an additional £3,800 for the first child; and
 - (iii) an additional £2,400 for each additional child; alone or in combination with
- (b) specified savings of-
 - (i) £16,000; and
 - (ii) additional savings of an amount equivalent to 2.5 times the amount which is the difference between the gross annual income from the sources listed in paragraph E-ECP.3.2.(a)-(d) and the total amount required under paragraph E-ECP.3.1.(a); or
- (c) the requirements in paragraph E-ECP.3.3. being met.

In this paragraph "child" means a dependent child of the applicant who is-

- (a) under the age of 18 years, or who was under the age of 18 years when they were first granted entry under this route;

- (b) applying for entry clearance as a dependant of the applicant, or has limited leave to enter or remain in the UK;
- (c) not a British Citizen or settled in the UK; and
- (d) not an EEA national with a right to be admitted under the Immigration (EEA) Regulations 2006.

E-ECP.3.2. When determining whether the financial requirement in paragraph E-ECP.3.1. is met only the following sources will be taken into account-

- (a) income of the partner from specified employment or self-employment, which, in respect of a partner returning to the UK with the applicant, can include specified employment or self-employment overseas and in the UK;
- (b) specified pension income of the applicant and partner;
- (c) any specified maternity allowance or bereavement benefit received by the partner in the UK;
- (d) other specified income of the applicant and partner; and
- (e) specified savings of the applicant and partner.

E-ECP.3.3. The requirements to be met under this paragraph are-

- (a) the applicant's partner must be receiving one or more of the following -
 - (i) disability living allowance;
 - (ii) severe disablement allowance;
 - (iii) industrial injury disablement benefit;
 - (iv) attendance allowance; or
 - (v) carer's allowance; and
- (b) the applicant must provide specified evidence that their partner is able to maintain and accommodate themselves, the applicant and any dependants adequately in the UK without recourse to public funds.

E-ECP.3.4. The applicant must provide specified evidence that there will be adequate accommodation, without recourse to public funds, for the family, including other family members who are not included in the application but who live in the same household, which the family own or occupy exclusively: accommodation will not be regarded as adequate if-

- (a) it is, or will be, overcrowded; or
- (b) it contravenes public health regulations.

English language requirement

E-ECP.4.1. The applicant must provide specified evidence that they-

- (a) are a national of a majority English speaking country listed in paragraph GEN.1.5.;
- (b) have passed an English language test in speaking and listening at a minimum of level A1 of the Common European Framework of Reference for Languages with a provider approved by the UK Border Agency;
- (c) have an academic qualification recognised by NARIC UK to be equivalent to the standard of a Bachelor's or Master's degree or PhD in the UK, which was taught in English; or
- (d) are exempt from the English language requirement under paragraph E-ECP.4.2.

E-ECP.4.2. The applicant is exempt from the English language requirement if at the date of application-

- (a) the applicant is aged 65 or over;
- (b) the applicant has a disability (physical or mental condition) which prevents the applicant from meeting the requirement; or
- (c) there are exceptional circumstances which prevent the applicant from being able to meet the requirement prior to entry to the UK.

Section D-ECP: Decision on application for entry clearance as a partner

D-ECP.1.1. If the applicant meets the requirements for entry clearance as a partner the applicant will be granted entry clearance for an initial period not exceeding 33 months, and subject to a condition of no recourse to public funds; or, where the applicant is a fiancé(e) or proposed civil partner, the applicant will be granted entry clearance for a period not exceeding 6 months, and subject to a condition of no recourse to public funds and a prohibition on employment.

D-ECP.1.2. Where the applicant does not meet the requirements for entry clearance as a partner the application will be refused.

Section R-LTRP: Requirements for limited leave to remain as a partner

R-LTRP.1.1. The requirements to be met for limited leave to remain as a partner are-

- (a) the applicant and their partner must be in the UK;
- (b) the applicant must have made a valid application for limited leave to remain as a partner; and either
- (c) (i) the applicant must not fall for refusal under Section S-LTR: Suitability leave to remain; and
(ii) the applicant must meet all of the requirements of Section E-LTRP: Eligibility for leave to remain as a partner; and
(iii) paragraph EX.1. has not been applied; or
- (d) (i) the applicant meets all the requirements of Section S-LTR: Suitability leave to remain; and
(ii) the applicant does not meet all of the requirements of Section E-LTRP: Eligibility for leave to remain as a partner; and
(iii) paragraph EX.1. applies.

Section S-LTR: Suitability-leave to remain

S-LTR.1.1. The applicant will be refused limited leave to remain on grounds of suitability if any of paragraphs S-LTR.1.2. to 1.7. apply.

S-LTR.1.2. The applicant is at the date of application the subject of a deportation order.

S-LTR.1.3. The presence of the applicant in the UK is not conducive to the public good because they have been convicted of an offence for which they have been sentenced to imprisonment for at least 4 years.

S-LTR.1.4. The presence of the applicant in the UK is not conducive to the public good because they have been convicted of an offence for which they have been sentenced to imprisonment for less than 4 years but at least 12 months.

S-LTR.1.5. The presence of the applicant in the UK is not conducive to the public good because, in the view of the Secretary of State, their offending has caused serious harm or they are a persistent offender who shows a particular disregard for the law.

S-LTR.1.6. The presence of the applicant in the UK is not conducive to the public good because their conduct (including convictions which do not fall within paragraphs S-LTR.1.3. to 1.5.), character, associations, or other reasons, make it undesirable to allow them to remain in the UK.

S-LTR.1.7. The applicant has failed without reasonable excuse to-

- (a) attend an interview when required to do so;
- (b) provide specified information, including physical data, when required to do so; or
- (c) undergo a medical examination, or provide a medical report, when required to do so.

S-LTR.2.1. The applicant will normally be refused on grounds of suitability if any of paragraphs S-LTR.2.2. to 2.4. apply.

S-LTR.2.2. Whether or not to the applicant's knowledge –

- (a) false information, representations or documents have been submitted in relation to the application (including false information submitted to any person to obtain a document used in support of the application); or
- (b) there has been a failure to disclose material facts in relation to the application.

S-LTR.2.3. One or more relevant NHS body has notified the Secretary of State that the applicant has failed to pay charges in accordance with the relevant NHS regulations on charges to overseas visitors and the outstanding charges have a total value of at least £1000.

S-LTR.2.4. A maintenance and accommodation undertaking has been requested under paragraph 35 of these Rules and has not been provided.

S-LTR.3.1. When considering whether the presence of the applicant in the UK is not conducive to the public good any legal or practical reasons why the applicant cannot presently be removed from the UK must be ignored.

Section E-LTRP: Eligibility for limited leave to remain as a partner

E-LTRP.1.1. To qualify for limited leave to remain as a partner all of the requirements of paragraphs E-LTRP.1.2. to 4.2. must be met.

Relationship requirements

E-LTRP.1.2. The applicant's partner must be-

- (a) a British Citizen in the UK;
- (b) present and settled in the UK; or
- (c) in the UK with refugee leave or as a person with humanitarian protection.

E-LTRP.1.3. The applicant must be aged 18 or over at the date of application.

E-LTRP.1.4. The partner must be aged 18 or over at the date of application.

E-LTRP.1.5. The applicant and their partner must not be within the prohibited degree of relationship.

E-LTRP.1.6. The applicant and their partner must have met in person.

E-LTRP.1.7. The relationship between the applicant and their partner must be genuine and subsisting.

E-LTRP.1.8. If the applicant and partner are married or in a civil partnership it must be a valid marriage or civil partnership, as specified.

E-LTRP.1.9. Any previous relationship of the applicant or their partner must have broken down permanently, unless it is a relationship which falls within paragraph 278(i) of these Rules.

