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The changes set out in paragraphs 1, 7, 18, 64, 66, 97 to 98, 100 to 109, and 168 shall take effect from 20 October 2014.

The changes set out in paragraphs 2 to 5, 19, 70 to 96, 110, 164, 171, 185 to 211, and 214 to 226 take effect from 6 November 2014.

The changes set out in paragraphs 6, 8 to 17, 20 to 22, 26 to 63, 65, 67 to 69, 99, 111 to 163, 165 to 167, 169 to 170, 172 to 184, 213, and 227 to 247 take effect from 6 November 2014, save that if an application has been made for entry clearance or leave to enter or remain before 6 November 2014, the application will be decided in accordance with the Rules in force on 5 November 2014.

The changes set out in paragraphs 23 to 25 take effect from 1 December 2014.

***Administrative review***

See the Immigration Act 2014 (Commencement No. 3, Transitional and Saving Provisions) Order 2014.  From 20 October 2014, the changes made by section 15 of the 2014 Act, which amends rights of appeal, will apply to persons who seek leave to**remain** under Tier 4 of the Points-Based System, as well as to partners and children of Tier 4 migrants. Only these same persons will be eligible for administrative review so paragraph AR3.2 of new Appendix AR of the Immigration Rules replicates the commencement order when describing who is eligible for administrative review. When the application of section 15 is broadened to further categories of persons in future commencement orders, paragraph AR3.2 will be amended accordingly.

Paragraph AR3.4 of Appendix AR sets out the list of case working errors that can be considered under administrative review.  Paragraph AR2.4 of Appendix AR prohibits new evidence from being considered when applying for administrative review subject to some exceptions. The possible outcomes of an administrative review are set out at paragraph AR2.2 of Appendix AR. The original decision under review may be withdrawn, in which case the application fee will be refundedand leave to remain may be granted. Administrative review fee refunds are found in paragraph 3(4) to schedule 6 of Immigration and Nationality (Cost Recovery Fees) Regulations 2014 (SI 2014/581) as amended (SI 2014/2398). If the original decision remains in force, the decision may continue to stand as it is, have a reason for refusal withdrawn or have additional reasons given. While usually it is only possible to have an administrative review application considered once in respect of an eligible decision (see paragraph 34M), if the outcome of the review is that additional reasons for refusal are given, as set out in paragraph AR2.2(d), then a further application for administrative review may be made.

Where someone with leave to enter or remain has made an application to vary their leave, but their existing leave expires before the application is determined, their leave is statutorily extended by the operation of section 3C of the Immigration Act 1971. Paragraph 21 of Schedule 9 to the Immigration Act 2014 amends section 3C so that leave is also extended while an application for administrative review is pending. Paragraph AR2.9 of Appendix AR sets out when an administrative review is pending, and thus at what point extended leave to enter or remain is brought to an end.

New paragraph 34L of the Immigration Rules requires the Home Office to give notice to persons of their right to apply for administrative review where an eligible decision has been given. This measure is similar to the duty that exists to give persons notice of rights of appeal that exists in the Immigration (Notices) Regulations 2003 (SI 2003/658).

New paragraphs 34M to 34Y of the Immigration Rules set out the technical process that needs to be followed for making a valid application for administrative review. Paragraph 34R sets out the time limits that apply to make an application for administrative review following receipt of an eligible decision. A time limit of 14 calendar days applies. A reduced time limit of 7 calendar days applies to those in immigration detention.

Consequential changes are being made to the Immigration Rules which reflect the changes to appeal rights brought about by the Immigration Act 2014. These include, where appropriate, deleting reference to appeal rights and substituting or adding reference to administrative review.

***“Foreign criminals”***

 On 20 October, in addition to bringing the new Act into force for persons applying for leave to remain under Tier 4, the appeals provisions in the Act will also apply to foreign criminals and their family members. There will no longer be a right of appeal against deportation, nor will there be an administrative review. However, foreign criminals may make an application for leave to remain based on a protection or human rights claim for which there will continue to a right of appeal if such a claim is refused. There are consequential amendments to the Immigration Rules which delete or amend references to appeals.

***Changes relating to the validation of immigration applications***

Providing applicants with an opportunity to remedy errors or omissions which would render their immigration application invalid.

