

STATEMENT OF CHANGES IN IMMIGRATION RULES

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

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A copy of this Statement of Changes can be found on the visas and immigration pages of the gov.UK website at www.gov.uk/government/collections/immigration-rules-statement-of-changes

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¹STATEMENT OF CHANGES IN IMMIGRATION RULES

The Home Secretary has made the changes hereinafter stated in the rules laid down by 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), 4 April 2012 (Cm 8337), 13 June 2012 (HC 194), 9 July 2012 (HC 514), 19 July 2012 (Cm 8423), 5 September 2012 (HC 565), 22 November 2012 (HC 760), 12 December 2012 (HC 820), 20 December 2012 (HC 847), 30 January 2013 (HC 943), 7 February 2013 (HC 967), 11 March 2013 (HC 1038), 14 March 2013 (HC 1039), 9 April 2013 (Cm 8599), 10 June 2013 (HC 244), 31 July 2013 (Cm 8690), 6 September 2013 (HC 628), 9 October 2013 (HC 686), 8 November 2013 (HC 803), 9 December 2013 (HC 887), 10 December 2013 (HC 901), 18 December 2013 (HC 938), 10 March 2014 (HC 1130), 13 March 2014 (HC 1138), 1 April 2014 (HC 1201), 10 June 2014 (HC 198), 10 July 2014 (HC 532), 16 October 2014 (HC 693), 26 February 2015 (HC 1025), 16 March 2015 (HC 1116), and 13 July 2015 (HC 297).

¹ This Statement of Changes can be viewed at <https://www.gov.uk/government/collections/immigration-rules-statement-of-changes>

Implementation

The changes to Part 8, Appendix A and Appendix V set out in paragraphs 8.1, A7 and V1 to V3 of this statement shall take effect from 8 October 2015.

The changes to Appendix A set out in paragraphs A1 to A6 of this statement shall take effect for applications for Certificates of Sponsorship under the Tier 2 (General) limit decided from 12 October 2015.

The changes to Introduction, Part 1, Part 5, Part 6A, Part 9 and Appendix 7 set out in paragraphs I1, 1.1, 5.1 to 5.4, 6A.1, 9.1 and App7.1 to App7.8 of this statement shall take effect from 15 October. However, if an application has been made for entry clearance or leave to enter or remain before 15 October and has not been decided before that date, the application will be decided in accordance with the Rules in force on 14 October.

The changes to Part 6A and Appendix C set out in paragraphs 6A.2 and C1 of this statement shall take effect from 12 November 2015.

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:

- (a) imposes requirements, restrictions or conditions, or sets standards, in relation to any activity carried on by a business or voluntary or community body; or

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

Changes to the Introduction

11. In Immigration Rules: Introduction, paragraph 6 after the definition of “working day” insert, “**“National Referral Mechanism”** means the arrangements administered by the Competent Authorities as set out in the guidance found at <https://www.gov.uk/government/publications/victims-of-trafficking-guidance-for-competent-bodies>.”

Changes to Part 1

- 1.1. In paragraph 34BB(3)(iii), after “e.g.”, insert “where it has been retained by an employer or other person in circumstances which have led to the applicant being the subject of a positive conclusive grounds decision made by a competent authority under the National Referral Mechanism, or”.

Changes to Part 5

- 5.1. In paragraph 159A(vb), delete “paragraph 2(2) of the National Minimum Wage Regulations 1999 (as amended from time to time)” and substitute “paragraph 57 of the National Minimum Wage Regulations 2015 (as amended from time to time)”.
- 5.2. In paragraph 159D(ivb), delete “paragraph 2(2) of the 1999 National Minimum Wage Regulations 1999 (as amended from time to time)” and substitute “paragraph 57 of the National Minimum Wage Regulations 2015 (as amended from time to time)”.
- 5.3. In paragraph 159EA(iii)(b), delete “paragraph 2(2) of the National Minimum Wage Regulations 1999 (as amended from time to time)” and substitute “paragraph 57 of the National Minimum Wage Regulations 2015 (as amended from time to time)”.
- 5.4. After paragraph 159H, insert:

“Domestic workers who are the victim of slavery or human trafficking

Requirements for leave to remain as a domestic worker who is the victim of slavery or human trafficking

159I. The requirements to be met by a person seeking leave to remain as a domestic worker who is the victim of slavery or human trafficking are that:

- (i) the applicant’s most recent grant of leave to enter or remain in the UK has been granted:

- (a) as a domestic worker in a private household;
 - (b) as a Tier 5 (Temporary Worker) migrant on the basis of a Certificate of Sponsorship issued in the International Agreement subcategory which confirmed that the applicant was being sponsored as a private servant in a diplomatic household; or
 - (c) as a domestic worker who is the victim of slavery or human trafficking;
- (ii) the applicant is the subject of a positive conclusive grounds decision made by a competent authority under the National Referral Mechanism;
 - (iii) except where the applicant is applying to extend a previous grant of leave to remain as a domestic worker who is the victim of slavery or human trafficking, the application:
 - (a) is made within 28 days of the decision at (ii) being notified to the applicant; or
 - (b) if the applicant has an outstanding application for leave to remain on the date that the decision at (ii) is notified to the applicant, or the applicant makes an application for (or is being considered for a grant of) leave to remain on some other basis within 28 days of that date, is made within 28 days of the outcome of that application or consideration being notified to the applicant; and
 - (iv) the applicant can maintain and accommodate him or herself without recourse to public funds.