E-LTRP.1.10. The applicant and their partner must intend to live together permanently in the UK.

E-LTRP.1.11. If the applicant is in the UK with leave as a fiancé(e) or proposed civil partner there must be good reason why the marriage or civil partnership did not take place during that period of leave and evidence that it will take place within the next 6 months.

Immigration status requirements

E-LTRP.2.1. The applicant must not be in the UK-

- (a) as a visitor;
- (b) with valid leave granted for a period of 6 months or less, unless that leave is as a fiancé(e) or proposed civil partner; or
- (c) on temporary admission.

E-LTRP.2.2. The applicant must not be in the UK in breach of immigration laws (disregarding any period of overstaying for a period of 28 days or less), unless paragraph EX.1. applies.

Financial requirements

E-LTRP.3.1. The applicant must provide specified evidence, from the sources listed in paragraph E-LTRP.3.2., of-

- (a) a specified gross annual income of at least-
 - (i) £18,600;
 - (ii) an additional £3,800 for the first child; and
 - (iii) an additional £2,400 for each additional child; alone or in combination with
- (b) specified savings of-
 - (i) £16,000; and
 - (ii) additional savings of an amount equivalent to 2.5 times the amount which is the difference between the gross annual income from the sources listed in paragraph E-LTRP.3.2.(a)-(f) and the total amount required under paragraph E-LTRP.3.1.(a); or

- (c) the requirements in paragraph E-LTRP.3.3. being met, unless paragraph EX.1. applies.

In this paragraph “child” means a dependent child of the applicant who is-

- (a) under the age of 18 years, or who was under the age of 18 years when they were first granted entry under this route;
- (b) applying for entry clearance or is in the UK as a dependant of the applicant;
- (c) not a British Citizen or settled in the UK; and
- (d) not an EEA national with a right to remain in the UK under the Immigration (EEA) Regulations 2006.

E-LTRP.3.2. When determining whether the financial requirement in paragraph E-LTRP.3.1. is met only the following sources may be taken into account-

- (a) income of the partner from specified employment or self-employment;
- (b) income of the applicant from specified employment or self-employment unless they are working illegally;
- (c) specified pension income of the applicant and partner;
- (d) any specified maternity allowance or bereavement benefit received by the applicant and partner in the UK;
- (e) other specified income of the applicant and partner;
- (f) income from the sources at (b), (d) or (e) of a dependent child of the applicant under paragraph E-LTRP.3.1. who is aged 18 years or over; and
- (g) specified savings of the applicant, partner and a dependent child of the applicant under paragraph E-LTRP.3.1. who is aged 18 years or over.

E-LTRP.3.3. The requirements to meet this paragraph are-

- (a) the applicant’s partner must be receiving one or more of the following -
 - (i) disability living allowance;
 - (ii) severe disablement allowance;
 - (iii) industrial injury disablement benefit;
 - (iv) attendance allowance; or
 - (v) carer’s allowance; and
- (b) the applicant must provide specified evidence that their partner is able to maintain and accommodate themselves, the applicant and any dependants adequately in the UK without recourse to public funds.

E-LTRP.3.4. The applicant must provide specified evidence that there will be adequate accommodation, without recourse to public funds, for the family, including other family members who are not included in the application but who live in the same household, which the family own or occupy exclusively: accommodation will not be regarded as adequate if-

- (a) it is, or will be, overcrowded; or
- (b) it contravenes public health regulations.

English language requirement

E-LTRP.4.1. If the applicant has not met the requirement in a previous application for leave as a partner, the applicant must provide specified evidence that they-

- (a) are a national of a majority English speaking country listed in paragraph GEN.1.5.;

- (b) have passed an English language test in speaking and listening at a minimum of level A1 of the Common European Framework of Reference for Languages with a provider approved by the UK Border Agency;
 - (c) have an academic qualification recognised by NARIC UK to be equivalent to the standard of a Bachelor's or Master's degree or PhD in the UK, which was taught in English; or
 - (d) are exempt from the English language requirement under paragraph E-LTRP.4.2;
- unless paragraph EX.1. applies.

E-LTRP.4.2. The applicant is exempt from the English language requirement if at the date of application-

- (a) the applicant is aged 65 or over;
- (b) the applicant has a disability (physical or mental condition) which prevents the applicant from meeting the requirement; or
- (c) there are exceptional circumstances which prevent the applicant from being able to meet the requirement.

Section D-LTRP: Decision on application for limited leave to remain as a partner

D-LTRP.1.1. If the applicant meets the requirements in paragraph R-LTRP.1.1.(a) to (c) for limited leave to remain as a partner the applicant will be granted limited leave to remain for a period not exceeding 30 months, and subject to a condition of no recourse to public funds, and they will be eligible to apply for settlement after 60 months with such leave; or, if paragraph E-LTRP.1.11. applies, the applicant will be granted limited leave for a period not exceeding 6 months and subject to a condition of no recourse to public funds and a prohibition on employment.

D-LTRP.1.2. If the applicant meets the requirements in paragraph R-LTRP.1.1.(a), (b) and (d) for limited leave to remain as a partner they will be granted leave to remain for a period not exceeding 30 months, and will be eligible to apply for settlement after 120 months with such leave, or, if paragraph E-LTRP.1.11. applies, the applicant will be granted limited leave for a period not exceeding 6 months and subject to a condition of no recourse to public funds and a prohibition on employment.

D-LTRP.1.3. If the applicant does not meet the requirements for limited leave to remain as a partner the application will be refused.

Section R-ILRP: Requirements for indefinite leave to remain (settlement) as a partner

ILRP.1.1. The requirements to be met for indefinite leave to remain as a partner are that-

- (a) the applicant and their partner must be in the UK;
- (b) the applicant must have made a valid application for indefinite leave to remain as a partner;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-LTR: Suitability-leave to remain;
- (d) the applicant must meet all of the requirements of Section E-LTRP: Eligibility for leave to remain as a partner (but in applying paragraph E-LTRP.3.1.(b)(ii) delete the words "2.5 times"); and

(e) the applicant must meet all of the requirements of Section E-ILRP:
Eligibility for indefinite leave to remain as a partner.

Section E-ILRP: Eligibility for indefinite leave to remain as a partner

E-ILRP.1.1. To meet the eligibility requirements for indefinite leave to remain as a partner all of the requirements of paragraphs E-ILRP.1.2. to 1.6. must be met.

E-ILRP.1.2. The applicant must be in the UK with valid leave to remain as a partner (disregarding any period of overstaying for a period of 28 days or less).

E-ILRP.1.3. The applicant must have completed a continuous period of at least 60 months with limited leave as a partner under paragraph R-LTRP.1.1.(a) to (c), or a continuous period of at least 120 months with limited leave as a partner under paragraph R-LTR.P.1.1(a), (b) and (d), or a continuous period of at least 120 months with limited leave as a partner under a combination of these paragraphs.

E-ILRP.1.4. In calculating the periods under paragraph E-ILRP.1.3. only the periods when the applicant's partner is the same person as the applicant's partner for the previous period of limited leave shall be taken into account.

E-ILRP.1.5. The applicant must at the date of application have no unspent convictions.

E-ILRP.1.6. The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the UK in accordance with the requirements of paragraphs 33B to 33G of these Rules.

Section D-ILRP: Decision on application for indefinite leave to remain as a partner

D-ILRP.1.1. If the applicant meets all of the requirements for indefinite leave to remain as a partner the applicant will be granted indefinite leave to remain.