Remove the list of permitted in-person application types for premium service centres from the Rules and references the GOV.UK website where this list will be available.

Allow dependants over the age of 18 to be included on an application where this is permitted by the Rules of the route to which they are applying.

Clarify that postal applications must be sent to the address specified on the application form.

***General Visitors***

Changes are being made” to align the Immigration Rules with UK Visas and Immigration’s practice” to confirm that a child, spouse or partner of an Academic Visitor can accompany them to the UK as General Visitors.

***Private organ donors***

Currently visitors acting as organ donors to recipients in the UK with private healthcare enter as Private Medical Visitors, and visitors acting as organ donors to recipients who are receiving treatment on the National Health Service are assessed outside the Immigration Rules. A new provision is being introduced within the General Visitor route to accommodate visitors who are coming to the UK to act as an organ donor, or to be assessed as a suitable organ donor, to an identified recipient in the UK.

***Business Visitors***

The Business Visitor route enables individuals to carry out a wide range of permitted activities in the UK, provided they remain paid and employed overseas. Changes are being made to include new activities as follows:

a. allowing scientists and researchers to share knowledge, expertise and advice on an international project which is being led by the UK, provided the visitor is not carrying out research that should be undertaken on a Tier 5 (temporary worker) or Tier 2 (skilled work) visa;

b. creating a provision for overseas lawyers, who are employees of international law firms which have offices in the UK, to provide direct advice to clients in the UK on litigation or international transactions provided they remain paid and employed overseas;

c. allowing graduates of an overseas nursing school to be admitted as a Business Visitor in order to the sit the Objective Structured Clinical Examination (OSCE) which is required before any overseas nurse can work in the UK under the Tier 2 route. This provision has been included in Part 3 of the Immigration Rules where similar provisions exist for medical graduates taking the Professional and Linguistic Assessments Board (PLAB) Test who are processed as Business Visitors.

***Private Medical Treatment Visitors***

Currently visitors who are coming to the UK to receive private medical treatment can stay for up to six months. Certain types of medical treatment last for longer than six months so changes are being made to allow visitors to apply for a visa for up to 11 months at the outset where the visitor has provided evidence from a medical practitioner of the likely duration of their treatment.

Changes are being made to clarify that Private Medical visitors can extend their leave for a period of up to six months where there is an on-going need to receive private medical treatment in the UK.

***Marriage/Civil Partnership Visitors***

Visitors can enter the UK to get married or form a civil partnership. They must have entry clearance for this purpose regardless of their nationality. A change is being made “to ensure that a person coming to the UK cannot do so for the purpose of entering into a sham marriage or sham civil partnership. “

***Visitors in transit***

Establish requirements to allow visa nationals to transit landside through the UK provided they hold a valid exemption document under the transit without visa scheme. Replaces a concessionary arrangement which operated outside the Immigration Rules and which allowed some visa nationals to enter the UK without a visa whilst in transit purely on the basis of a confirmed onward ticket (and no exemption document) and required others to hold an exemption document. While most of the documents referred to in the transit without visa scheme were part of the previous concession, Irish biometric visas and Australian and New Zealand residence permits are new. These rules will come into force from 1 December.

***Commonwealth Games Family Members***

The temporary provisions that were introduced for Games Family Members are being removed.

***Overseas Domestic Worker in a Private Household route***

Changes to the rules on Overseas Domestic Workers in a Private Household. The Explanatory Note states that this is to “ prevent abuse by those who are living in the UK through frequent, successive visits, and provide added protection to workers against exploitation…There is already a requirement in the General Visitor Rules that prevents visitors from effectively living in the UK through making repeated or successive visits to the UK. The change will harmonise the requirements for Overseas Domestic Workers who must only come to the UK with a visitor.

***Family and private life***

***Minimum income threshold requirement under Appendix FM and Appendix FM-SE:***

Allowing funds to be transferred from a type of investment account which does not count under the rules as an eligible account for cash savings (e.g. because the funds cannot be accessed immediately) to an eligible bank account within the period of six months prior to application.

Allowing an academic stipend or grant to be counted as income where it is paid for at least one full academic year, as well as for a 12-month period.

“Clarifying” that a sponsor or applicant living in the UK can, in calculating their employment or self-employment income, include work undertaken overseas.