Leave to remain as a domestic worker who is the victim of slavery or human trafficking

159J. A person meeting the requirements of paragraph 159I will be granted leave to remain for a period not exceeding 6 months. A person previously granted leave to remain as a domestic worker who is a victim of slavery or human trafficking for a period of less than six months may, if they continue to meet the requirements of paragraph 159I, be granted a further period of leave to remain such that their total leave to remain as a domestic worker who is a victim of slavery or human trafficking does not exceed 6 months. Leave to remain granted in accordance with this paragraph will be subject to the following conditions:

- (i) no recourse to public funds; and
- (ii) no employment except:
 - (a) as a domestic worker in a private household;

- (b) as a private servant in a diplomatic household working only in the household of the employer recorded by the Certificate of Sponsorship Checking Service in the Tier 5 (International Agreement) sub-category issued to the applicant in accordance with paragraph 111(g)(iii) of Appendix A of these Rules before the employment commences.

Refusal of leave to remain as a domestic worker who is the victim of slavery or human trafficking

159K. Leave to remain as a domestic worker who is the victim of slavery or human trafficking may be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 159I is met.”

Changes to Part 6A

- 6A.1. In paragraph 245ZO(f)(iv), delete “paragraph 2(2) of the National Minimum Wage Regulations 1999 (as amended from time to time)” and substitute “paragraph 57 of the National Minimum Wage Regulations 2015 (as amended from time to time)”.
- 6A.2. In paragraph 245ZZE (i) (6) delete “£500” and insert “£570”.

Changes to Part 8

- 8.1. In paragraph 319H(i)(ii)(2) delete “Recognised Body” and insert “UK recognised body”.

Changes to Part 9

- 9.1. In paragraph 322, after “curtailment of leave,” insert “, except that only paragraphs (1A), (1B), (5), (5A), (9) and (10) shall apply in the case of an application made under paragraph 159I of these Rules.”

Changes to Appendix 7

- App7.1. At the beginning of the employment contract set out in Appendix 7, after “Two copies of this form must be completed and signed by the employer and the overseas domestic worker and” insert “signed originals must be”.
- App7.2. In section 7 of the employment contract set out in Appendix 7, delete “1996” and substitute “1998”.
- App7.3. In section 10 of the employment contract set out in Appendix 7, delete:

“It is the Employer’s obligation and responsibility to pay for the transportation costs and they cannot be passed on to the Employee through payroll deductions or any other means (for example, the Employee must not pay the transportation on behalf of the Employer to be reimbursed at a later date).

Under no circumstances are transportation costs recoverable by the Employer from the Employee.”

App7.4. In section 10 of the employment contract set out in Appendix 7, after “The Employer agrees to pay in advance on behalf of the Employee any visa application fees and any other fees” insert “(including any immigration health surcharge)”.

App7.5. At the end of section 10 of the employment contract set out in Appendix 7, insert:

“It is the Employer’s obligation and responsibility to pay for the transportation costs, any visa application fees and any other fees (including any immigration health surcharge) that may be payable by the Employee in order to obtain a visa to travel to the United Kingdom with their Employer or to join the Employer in the UK, and such costs and fees cannot be passed on to the Employee through payroll deductions or any other means (for example, the Employee must not pay the transportation or the visa fees on behalf of the Employer to be reimbursed at a later date). Under no circumstances are transportation costs or the fees described above recoverable by the Employer from the Employee.”

App7.6. In section 12 of the employment contract set out in Appendix 7, delete:

“1. The Employer agrees to provide comprehensive sickness insurance cover for the Employee in the United Kingdom at no cost to the Employee.

2. The Employer agrees not to deduct money from the Employee’s salary **OR** wages for this purpose.

3. The Employer undertakes to ensure that the Employee has free access to medical treatment as the Employee requires.”

and substitute:

“Either:

“1. The Employer agrees to provide comprehensive sickness insurance cover for the Employee in the United Kingdom at no cost to the Employee.