D-ILRP.1.2. If the applicant does not meet the requirements for indefinite leave to remain as a partner only for one or both of the following reasons-

- (a) the applicant has an unspent conviction;
- (b) the applicant has not met the requirements of paragraphs 33B to 33G of these Rules,

the applicant will be granted further limited leave to remain as a partner for a period not exceeding 30 months, and subject to a condition of no recourse to public funds.

D-ILRP.1.3. If the applicant does not meet the requirements for indefinite leave to remain as a partner, or further limited leave to remain as a partner under paragraph D-ILRP.1.2., the application will be refused.

Section EX: Exception

EX.1. This paragraph applies if

- (a) (i) the applicant has a genuine and subsisting parental relationship with a child who-
 - (aa) is under the age of 18 years;
 - (bb) is in the UK;

- (cc) is a British Citizen or has lived in the UK continuously for at least the 7 years immediately preceding the date of application ; and
 - (ii) it would not be reasonable to expect the child to leave the UK; or
- (b) the applicant has a genuine and subsisting relationship with a partner who is in the UK and is a British Citizen, settled in the UK or in the UK with refugee leave or humanitarian protection, and there are insurmountable obstacles to family life with that partner continuing outside the UK.

Bereaved partner

Section BPILR: Indefinite leave to remain (settlement) as a bereaved partner

BPILR.1.1. The requirements to be met for indefinite leave to remain in the UK as a bereaved partner are that-

- (a) the applicant must be in the UK;
- (b) the applicant must have made a valid application for indefinite leave to remain as a bereaved partner;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-LTR: Suitability-leave to remain; and
- (d) the applicant must meet all of the requirements of Section E-BPILR: Eligibility for indefinite leave to remain as a bereaved partner.

Section E-BPILR: Eligibility for indefinite leave to remain as a bereaved partner

E-BPILR.1.1. To meet the eligibility requirements for indefinite leave to remain as a bereaved partner all of the requirements of paragraphs E-BPILR1.2. to 1.5. must be met.

E-BPILR.1.2. The applicant's last grant of limited leave must have been as-

- (a) a partner (other than a fiancé(e) or proposed civil partner) of a British Citizen or a person settled in the UK; or
- (b) a bereaved partner.

E-BPILR.1.3. The person who was the applicant's partner at the time of the last grant of limited leave as a partner must have died.

E-BPILR.1.4. At the time of the partner's death the relationship between the applicant and the partner must have been genuine and subsisting and each of the parties must have intended to live permanently with the other in the UK.

E-BPILR.1.5. The applicant must at the date of application have no unspent convictions.

Section D-BPILR: Decision on application for indefinite leave to remain as a bereaved partner

D-BPILR.1.1. If the applicant meets all of the requirements for indefinite leave to remain as a bereaved partner the applicant will be granted indefinite leave to remain.

D-BPILR.1.2. If the applicant does not meet the requirements for indefinite leave to remain as a bereaved partner only because the applicant has an unspent conviction,

the applicant will be granted further limited leave to remain for a period not exceeding 30 months, and subject to a condition of no recourse to public funds.

D-BPILR.1.3. If the applicant does not meet the requirements for indefinite leave to remain as a bereaved partner, or limited leave to remain as a bereaved partner under paragraph D-BPILR.1.2., the application will be refused.

Victim of domestic violence

Section DVILR: Indefinite leave to remain (settlement) as a victim of domestic violence

DVILR.1.1. The requirements to be met for indefinite leave to remain in the UK as a victim of domestic violence are that-

- (a) the applicant must be in the UK;
- (b) the applicant must have made a valid application for indefinite leave to remain as a victim of domestic violence;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-LTR: Suitability-leave to remain; and
- (d) the applicant must meet all of the requirements of Section E-DVILR: Eligibility for indefinite leave to remain as a victim of domestic violence.

Section E-DVILR: Eligibility for indefinite leave to remain as a victim of domestic violence

E-DVILR.1.1. To meet the eligibility requirements for indefinite leave to remain as a victim of domestic violence all of the requirements of paragraphs E-DVILR.1.2. to 1.4. must be met.

E-DVILR.1.2. The applicant's last grant of limited leave must have been-

- (a) as a partner (other than a fiancé(e) or proposed civil partner) of a British Citizen or a person settled in the UK;
- (b) granted to enable access to public funds pending an application under DVILR.; or
- (c) granted under paragraph D-DVILR.1.2.

E-DVILR.1.3. The applicant must provide specified evidence that during the last period of limited leave as a partner the applicant's relationship with their partner broke down permanently as a result of the partner's domestic violence.

E-DVILR1.4. The applicant must at the date of application have no unspent convictions.

Section D-DVILR: Decision on application for indefinite leave to remain as a victim of domestic violence

D-DVILR.1.1. If the applicant meets all of the requirements for indefinite leave to remain as a victim of domestic violence the applicant will be granted indefinite leave to remain.

D-DVILR.1.2. If the applicant does not meet the requirements for indefinite leave to remain as a victim of domestic violence only because the applicant has an unspent

conviction the applicant will be granted further limited leave to remain for a period not exceeding 30 months.

D-DVILR.1.3. If the applicant does not meet the requirements for indefinite leave to remain as a victim of domestic violence, or further limited leave to remain under paragraph D-DVILR.1.2. the application will be refused.

Family life as a child of a person with limited leave as a partner or parent

This route is for a child whose parent is applying for entry clearance or leave, or who has limited leave, as a partner or parent. For further provision on a child seeking to enter or remain in the UK for the purpose of their family life see Part 8 of these Rules.

Section EC-C: Entry clearance as a child

EC-C.1.1. The requirements to be met for entry clearance as a child are that-

- (a) the applicant must be outside the UK;
- (b) the applicant must have made a valid application for entry clearance as a child;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-EC: Suitability for entry clearance; and
- (d) the applicant must meet all of the requirements of Section E-ECC: Eligibility for entry clearance as a child.

Section E-ECC: Eligibility for entry clearance as a child

E-ECC.1.1. To meet the eligibility requirements for entry clearance as a child all of the requirements of paragraphs E-ECC.1.2. to 2.4. must be met.

Relationship requirements

E-ECC.1.2. The applicant must be under the age of 18 at the date of application.

E-ECC.1.3. The applicant must not be married or in a civil partnership.

E-ECC.1.4. The applicant must not have formed an independent family unit.

E-ECC.1.5. The applicant must not be leading an independent life.

E-ECC.1.6. One of the applicant's parents must be in the UK with limited leave to enter or remain, be applying, or have applied, entry clearance as, a partner or a parent under this Appendix (referred to in this section as the "applicant's parent").

Financial requirement

E-ECC.2.1. The applicant must provide specified evidence, from the sources listed in paragraph E-ECC.2.2.-

- (a) a specified gross annual income of at least-
 - (i) £18,600;
 - (ii) an additional £3,800 for the first child; and
 - (iii) an additional £2,400 for each additional child; alone or in combination with
- (b) specified savings of-

- (i) £16,000; and
- (ii) additional savings of an amount equivalent to 2.5 times the amount which is the difference between the gross annual income from the sources listed in paragraph E-ECC.2.2.(a)-(f) and the total amount required under paragraph E-ECC.2.1.(a); or
- (c) the requirements in paragraph E-ECC.2.3. being met.

In this paragraph “child” means the applicant and any other dependent child of the applicant’s parent who is -

- (a) under the age of 18 years, or who was under the age of 18 years when they were first granted entry under this route;
- (b) in the UK;
- (c) not a British Citizen or settled in the UK; and
- (d) not an EEA national with a right to remain in the UK under the Immigration (EEA) Regulations 2006.