Enabling a self-employed person of state pension age (and therefore no longer paying Class 2 NI contributions) to demonstrate ongoing self-employment by alternative evidence, e.g. ongoing payment of business rates or of business-related insurance premiums.

Ensuring that where an application relies on the income from employment in the UK of the sponsor and applicant, this must be calculated on the same basis for both parties for the purpose of the income threshold rules.

Allowing an equity partner, e.g. in a law firm, to evidence their partnership income through a letter from an accountant, solicitor or business manager acting for the partnership.

“Clarifying” how cash savings can be used in meeting a requirement for ‘adequate’ maintenance, where the applicant is exempt from the income threshold requirement. This change also applies to applicants under Part 8 (excluding an applicant who is a family member of a Relevant Points Based System Migrant).

“Clarifying” that the official documentation to be provided by a person in receipt of a specified disability-related benefit or Carer’s Allowance must relate to that person’s current entitlement to it.

***Partners and parents who need to meet an English language requirement for limited leave to enter or remain in the UK under Appendix FM, or partners needing to meet such a requirement in Part 8 or Appendix Armed Forces***:

The provision that an applicant is not required to provide evidence of A1 level English if they have done so as part of a successful previous application as a partner or parent will not apply where a test certificate or result awarded to the applicant has been withdrawn by a provider such that it can no longer be relied upon. In those circumstances the applicant must provide a fresh test certificate or result from an approved provider which shows that they meet the requirement, if they are not exempt from it.

Where the applicant submits a test certificate or result from a test provider no longer on the approved list, or past its validity date but for a test which remains approved, the rules set out the circumstances under which caseworkers may accept the certificate or result.

***In respect of Appendix FM and the private life rules from 9 July 2012***

Providing that where an applicant granted further leave to remain has extant leave at the date of decision, this may be added to the normal length of leave granted, up to a maximum of 28 days.

“Clarifying” the indefinite leave to remain requirements for partners to make clear that applicants have to meet the eligibility requirements which apply to the 5­year route to settlement or the 10-year route, not both.

Adapting the provisions covering when an ECHR Article 8 claim will be considered without a valid application to take account of the implementation of the appeals reforms under the Immigration Act 2014.

“Clarifying” that an Article 8 claim against removal has only to be considered against the requirements for the 10-year partner, parent and private life routes.

“Clarifying” that, in Appendix FM as under Part 8, the partner of a member of HM Diplomatic Service or of a comparable UK-based staff member of the British Council, the Department for International Development or the Home Office on an overseas tour of duty can serve their probationary period overseas once they have been here to trigger the start of that period. There is an addition to Appendix FM-SE in respect of the specified evidence required.

Amending the definition of “independent life” (which means an adult child here can no longer depend on their sponsor’s immigration status and must apply to remain in their own right) to take account of scenarios where the sponsor is permitted to be a relative other than a parent.

***In respect of the Part 8: pre-9 July 2012 rules for partners and parents; and the current rules for some child applicants***

Ensuring that the child of a refugee sponsor can apply for further limited leave to remain in line with their sponsor if the latter is refused indefinite leave to remain.

Ensuring that the transitional arrangements for Part 8 cannot be relied upon by an applicant granted under Part 8 whose partner has since changed; or by an applicant aged 18 or over with previous Part 8 leave who has since been granted leave under another part of the rules or refused leave under Appendix FM, Appendix Armed Forces or the new private life rules.

“Clarifying” that a person cannot be granted further limited leave to remain as a partner (other than a person applying as a family member of a relevant Points Based System Migrant) under Part 8 unless they have met or remain exempt from the requirement for A1 level English.

“Clarifying” that a person with continuous leave both under Part 8 and the new family and private life rules can count this towards long residence but not towards the probationary period for indefinite leave to remain under the new rules.

***Tier 1 of the Points-Based System***

***Tier 1 Exceptional Talent***

A change is being made so that successful applicants will be granted five years’ leave (rather than three years’).

The English language requirement is being removed for extension applications in this category.

Changes are being made to the criteria applied by Designated Competent Bodies when considering endorsements for applicants:

Minor “clarifications” are being made to the criteria applied by The Royal Society, The Royal Academy of Engineering and The British Academy.

