



Treaty Series No. 35 (2016)

Exchange of Notes

to amend the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America for the sharing of Visa, Immigration, and Nationality Information, done at Queensland on 18 April 2013

Washington 8th and 29th September 2016

[The Exchange of Notes entered into force on 29 September 2016]

*Presented to Parliament
by the Secretary of State for Foreign and Commonwealth Affairs
by Command of Her Majesty
November 2016*



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**EXCHANGE OF NOTES TO AMEND THE AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND AND THE GOVERNMENT OF THE
UNITED STATES OF AMERICA FOR THE SHARING OF VISA,
IMMIGRATION, AND NATIONALITY INFORMATION,
DONE AT QUEENSLAND ON 18 APRIL 2013**

No. 1

*The Department of State of the United States of America to the British Embassy,
Washington*

8 September 2016

The Department of State of the United States of America (hereinafter “the Department”) refers the Embassy of the United Kingdom of Great Britain and Northern Ireland (hereinafter “the Embassy”) to the Agreement between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for the Sharing of Visa, Immigration, and Nationality Information, done at Queenstown April 18, 2013 and entered into force November 8, 2013 (hereinafter “the Agreement”). The Department also refers to recent discussions between our two Governments concerning the Agreement.

Consistent with our recent discussions, the Department proposes on behalf of the Government of the United States of America that, pursuant to Article 15, paragraph 1 of the Agreement, the Agreement be amended by replacing Articles 1 and 2 with the attached amended Articles 1 and 2. If the foregoing proposal is acceptable to the Government of the United Kingdom of Great Britain and Northern Ireland, the Department further proposes that this note, including the attached amended Articles 1 and 2, and the Embassy’s reply note together shall constitute an agreement between our two Governments in this matter, which shall enter into force on the date of the Embassy’s affirmative note in reply.

Amended Articles 1 and 2 dates 20 September 2016

ARTICLE 1

DEFINITIONS

For purposes of this Agreement,

- (a) **“Information”** means data on Nationals of a Third Country seeking authorization to transit through, travel to, work in, live in, or take citizenship of, the United Kingdom (UK) or the United States (U.S.), and other immigration and nationality-related data about Nationals of a Third Country, including data from admissibility, immigration or nationality compliance actions and/or decisions rendered in accordance with the immigration and nationality laws of the respective Parties. Information may consist of personal data, statistical data, or both. The particular types of Information to be shared, and categories of Nationals of a Third Country about whom such Information is to pertain, shall be described in relevant implementing arrangements developed by the Parties pursuant to Article 4. In circumstances described in paragraphs 3 and 4 of Article 2, Information also includes such data that pertain to Nationals of a Party.
- (b) **“National of a Third Country”** means a person who is neither a UK nor a U.S. citizen or national. The UK will hold limited, if any, Information about European Economic Area nationals and their family members due to their free movement rights under European Union (EU) law.
- (c) **“National”** means a UK or U.S. citizen or national.
- (d) **“Domestic law”** includes, in relation to the United Kingdom, European Union law.

ARTICLE 2

SCOPE AND PURPOSE

1. This Agreement specifies the terms, relationships, responsibilities, and conditions for the regular sharing of Information between the Parties.
2. The purpose of this Agreement is to assist in the effective administration and enforcement of the respective immigration and nationality laws of the Parties by:
 - (a) Using Information in order to enforce or administer the immigration and nationality laws of the Parties;

- (b) Facilitating the Parties' adjudication of applications for transit, a visa, admission, extension of stay, other immigration benefit, nationality, or determination of whether an individual is to be ordered removed by providing Information regarding the individual; and
- (c) Furthering the prevention, investigation, or punishment of acts that would constitute a crime under the laws of the Party providing the Information.

3. A Party to this Agreement shall only provide Information about its Nationals under an implementing arrangement to this Agreement when such Information is relevant and necessary to support an immigration decision in the receiving country, and the sharing of such Information is compatible with domestic law and policy.

4. A Party to this Agreement shall only provide Information about a National of the other Party under an implementing arrangement to this Agreement when such Information is relevant and necessary to support a specific immigration matter in the receiving country to which the individual is tied, where the sharing of such Information is compatible with domestic law and policy.

5. Nothing in this Agreement is intended to change, modify, or limit the applicable laws and common law powers in the territory of either Party to share Information. The UK shall share Information under this Agreement in reliance on its common law powers to do so. The U.S. shall share Information under this Agreement in reliance on its authorities and powers. All Information exchanged under this Agreement shall be handled by a Party in accordance with the terms of this Agreement and its domestic laws.

6. No provision in this Agreement shall be interpreted in a manner that would restrict practices relating to the sharing of Information that are already in place between the two Parties.

7. This Agreement shall not give rise to rights, privileges or benefits on the part of any other party, private or public, including to obtain, suppress or exclude any evidence or to impede the sharing of personal data. Rights, privileges or benefits existing independently of this Agreement are not affected.

No. 2

British Embassy, Washington to the Department of State of the United States of America

29 September 2016

DipNote: 109/2016

The Embassy of the United Kingdom of Great Britain and Northern Ireland (hereinafter “the Embassy”) presents its compliments to the Department of State of the United States of America (hereinafter “the Department”), and has the honour to acknowledge receipt of the Department’s note number dated 28 [*sic*] September 2016, concerning an amendment to the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States of America for the Sharing of Visa, Immigration, and Nationality Information, done at Queenstown April 18, 2013 and entered into force November 8, 2013 (hereinafter “the Agreement”) which reads as follows:

[As in No. 1]

In reply, the Embassy has the honour to confirm that the abovementioned proposal is acceptable to the Government of the United Kingdom of Great Britain and Northern Ireland and that the Department’s note and this reply note, including the attached amended Articles 1 and 2, together shall constitute an agreement between our two Governments in this matter which shall enter into force on the date of this note.

The Embassy avails itself of this opportunity to renew to the Department the assurances of its highest consideration.

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