E-ECC.2.2. When determining whether the financial requirement in paragraph E-ECC.2.1. is met only the following sources may be taken into account-

- (a) income of the applicant’s parent’s partner from specified employment or self-employment;
- (b) income of the applicant’s parent from specified employment or self-employment if they are in the UK unless they are working illegally;
- (c) specified pension income of the applicant’s parent and that parent’s partner;
- (d) any specified maternity allowance or bereavement benefit received by the applicant’s parent and that parent’s partner in the UK;
- (e) other specified income of the applicant’s parent and that parent’s partner in the UK;
- (f) income from the sources at (b), (d) or (e) of a dependent child of the applicant’s parent under paragraph E-ECC.2.1. who is aged 18 years or over; and
- (g) specified savings of the applicant’s parent, that parent’s partner and a dependent child of the applicant’s parent under paragraph E-ECC.2.1. who is aged 18 years or over.

E-ECC.2.3. The requirements to be met under this paragraph are-

- (a) the applicant’s parent’s partner must be receiving one or more of the following-
 - (i) disability living allowance;
 - (ii) severe disablement allowance;
 - (iii) industrial injury disablement benefit;
 - (iv) attendance allowance; or
 - (v) carer’s allowance; and
- (b) the applicant must provide specified evidence that their parent’s partner is able to maintain and accommodate themselves, the applicant’s parent, the applicant and any dependants adequately in the UK without recourse to public funds.

E-EEC.2.4. The applicant must provide specified evidence that there will be adequate accommodation, without recourse to public funds, for the family, including other family members who are not included in the application but who live in the same

household, which the family own or occupy exclusively: accommodation will not be regarded as adequate if-

- (a) it is, or will be, overcrowded; or
- (b) it contravenes public health regulations.

Section D-ECC: Decision on application for entry clearance as a child

D-ECC.1.1. If the applicant meets the requirements for entry clearance as a child they will be granted entry clearance of a duration which will expire at the same time as the leave granted to the applicant's parent, and subject to a condition of no recourse to public funds.

D-ECC.1.2. If the applicant does not meet the requirements for entry clearance as a child the application will be refused.

Section R-LTR-C: Requirements for leave to remain as a child

R-LTR-C.1.1. The requirements to be met for leave to remain as a child are that-

- (a) the applicant must be in the UK;
- (b) the applicant must have made a valid application for leave to remain as a child;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-LTR: Suitability-leave to remain; and
- (d) the applicant must meet all of the requirements of Section E-LTRC: Eligibility for leave to remain as a child.

Section E-LTRC: Eligibility for leave to remain as a child

E-LTRC.1.1. To qualify for limited leave to remain as a child all of the requirements of paragraphs E-LTRC.1.2. to 2.4. must be met.

Relationship requirements

E-LTRC.1.2. The applicant must be under the age of 18 at the date of application or when first granted leave as a child under this route.

E-LTRC.1.3. The applicant must not be married or in a civil partnership.

E-LTRC.1.4. The applicant must not have formed an independent family unit.

E-LTRC.1.5. The applicant must not be leading an independent life.

E-LTRC.1.6. One of the applicant's parents must be in the UK with leave to enter or remain as, or have applied for leave to remain or indefinite leave to remain as, a partner or a parent under this Appendix (referred to in this section as the "applicant's parent").

Financial requirements

E-LTRC.2.1. The applicant must provide specified evidence, from the sources listed in paragraph E-LTRC.2.2., of -

- (a) a specified gross annual income of at least-
 - (i) £18,600;
 - (ii) an additional £3,800 for the first child; and

- (iii) an additional £2,400 for each additional child; alone or in combination with
 - (b) specified savings of-
 - (i) £16,000; and
 - (ii) additional savings of an amount equivalent to 2.5 times (or if the parent is applying for indefinite leave to remain 1 times) the amount which is the difference between the gross annual income from the sources listed in paragraph E-LTRC.2.2.(a)-(f) and the total amount required under paragraph E-LTRC.2.1.(a); or
 - (c) the requirements in paragraph E-LTRC.2.3. being met.
- In this paragraph “child” means the applicant and any other dependent child of the applicant’s parent who is-
- (i) under the age of 18 years, or who was under the age of 18 years when they were first granted entry under this route;
 - (ii) in the UK;
 - (iii) not a British Citizen or settled in the UK; and
 - (iv) not an EEA national with a right to remain in the UK under the Immigration (EEA) Regulations 2006.

E-LTRC.2.2. When determining whether the financial requirement in paragraph E-LTRC.2.1. is met only the following sources may be taken into account-

- (a) income of the applicant’s parent’s partner from specified employment or self-employment;
- (b) income of the applicant’s parent from specified employment or self-employment;
- (c) specified pension income of the applicant’s parent and that parent’s partner;
- (d) any specified maternity allowance or bereavement benefit received by the applicant’s parent and that parent’s partner in the UK;
- (e) other specified income of the applicant’s parent and that parent’s partner in the UK;
- (f) income from the sources at (b), (d) or (e) of a dependent child of the applicant’s parent under paragraph E-LTRC.2.1. who is aged 18 years or over; and
- (g) specified savings of the applicant’s parent, that parent’s partner and a dependent child of the applicant’s parent under paragraph E-ECC.2.1. who is aged 18 years or over.

E-LTRC.2.3. The requirements to be met under this paragraph are-

- (a) the applicant’s parent’s partner must be receiving one or more of the following -
 - (i) disability living allowance;
 - (ii) severe disablement allowance;
 - (iii) industrial injury disablement benefit;
 - (iv) attendance allowance; or
 - (v) carer’s allowance; and
- (b) the applicant must provide specified evidence that their parent’s partner is able to maintain and accommodate themselves, the applicant’s parent, the applicant and any dependants adequately in the UK without recourse to public funds.

E-LTRC2.4. The applicant must provide specified evidence that there will be adequate accommodation in the UK, without recourse to public funds, for the family, including other family members who are not included in the application but who live in the same household, which the family own or occupy exclusively: accommodation will not be regarded as adequate if-

- (a) it is, or will be, overcrowded; or
- (b) it contravenes public health regulations.

Section D-LTRC: Decision on application for leave to remain as a child

D-LTRC.1.1. If the applicant meets the requirements for leave to remain as a child the applicant will be granted leave to remain of a duration which will expire at the same time as the leave granted to the applicant's parent, and subject to a condition of no recourse to public funds, and if the applicant's parent is granted indefinite leave to remain the applicant will be granted indefinite leave to remain.

D-LTRC.1.2. If the applicant does not meet the requirements for leave to remain as a child the application will be refused.

Family life as a parent of a child in the UK

Section EC-PT: Entry clearance as a parent of a child in the UK

EC-PT.1.1. The requirements to be met for entry clearance as a parent are that-

- (a) the applicant must be outside the UK;
- (b) the applicant must have made a valid application for entry clearance as a parent;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-EC: Suitability—entry clearance; and
- (d) the applicant must meet all of the requirements of Section E-ECPT: Eligibility for entry clearance as a parent.

Section E-ECPT: Eligibility for entry clearance as a parent

E-ECPT.1.1. To meet the eligibility requirements for entry clearance as a parent all of the requirements in paragraphs E-ECPT.2.1. to 4.2. must be met.

Relationship requirements

E-ECPT.2.1. The applicant must be aged 18 years or over.

E-ECPT.2.2. The child of the applicant must be-

- (a) under the age of 18 years at the date of application;
- (b) living in the UK; and
- (c) a British Citizen or settled in the UK.

E-ECPT.2.3. Either -

- (a) the applicant must have sole parental responsibility for the child; or
- (b) the parent or carer with whom the child normally lives must be-
 - (i) a British Citizen in the UK or settled in the UK;
 - (ii) not the partner of the applicant; and
 - (iii) the applicant must not be eligible to apply for entry clearance as a partner under this Appendix.