The criteria applied by The Arts Council are being amended to “clarify” the documentary requirements and align the letter requirements for “exceptional talent” and “exceptional promise”, enabling both standards to be assessed in a single application.

The criteria and list of notable industry awards are being expanded for applicants in the film, television, animation, post-production and visual effects industry, on the advice of the Producers Alliance for Cinema and Television (PACT), who assess such applicants on behalf of The Arts Council.

**Tier 1 (Investor**)

The following changes are being made to this category, partially in response to that report:

The current £1 million minimum investment threshold is being raised to £2 million.

A change is being made to require the full investment sum to be invested in prescribed forms of investments (share or loan capital in active and trading UK companies, or UK Government bonds), rather than 75% of the sum as at present).

The current requirement that the migrant’s investment must be “topped up” if its market value falls is being removed; instead Tier 1 (Investor) Migrants will only need to purchase new qualifying investments if they sell part of their portfolios and need to replace them in order to maintain the investment threshold.

The existing provision under which the required investment sum can be sourced as a loan is being removed.

Transitional arrangements are being applied, so that Tier 1 (Investor) Migrants who have already entered the route before these changes are introduced will not be subject to these changes when they apply for extensions or for indefinite leave to remain.

Entry Clearance Officers and UK Visas & Immigration caseworkers are being empowered to refuse a Tier 1 (Investor) application if they have reasonable grounds to believe that:

o the applicant is not in control of the investment funds;

o the funds were obtained unlawfully (or by means which would be unlawful if they happened in the UK); or

o the character, conduct or associations of a party providing the funds mean that approving the application is not conducive to the public good.

***Tier 1 (Entrepreneur)***

The following changes are being made to this category:

For applications made in the UK, a new requirement is being added that the funds to be invested in the business must also be in the UK.

A change is being made to require applicants for indefinite leave to remain to show they have invested their funds, if they have not been required to do so in a previous application. This change will apply to applicants for accelerated indefinite leave to remain, who have not made an extension application before applying for indefinite leave.

A number of “technical” clarifications are being made to evidential requirements relating to funding held in joint accounts, multiple bank accounts, or another business.

“Clarifications” are also being made to the evidential requirements where an applicant has already established a business, to the job creation requirements for indefinite leave to remain, and to the definitions of “Venture Capital firms”, “new businesses” and “property development or property management”. These clarifications are being made due to various enquiries on these subjects.

***Tier 1 (General) category (now closed)***

A change is being made to this category to adjust the grant periods for Tier 1 (General) extensions to either three years (as at present) or the balance the applicant needs to take their time in the category to five years, whichever is longer. This allows for applicants to accrue five years in the category before the closing date, even if their original grant was delayed due to a refusal and appeal. The Explanatory Note states that the Home Office will assess what provisions are needed for indefinite leave to remain applications once all extension applications have been processed after April 2015, and will consider making adjustments in a future Statement of Changes.

***Tier 2***

The following changes are being made to Tier 2:

* •                  An assessment of whether a genuine vacancy exists is being added to Tier 2 (Intra-Company Transfer) and Tier 2 (General). This change empowers Entry Clearance Officers and caseworkers to refuse applications where there are reasonable grounds to believe that the job described by the sponsor does not genuinely exist, has been exaggerated to meet the Tier 2 skills threshold, or (in respect of Tier 2 (General)) has been tailored to exclude resident workers from being recruited, or where there are reasonable grounds to believe that the applicant is not qualified to do the job.

An existing requirement in the published guidance for Sponsors is that Tier 2 Migrants cannot be sponsored to fill a position, undertake an ongoing routine role or to provide an ongoing routine service for a third party who is not the sponsor. This requirement is being replicated in the Immigration Rules. This enables applications by individuals for entry clearance or leave to remain, and applications by Sponsors for Restricted Certificates of Sponsorship, to be refused in line with any wider compliance action relating to the Sponsor in question.

Provisions relating to overseas nurses and midwives are being amended, to reflect changes in practice by the Nursing and Midwifery Council (NMC).

A change is being made to the Tier 2 (General) provisions for extension applications where the applicant is continuing to work in the same occupation for the same sponsor. Such applicants are exempt from the Resident Labour Market Test. Currently the exemption only applies if the applicant still has current leave as a Tier 2 (General) Migrant when they make their extension application. The change will enable them to benefit from the extension if their previous leave as a Tier 2 (General) Migrant expired no more than 28 days before they make their extension application.