2. The Employer agrees not to deduct money from the Employee’s salary **OR** wages for this purpose.

3. The Employer undertakes to ensure that the Employee has free access to medical treatment as the Employee requires.”

or, if the Employee has remained (or will remain as a result of his/her application for entry clearance, leave to enter or leave to remain being granted) in the UK as either a domestic worker in a private household or a private servant in a diplomatic household for a period exceeding 6 months:

“1. The Employer agrees not to deduct money from the Employee’s salary **OR** wages for the purpose of meeting the cost of comprehensive sickness insurance cover.

2. The Employer undertakes to ensure that the Employee has free access to medical treatment as the Employee requires.”

App7.7. In section 15 of the employment contract set out in Appendix 7, delete:

**“1.
2. Note: the Employer’s grievance procedure and disciplinary rules and procedure must comply with the ACAS statutory Code of Practice on discipline and grievance.”**

and substitute:

“Note: the Employer’s grievance procedure and disciplinary rules and procedure must comply with the ACAS statutory Code of Practice on discipline and grievance.”

App7.8. The changes specified at paragraphs App7.1 and App7.3 to App7.7 above shall also be made to the equivalent provisions in the Word version of the employment contract found at <https://www.gov.uk/government/publications/immigration-rules-appendix-7>.

Changes to Appendix A

A1. Delete paragraph 80D and substitute:

“80D. Available points for an application for a Certificate of Sponsorship are shown in Table 11D. No application will be granted unless it scores a minimum of 20 points under the heading "Type of Job" and a minimum of 1 point under the heading "Salary".”

A2. Delete Table 11D and substitute:

**“Table 11D
Applications for Certificates of Sponsorship under the Tier 2 (General) limit**

Type of job	Points	Salary	Points
Shortage occupation	130	£100,000 - £155,299.99	60
		£75,000 - £99,999.99	55
PhD-level occupation code and job passes Resident Labour Market Test or an exception applies	75	£70,000 - £74,999.99	50
		£65,000 - £69,999.99	45
		£60,000 - £64,999.99	40
		£55,000 - £59,999.99	35
		£50,000 - £54,999.99	30
Job passes Resident Labour Market	20	£45,000 - £49,999.99	25

Test or an exception applies	£44,000 - £44,999.99	24
	£43,000 - £43,999.99	23
	£42,000 - £42,999.99	22
	£41,000 - £41,999.99	21
	£40,000 - £40,999.99	20
	£39,000 - £39,999.99	19
	£38,000 - £38,999.99	18
	£37,000 - £37,999.99	17
	£36,000 - £36,999.99	16
	£35,000 - £35,999.99	15
	£34,000 - £34,999.99	14
	£33,000 - £33,999.99	13
	£32,000 - £32,999.99	12
	£31,000 - £31,999.99	11
	£30,000 - £30,999.99	10
	£29,000 - £29,999.99	9
	£28,000 - £28,999.99	8
	£27,000 - £27,999.99	7
	£26,000 - £26,999.99	6
	£25,000 - £25,999.99	5
	£24,000 - £24,999.99	4
	£23,000 - £23,999.99	3
	£22,000 - £22,999.99	2
	£20,800 - £21,999.99	1

- A3. At the end of paragraph 81E(iii), delete “.” and substitute “;”.
- A4. After paragraph 81E(iii), insert:
- “(iv) If the applicant has exchanged some of his UK employment rights for shares as an employee-owner, the value of those shares will not be included.”
- A5. In paragraph 81F, delete “the codes of practice for Tier 2 Sponsors published by the UK Border Agency” and substitute “the codes of practice in Appendix J”.
- A6. Delete paragraph 83C and substitute:
- “83C. If a Sponsor is allocated one or more Certificates of Sponsorship under the Tier 2 (General) limit which:
- (a) the Sponsor elects not to assign to a migrant and returns them to the Secretary of State, or
- (b) the Sponsor fails to assign to a migrant within 3 months of the date they were allocated to the Sponsor,

the Secretary of State may subsequently add such Certificates of Sponsorship to the following monthly allocation.”

- A7. In paragraph 124(e) delete “Sponsor Licence” and substitute “sponsor licence”.

Changes to Appendix C

- C1. In Appendix C in the table in paragraph 11 (i) under the title “If studying outside London” delete “£820” and substitute “£1,015”.

Changes to Appendix V

- V1. In paragraph 1(a) of Appendix 2 to Appendix V:

- i) for “paragraph” substitute “paragraphs 2 – 19”;
- ii) insert, after “South Africa” and “Vietnam”, “*”.

- V2. In paragraph 3 of Appendix 2 to Appendix V, at the end of sub-paragraph (g), insert:

“; or

(h) nationals of Vietnam who hold diplomatic passports issued by Vietnam.”

- V3. In paragraph 1(f) of Appendix 5 to Appendix V, for “Belfast Festival at Queen’s” substitute “Belfast International Arts Festival”.

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