- E-ECPT.2.4. (a) The applicant must provide specified evidence that they have either-
- (i) sole parental responsibility for the child; or
 - (ii) access rights to the child; and
- (b) The applicant must provide specified evidence that they are taking, and intend to continue to take, an active role in the child's upbringing.

Financial requirements

E-ECPT.3.1. The applicant must provide specified evidence that they will be able to adequately maintain and accommodate themselves and any dependants in the UK without recourse to public funds

E-ECPT.3.2. The applicant must provide specified evidence that there will be adequate accommodation in the UK, without recourse to public funds, for the family, including other family members who are not included in the application but who live in the same household, which the family own or occupy exclusively: accommodation will not be regarded as adequate if-

- (a) it is, or will be, overcrowded; or
- (b) it contravenes public health regulations.

English language requirement

E-ECPT.4.1. The applicant must provide specified evidence that they-

- (a) are a national of a majority English speaking country listed in paragraph GEN.1.5.;
- (b) have passed an English language test in speaking and listening at a minimum of level A1 of the Common European Framework of Reference for Languages with a provider approved by the UK Border Agency;
- (c) have an academic qualification recognised by NARIC UK to be equivalent to the standard of a Bachelor's or Master's degree or PhD in the UK, which was taught in English; or
- (d) are exempt from the English language requirement under paragraph E-ECPT.4.2.

E-ECPT.4.2. The applicant is exempt from the English language requirement if at the date of application-

- (a) the applicant is aged 65 or over;
- (b) the applicant has a disability (physical or mental condition) which prevents the applicant from meeting the requirement; or
- (c) there are exceptional circumstances which prevent the applicant from being able to meet the requirement prior to entry to the UK.

Section D-ECPT: Decision on application for entry clearance as a parent

D-ECP.1.1. If the applicant meets the requirements for entry clearance as a parent they will be granted entry clearance for an initial period not exceeding 33 months, and subject to a condition of no recourse to public funds.

D-ECPT.1.2. If the applicant does not meet the requirements for entry clearance as a parent the application will be refused.

Section R-LTRPT: Requirements for limited leave to remain as a parent

- R-LTRPT.1.1. The requirements to be met for limited leave to remain as a parent are-
- (a) the applicant and the child must be in the UK;
 - (b) the applicant must have made a valid application for limited leave to remain as a parent; and either
 - (c) (i) the applicant must not fall for refusal under Section S-LTR: Suitability leave to remain; and
(ii) the applicant must meet all of the requirements of Section E-LTRPT: Eligibility for leave to remain as a parent, and
(iii) paragraph EX.1. has not been applied; or
 - (d) (i) the applicant meets all the requirements of Section S-LTR: Suitability leave to remain; and
(ii) the applicant does not meet all of the requirements of Section E-LTRPT: Eligibility for leave to remain as a parent; and
(iii) paragraph EX.1. applies.

Section E-LTRPT: Eligibility for limited leave to remain as a parent

E-LTRPT.1.1. To qualify for limited leave to remain as a parent all of the requirements of paragraphs E-LTRPT.2.2. to 5.2. must be met.

Relationship requirements

E-LTRPT.2.2. The child of the applicant must be-

- (a) under the age of 18 years at the date of application;
- (b) living in the UK; and
- (c) a British Citizen or settled in the UK.

E-LTRPT.2.3. Either-

- (a) the applicant must have sole parental responsibility for the child; or
- (b) the parent or carer with whom the child normally lives must be-
 - (i) a British Citizen in the UK or settled in the UK;
 - (ii) not the partner of the applicant; and
 - (iii) the applicant must not be eligible to apply for leave to remain as a partner under this Appendix.

E-LTRPT.2.4. (a) The applicant must provide specified evidence that they have either-

- (i) sole parental responsibility for the child; or
- (ii) access rights to the child; and
- (b) The applicant must provide specified evidence that they are taking, and intend to continue to take, an active role in the child's upbringing.

Immigration status requirement

E-LTRPT.3.1. The applicant must not be in the UK-

- (a) as a visitor;
- (b) with valid leave granted for a period of 6 months or less;
- (c) on temporary admission.

E-LTRPT.3.2. The applicant must not be in the UK in breach of immigration laws, (disregarding any period of overstaying for a period of 28 days or less), unless paragraph EX.1. applies.

Financial requirements

E-LTRPT.4.1. The applicant must provide specified evidence that they will be able to adequately maintain and accommodate themselves and any dependants in the UK without recourse to public funds.

E-LTRPT.4.2. The applicant must provide specified evidence that there will be adequate accommodation in the UK, without recourse to public funds, for the family, including other family members who are not included in the application but who live in the same household, which the family own or occupy exclusively: accommodation will not be regarded as adequate if-

- (a) it is, or will be, overcrowded; or
- (b) it contravenes public health regulations.

English language requirement

E-LTRPT.5.1. The applicant must provide specified evidence that they-

- (a) are a national of a majority English speaking country listed in paragraph GEN.1.5.;
- (b) have passed an English language test in speaking and listening at a minimum of level A1 of the Common European Framework of Reference for Languages with a provider approved by the UK Border Agency;
- (c) have an academic qualification recognised by NARIC UK to be equivalent to the standard of a Bachelor's or Master's degree or PhD in the UK, which was taught in English; or
- (d) are exempt from the English language requirement under paragraph E-LTRPT.5.2.

E-LTRPT.5.2. The applicant is exempt from the English language requirement if at the date of application-

- (a) the applicant is aged 65 or over;
- (b) the applicant has a disability (physical or mental condition) which prevents the applicant from meeting the requirement; or
- (c) there are exceptional circumstances which prevent the applicant from being able to meet the requirement.

Section D-LTRPT: Decision on application for limited leave to remain as a parent

D-LTRPT.1.1. If the applicant meets the requirements in paragraph LTRPT.1.1. (a) to (c) for limited leave to remain as a parent the applicant will be granted limited leave to remain for a period not exceeding 30 months, and subject to a condition of no recourse to public funds, and they will be eligible to apply for settlement after 60 months with such leave.

D-LTRPT.1.2. If the applicant meets the requirements in paragraph LTRPT.1.1. (a), (b) and (d) for limited leave to remain as a parent they will be granted leave to remain for a period not exceeding 30 months, and will be eligible to apply for settlement after 120 months with such leave.

D-LTRPT.1.3. If the applicant does not meet the requirements for limited leave to remain as a parent the application will be refused.

Section R-ILRPT: Requirements for indefinite leave to remain (settlement) as a parent

R-ILRPT.1.1. The requirements to be met for indefinite leave to remain as a parent are that-

- (a) the applicant must be in the UK;
- (b) the applicant must have made a valid application for indefinite leave to remain as a parent;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-LTR: Suitability-leave to remain;
- (d) the applicant must meet all of the requirements of Section E-LTRPT: Eligibility for leave to remain as a parent; and
- (e) the applicant must meet all of the requirements of Section E-ILRPT: Eligibility for indefinite leave to remain as a parent.

Section E-ILRPT: Eligibility for indefinite leave to remain as a parent

E-ILRPT.1.1. To meet the eligibility requirements for indefinite leave to remain as a parent all of the requirements of paragraphs E-ILRPT.1.2. to 1.5. must be met.

E-ILRPT.1.2. The applicant must be in the UK with valid leave to remain as a parent (disregarding any period of overstaying for 28 days or less).

E-ILRPT.1.3. The applicant must have completed a continuous period of at least 60 months with limited leave as a parent under paragraph R-LTRPT.1.1.(a) to (c), or a continuous period of at least 120 months with limited leave a parent, under paragraphs R-LTRPT.1.1(a), (b) and (d), or a continuous period of at least 120 months with limited leave as a partner under a combination of these paragraphs.

E-ILRPT.1.4. The applicant must at the date of application have no unspent convictions.

E-ILRP.1.5. The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the UK in accordance with the requirements of paragraphs 33B to 33G of these Rules.

Section D-ILRPT: Decision on application for indefinite leave to remain as a parent

D-ILRPT.1.1. If the applicant meets all of the requirements for indefinite leave to remain as a parent the applicant will be granted indefinite leave to remain.

D-ILRPT.1.2. If the applicant does not meet the requirements for indefinite leave to remain as a parent only for one or both of the following reasons-

- (a) the applicant has an unspent conviction; or
- (b) the applicant has not met the requirements of paragraphs 33B to 33G of these Rules,

the applicant will be granted further limited leave to remain as a parent for a period not exceeding 30 months, and subject to a condition of no recourse to public funds.

D-ILRPT.1.3. If the applicant does not meet the requirements for indefinite leave to remain as a parent, or further limited leave to remain under paragraph D-ILRPT.1.2., the application will be refused.

Adult Dependent Relative

Section EC-DR: Entry clearance as an adult dependent relative

EC-DR.1.1. The requirements to be met for entry clearance as an adult dependent relative are that-

- (a) the applicant must be outside the UK;
- (b) the applicant must have made a valid application for entry clearance as an adult dependent relative;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-EC: Suitability for entry clearance; and
- (d) the applicant must meet all of the requirements of Section E-ECDR: Eligibility for entry clearance as an adult dependent relative.

Section E-ECDR: Eligibility for entry clearance as an adult dependent relative

E-ECDR.1.1. To meet the eligibility requirements for entry clearance as an adult dependent relative all of the requirements in paragraphs E-ECDR.2.1. to 3.2. must be met.

Relationship requirements

E-ECDR.2.1. The applicant must be the-

- (a) parent aged 18 years or over;
- (b) grandparent;
- (c) brother or sister aged 18 years or over; or
- (d) son or daughter aged 18 years or over

of a person (“the sponsor”) who is in the UK.

E-ECDR.2.2. If the applicant is the sponsor’s parent or grandparent they must not be in a subsisting relationship with a partner unless that partner is also the sponsor’s parent or grandparent and is applying for entry clearance at the same time as the applicant.

E-ECDR.2.3. The sponsor must at the date of application be-

- (a) aged 18 years or over; and
- (b) (i) a British Citizen in the UK; or
(ii) present and settled in the UK; or
(iii) in the UK with refugee leave or humanitarian protection.

E-ECDR.2.4. The applicant or, if the applicant and their partner are the sponsor’s parents or grandparents, the applicant’s partner, must as a result of age, illness or disability require long-term personal care to perform everyday tasks.

E-ECDR.2.5. The applicant or, if the applicant and their partner are the sponsor’s parents or grandparents, the applicant’s partner, must be unable, even with the practical and financial help of the sponsor, to obtain the required level of care in the country where they are living, because-

- (a) it is not available and there is no person in that country who can reasonably provide it; or
- (b) it is not affordable.

Financial requirements

E-ECDR.3.1. The applicant must provide specified evidence that they can be adequately maintained, accommodated and cared for in the UK by the sponsor without recourse to public funds.

E-ECDR.3.2. If the applicant's sponsor is a British Citizen or settled in the UK, the applicant must provide an undertaking signed by the sponsor confirming that the applicant will have no recourse to public funds, and that the sponsor will be responsible for their maintenance, accommodation and care, for a period of 5 years from the date the applicant enters the UK if they are granted indefinite leave to enter.

Section D-ECDR: Decision on application for entry clearance as an adult dependent relative

D-ECDR.1.1. If the applicant meets the requirements for entry clearance as an adult dependent relative of a British Citizen or person settled in the UK they will be granted indefinite leave to enter.

D-ECDR.1.2. If the applicant meets the requirements for entry clearance as an adult dependent relative and the sponsor has limited leave the applicant will be granted limited leave of a duration which will expire at the same time as the sponsor's limited leave, and subject to a condition of no recourse to public funds. If the sponsor applies for further limited leave, the applicant may apply for further limited leave of the same duration, if the requirements in EC-DR.1.1. (c) and (d) continue to be met, and subject to no recourse to public funds.

D-ECDR.1.3. If the applicant does not meet the requirements for entry clearance as an adult dependent relative the application will be refused.

Section R-ILRDR: Requirements for indefinite leave to remain as an adult dependent relative

R-ILRDR.1.1. The requirements to be met for indefinite leave to remain as an adult dependent relative are that-

- (a) the applicant is in the UK;
- (b) the applicant must have made a valid application for indefinite leave to remain as an adult dependent relative;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-LTR: Suitability-leave to remain; and
- (d) the applicant must meet all of the requirements of Section E-ILRDR: Eligibility for indefinite leave to remain as an adult dependent relative.

Section E-ILRDR: Eligibility for indefinite leave to remain as an adult dependent relative

E-ILRDR.1.1. To qualify for indefinite leave to remain as an adult dependent relative all of the requirements of paragraphs E-ILRDR.1.2. to 1.6. must be met.

E-ILRDR.1.2. The applicant must be in the UK with valid leave to remain as an adult dependent relative (disregarding any period of overstaying for a period of 28 days or less).

E-ILRDR.1.3. The applicant's sponsor must at the date of application be

- (a) present and settled in the UK; or
- (b) in the UK with refugee leave or as a person with humanitarian protection and have made an application for indefinite leave to remain.

E-ILRDR.1.4. The applicant must provide specified evidence that they can be adequately maintained, accommodated and cared for in the UK by the sponsor without recourse to public funds.

E-ILRDR.1.5. The applicant must provide an undertaking signed by the sponsor confirming that the applicant will have no recourse to public funds, and that the sponsor will be responsible for their maintenance, accommodation and care, for a period ending 5 years from the date the applicant entered the UK with limited leave as an adult dependent relative.

E-ILRDR.1.6. To qualify for indefinite leave to remain the applicant must not at the date of application have any unspent convictions.

Section D-ILRDR: Decision on application for indefinite leave to remain as an adult dependent relative

D-ILRDR.1.1. If the applicant meets the requirements for indefinite leave to remain as an adult dependent relative and the applicant's sponsor is settled in the UK, the applicant will be granted indefinite leave to remain as an adult dependent relative.

D-ILRDR.1.2. If the applicant does not meet the requirements for indefinite leave to remain as an adult dependent relative because the applicant has an unspent conviction, the applicant will be granted further limited leave to remain as an adult dependent relative for a period not exceeding 30 months, and subject to a condition of no recourse to public funds.

D-ILRDR.1.3. If the applicant's sponsor has made an application for indefinite leave to remain and that application is refused, the applicant's application for indefinite leave to remain will be refused. If the sponsor is granted limited leave, the applicant will be granted further limited leave as an adult dependent relative of a duration which will expire at the same time as the sponsor's further limited leave, and subject to a condition of no recourse to public funds.

D-ILRDR.1.4. Where an applicant does not meet the requirements for indefinite leave to remain, or further limited leave to remain under paragraphs D-ILRDR.1.2. or 1.3., the application will be refused.

Deportation and Removal

Where the Secretary of State or an immigration officer is considering deportation or removal of a person who claims that their deportation or removal from the UK would be a breach of the right to respect for private and family life under Article 8 of the Human Rights Convention that person may be required to make an application under this Appendix or paragraph 276ADE, but if they are not required to make an application Part 13 of these Rules will apply.”

116. In Appendix G - Countries and Territories participating in the Tier 5 Youth Mobility Scheme and annual allocations of places for 2012” after “Taiwan- 1,000 places” insert “South Korea – 500 places.”



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**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
PRESENTED TO PARLIAMENT ON 13 JUNE 2012 (HC 194)**

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 make changes to the routes for those primarily of non-European Economic Area nationality applying for leave to enter or remain on the basis of their family relationship with a British citizen or a person settled in the UK.
- To make changes to the routes for those applying for leave to enter or remain as the post-flight family member of a person with refugee leave or humanitarian protection.
- To make changes to the routes for dependants of migrants under the Points Based System.
- To provide a clear basis for considering immigration family and private life cases in compliance with Article 8 of the European Convention on Human Rights (the right to respect for private and family life). In particular, the new Immigration Rules reflect the qualified nature of Article 8, setting requirements which correctly balance the individual right to respect for private or family life with the public interest in safeguarding the economic well-being of the UK by controlling immigration and in protecting the public from foreign criminals.
- To introduce a route for migrants to qualify for leave to remain on the basis of their private life in the UK and at the same time abolish the 14-year long residence route to settlement for those in the UK lawfully or unlawfully.
- To introduce a consistent approach to dealing with applications for leave to remain from migrants whose previous period of leave has expired, by enabling migrants whose previous period of leave has expired to qualify for leave to remain where the application is made within 28 days of the expiry of their previous leave.
- To apply a re-entry ban where a migrant fails to depart within 90 days of their expiry of leave.
- To add South Korea as a participant in the Tier 5 Youth Mobility Scheme from 9 July 2012, with 500 places pro-rata for the rest of this year.

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

3.1 Both Houses of Parliament will be invited to debate and approve the Government's approach to setting conditions in the Immigration Rules for migrants to enter or remain in the UK on the basis of their family or private life which reflect the qualified nature of Article 8.

3.2 This Statement of Changes is accompanied by a Statement of Intent which has been published on the Home Office website at www.homeoffice.gov.uk

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 the stay of persons in, the United Kingdom.

4.2 This Statement of Changes in Immigration Rules will be 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 where there are also copies of all the Statements of Changes in Immigration Rules issued since May 2003.

4.3 These changes to the Immigration Rules will come into force on 9 July 2012, except as in paragraph 4.4 below. However, if an application is made before 9 July and the application has not been decided before that date, it will be decided in accordance with the rules in force on 8 July 2012, regardless of the date that decision is made. The assessment of Article 8 in deportation proceedings will follow the rules in place on the date on which that consideration is made, regardless of when a person was notified of the Secretary of State’s intention to deport them.

4.4 The changes in paragraphs 7.16 to 7.20 will come into force on 1 October 2012.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The new Immigration Rules provide a clear basis for considering family and private life cases in compliance with Article 8. To accompany the new rules, a statement of ECHR compatibility is being published on the Home Office website at www.homeoffice.gov.uk. This statement addresses the Article 8 issues that arise from the specific requirements in the Rules and sets out why those requirements are compatible with Article 8.

7. Policy Background

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

Approach to ECHR Article 8

7.2 The new Immigration Rules will reform the approach taken as a matter of public policy towards ECHR Article 8 – the right to respect for family and private life – in immigration cases. The Immigration Rules will fully reflect the factors which can weigh for or against an Article 8 claim. The rules will set proportionate requirements that reflect the Government’s and Parliament’s view of how individuals’ Article 8 rights should be qualified in the public interest to safeguard the economic well-being of the UK by controlling immigration and to protect the public from foreign criminals. This will mean that failure to meet the requirements of the rules will normally mean failure to establish an Article 8 claim to enter or remain in the UK, and no grant of leave on that basis. Outside exceptional cases, it will be proportionate

under Article 8 for an applicant who fails to meet the requirements of the rules to be removed from the UK.

7.3 The new Immigration Rules in Appendix FM provide a new five-year route to settlement in the UK on the basis of family life. Those who cannot meet the requirements of that route can remain in the UK on the basis of their family life only where it would breach Article 8 to remove them. Such cases can apply for leave under the new rules on a new 10-year route to settlement.

Best Interests of a Child

7.4 The new Immigration Rules in Appendix FM also reflect the duty on the Secretary of State under section 55 of the Borders, Citizenship and Immigration Act 2009 to ensure that immigration decisions are made having regard to the need to safeguard and promote the welfare of children who are in the UK. The assessment of the ‘best interests of the child’ is intrinsic to the proportionality assessment under Article 8, and has therefore also been incorporated into the Immigration Rules.

7.5 In assessing the best interests of the child, the question in immigration cases where a child would have to leave the UK as a consequence of the decision to remove their parent, is whether it is reasonable to expect the child to live in another country. The new Immigration Rules set out a clear framework for weighing the best interests of the child against the wider public interest in removal cases. The best interests of the child will normally be met by remaining with their parents and returning with them to the country of origin, subject to considerations such as long residence in the UK and exceptional factors.

7.6 The new Immigration Rules deal clearly with how to treat a British citizen child or a foreign national child in cases where we would otherwise intend to remove their parent(s) and how countervailing factors should weigh in the decision. There are some circumstances where a child may be allowed to stay on a temporary or permanent basis on best interests grounds. The key test for a non-British citizen child remaining on a permanent basis is the length of residence in the UK of the child – which the rules set at at least the last seven years, subject to countervailing factors. The changes are designed to bring consistency and transparency to decision-making.

Private Life

7.7 The 14-year rule (paragraph 276B(i)(b)), which provides a route to settlement on the grounds of long residence, lawful or unlawful, is being withdrawn. Instead the new Immigration Rules provide that at least 20 years' continuous residence, lawful or unlawful, will, subject to criminality and other criteria, normally be necessary to establish a claim to remain in the UK on the basis of the Article 8 right to respect for private life. (The 10-year rule (paragraph 276B(i)(a)), which provides a route to settlement on the grounds of continuous lawful residence in the UK of at least 10 years, will remain).

7.8 There are also new provisions allowing an applicant to be granted on the basis of private life after seven years' continuous residence if they are under the age of 18; or if they have spent at least half of their life in the UK if they are aged between 18 and 24; or if the applicant has less than 20 years' continuous residence in the UK but has no ties (including social, cultural or family) with their country of origin.

Clear criteria on criminality

7.9 The new Immigration Rules set clear criteria for how an applicant's criminality will impact on the scope for them to be granted leave to enter the UK on the basis of their family life or leave to remain in the UK on the basis of their family or private life.

7.10 Under the new Immigration Rules, an applicant will be prevented from joining or completing the 5- or 10-year family route or the 10-year private life route to settlement, where they are refused under the criminality criteria contained in the rules.

7.11 In respect of deportation, the new Immigration Rules provide that:

- Only in exceptional circumstances will private or family life, including a child's best interests, outweigh criminality and the public interest in seeing the foreign national criminal deported where they have been sentenced to a custodial sentence of at least four years.
- Deportation will normally be proportionate where the foreign national criminal has received a custodial sentence of at least 12 months and less than four years, or where the foreign national criminal has received a custodial sentence of less than 12 months and, in the view of the Secretary of State, their offending has caused serious harm or they are a persistent offender who shows a particular disregard for the law.
Deportation will not be proportionate where:
 - They have a genuine and subsisting relationship with a partner in the UK (who is a British citizen, settled in the UK or in the UK with refugee leave or humanitarian protection), and they have lived here lawfully for at least the last 15 years (excluding any period of imprisonment) and there are insurmountable obstacles to family life with that partner continuing overseas; or
 - They have a genuine and subsisting parental relationship with a British citizen child, or a foreign national child who has lived in the UK continuously for at least the last seven years, and it would be unreasonable to expect the child to leave the UK, and there is no other family member who is able to care for the child in the UK; or
 - They have resided in the UK continuously for at least the last 20 years, or the applicant is aged under 25 years and has spent at least half of his life residing continuously in the UK (in either case, excluding any period of imprisonment), and they have no ties (including social, cultural or family) with their country of origin.

Amendments to the rules for family members of British citizens and settled persons

7.12 Changes to be introduced through Appendix FM include:

- A minimum income threshold of £18,600 for those who wish to sponsor the settlement in the UK of a partner of non-European Economic Area nationality. A higher threshold will be required for sponsoring any dependent child under the age of 18 in addition to the partner: £22,400 for one child and an additional £2,400 for each further child sponsored before the migrant parent qualifies for settlement.

- Making clear that a relationship with a partner must be genuine and subsisting. The UK Border Agency will be publishing new casework guidance setting out objective factors associated with genuine and non-genuine relationships, to help caseworkers focus on these issues in implementing the new rules.
- Increasing the minimum probationary period from two years to five years before the migrant partner can apply for settlement.
- Abolishing the scope for immediate settlement for the migrant partner where a couple have been living together overseas for at least four years. They will need to complete a five-year probationary period for settlement.
- Adult dependent relatives will only be able to apply to settle in the UK from overseas and will have to demonstrate that, as a result of age, illness or disability, they require a level of personal care that can only be provided in the UK by the relative here and without recourse to public funds. Uncles and aunts will no longer be able to apply under this route.

Amendments to the rules for persons with limited leave as a refugee or beneficiary of humanitarian protection

7.13 Those with limited leave in the UK as a refugee or person with humanitarian protection who wish to sponsor a post-flight partner and dependent children will continue to do so on an equivalent basis to a settled person under Appendix FM. This means that they will be subject to the new family Immigration Rules, including the minimum income threshold and the minimum five-year probationary period.

7.14 The new criteria for the sponsorship of adult dependent relatives under Appendix FM will apply to those of refugees and persons with humanitarian protection, but their dependent relatives will continue to get limited leave until their sponsor is granted indefinite leave to remain when they can also apply for settlement.

Amendments to the rules for PBS dependants

7.15 A five-year probationary period for settlement in the UK will apply to the partner of a migrant with leave under the Points Based System.

Applications from overstayers

7.16 The Immigration Rules are being amended to ensure a consistent approach is taken to those who seek further leave to remain after their previous period of leave has expired. From 9 July 2012 those seeking further leave to remain as family members (including settlement) will be refused if they have overstayed by more than 28 days.

7.17 From 1 October 2012 other immigration rules, including those for persons studying and working in the UK, will be brought into line with this approach, with applicants refused if they have overstayed by more than 28 days.

7.18 There will be a number of safeguards to ensure that the amended rules are fair and proportionate:

- Where an applicant submits an application before their previous period of leave to enter or remain expires, but the application is rejected as invalid after their leave

expires, the 28-day window in which the application may be submitted as an overstayer will start from the date on which the application was rejected, rather than when leave expired.

- Caseworkers will continue to have discretion to consider exceptional cases. Applicants who have overstayed by more than 28 days may provide evidence of exceptional circumstances which prevented them from submitting their application in-time.
- A breach of immigration laws by remaining in the UK beyond a period of leave to enter or remain will not be a determinative factor when considering applications under the following circumstances:
 - The applicant has a dependent child under the age of 18 years who is a British citizen or who has lived in the UK for at least the preceding seven years, and it would be unreasonable to expect the child to leave the UK; or
 - The applicant has lived in the UK for more than 20 years; or
 - The applicant is seeking leave to remain as a victim of domestic violence or as a bereaved partner.

Re-entry ban

7.19 Currently migrants who overstay their leave to enter or remain by more than 28 days are subject to a re-entry ban. Where a person subject to a re-entry ban seeks entry clearance or leave to enter, they will be refused, subject to certain exceptions for those seeking entry as family members. The length of the ban varies from one year to 10 years depending on whether the migrant departed from the UK at their own expense or at public expense, or whether the migrant used deception.

7.20 Overstayers are not permitted to work, they have no recourse to public funds, are denied access to free secondary healthcare and their details may be shared with credit agencies and other Government departments to deny access to benefits and services. However, where they fail to depart from the UK promptly after their leave to enter or remain expires, the re-entry ban can act as a disincentive to depart. Under the changes to the Immigration Rules the ban will only apply where the migrant overstays by more than 90 days. This extended period is to further incentivise voluntary departure and save the significant public expense incurred through enforced removal.

8. Consultation

8.1 The Secretary of State consulted publicly on changes to family migration. The consultation “Family Migration – a Consultation” ran from 13 July to 6 October 2011. A summary of the responses has been published on the Home Office website at www.homeoffice.gov.uk

8.2 The Secretary of State also commissioned the Migration Advisory Committee to advise on where the minimum income threshold for sponsors of family migrants should be set to ensure they are not a burden on the taxpayer. The Committee published its report on 16 November 2011. The report is available on the UK Border Agency website at

www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/family-migration-route

8.3 A Statement of Intent, which sets out the detailed policies contained in the new Immigration Rules and the detailed transitional arrangements associated with their implementation, has been published on the Home Office website at www.homeoffice.gov.uk

8.4 The other changes in this Statement of Changes have not been subject to consultation as this would be disproportionate to the minor nature of the changes and/or they are necessary for the reasons set out in the Statement of Intent to reinforce existing policy. No formal consultation has taken place on the Youth Mobility Scheme change on this occasion as the terms of the Youth Mobility Scheme were established in November 2008 when the original rules were laid: the change simply adds a new qualifying country.

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 on the changes to the rules for family migration has been published on the Home Office website at www.homeoffice.gov.uk

11. Regulating small business

11.1 The changes are not expected to affect small businesses.

12. Monitoring and review

12.1 The review clauses at the beginning of this Statement of Changes require the Secretary of State to review the operation and effect of the changes in this Statement and lay a report before Parliament within five years of these changes coming into force and within every five years after that, to the extent that the rules contained in this Statement of Changes remain in force at the review date. Following each review the Secretary of State will decide whether the changes should remain as they are, be revoked or be amended. A further Statement of Changes would be needed to revoke the changes or amend them.

13. Contact

13.1 Queries specifically regarding this Statement of Changes only should be addressed as follows:

- Family members: to Helen Sayeed at the Home Office on 0207 035 8171 or e-mail to: Helen.Sayeed4@homeoffice.gsi.gov.uk
- Private life: to Donna Smillie at the Home Office on 020 7035 1685 or e-mail to: Donna.Smillie@homeoffice.gsi.gov.uk
- Criminality: to Matthew Bligh at the Home Office on 020 7035 8714 or e-mail to Matthew.Bligh3@homeoffice.gsi.gov.uk

- Points Based System dependants: to Richard Jackson at the Home Office on 0114 207 8373 or email to: Richard.Jackson@homeoffice.gsi.gov.uk
- Overstayers: to Neil Curtis at the Home Office on 0207 035 0085 or e-mail to: Neil.Curtis@homeoffice.gsi.gov.uk
- Youth Mobility Scheme: to Suzanne Barnes at the Home Office on 0207 035 3454 or e-mail to: Suzanne.Barnes@homeoffice.gsi.gov.uk

13.2 Other queries not related to this Statement of Changes, such as queries relating to individual cases, should be addressed as per the Contact page on the UK Border Agency website at www.ukba.homeoffice.gov.uk/contact