A temporary provision, dating back to 2009, waiving the £20,500 minimum salary threshold where companies are reducing their employees’ hours in order to avoid redundancies, is being removed.

A temporary exemption from the requirement to advertise via Jobcentre Plus (or Jobcentre Online in Northern Ireland) exists for NHS positions advertised on NHS Jobs. This exemption was due to expire on 1 October 2014 but is being extended to 6 April 2015 “while ongoing technical issues are resolved.”

***Tier 2 (Intra-Company Transfer)***

The Explanatory Note States “It is not possible for applicants to switch from the Tier 2 (Intra-Company Transfer) category to other Tier 2 categories within the UK, unless they entered under the Tier 2 (Intra-Company Transfer) rules in place before 6 April 2011. A drafting error meant that the time spent in Tier 2 (Intra-Company Transfer) counted towards the maximum period of 6 years that applicants may spend in other Tier 2 categories. This is being corrected. “

***Tier 2 (Sportsperson)***

Change to conditions enabling Tier 2 sportspersons to take additional employment as a sports broadcaster, in line with the conditions for sportspeople in the Creative and Sporting sub-category of the Tier 5 (Temporary Worker) category.

***Tier 4 (*Academic Technology Approval Scheme)**

The Rules are amended to provide (“make clear”) that a new certificate must be obtained if the course content changes, the course end date is postponed significantly, or if the student wants to start a new course that requires the clearance.

***Tier 5 Youth Mobility Scheme***

The annual allocations for participating countries on the scheme are being set for 2015. There is an increase in the allocations for New Zealand (16%)

**Tier 5 Government Authorised Exchange category**

Two work experience schemes: an exchange between the Scottish Schools Education Research Centre and the Development Centre, Ministry of Education in China  anda scheme administered by Twin Training International that offers work experience opportunities to overseas engineering students (under­graduates and graduates).

Four Mandarin Teacher’s schemes which are now part of the overarching Mandarin Teacher scheme that is administered by Hanban UK Ltd. are removed .

Ninor amendments are being made to the sponsor’s details for the Sponsored Scientific Researcher scheme.

***Cross-cutting changes***

“Clarifying” the meaning of “non-national travel document”.

**Tier 2 (Sportsperson) and Tier 5 (Temporary Worker – Creative and Sporting)**

A change is being made to the table of governing bodies to include information on which Tier(s) each body may endorse applicants in.  Updates are also being made to the contents of the list of sports governing bodies.

**Secure English Language Test (SELT) providers**

Changes re tests offered by Trinity College London.

**Financial Institutions**

Updates to the lists of financial institutions in Bangladesh, Cameroon and Ghana from which statements are, or are not, accepted.

***Appendix Armed Forces***

An amendment to paragraph 2(ja)(i) and (ii) clarifies that Relevant Civilian Employees are employed by an individual NATO force rather than by NATO as an organisation.

Changes to paragraphs 61C, 61E, 65 and 67 will allow the maximum five years leave to be granted to civilian employees of a NATO force and dependants of exempt visiting forces and civilian employees of a NATO force where the initial period on their movement orders or posting letter is shorter. This is to prevent the disruption and expense of renewal.

Changes to paragraph 61D will allow applicants to take up employment as a Relevant Civilian Employee without seeking entry clearance in that capacity where they entered as an exempt member of a visiting force.

Changes to paragraph 66 prevent dependants of armed forces who are subject to control from switching into that category in country, in line with their sponsor.

Changes to paragraphs 62(b), 64 and 66 will permit Relevant Civilian Employees and exempt visiting forces to sponsor dependants other than partners and children where these are covered by legislation and named on the sponsor’s movement order or posting letter.

A change to paragraph B320(2) will bring the general grounds for refusal for Part 9A of Appendix Armed Forces into line with those for Parts 9A and 10 and allows entry clearance to be refused where an applicant cannot satisfy an Immigration Officer that he or she will be admitted to another country after a stay in the UK.

***Changes to Appendix Knowledge of Language and Life***

Cchanges to applications for indefinite leave and the requirement to demonstrate knowledge of language and life in the UK to “make it clear” that the Secretary of State may require an applicant to attend an interview and/or to retake the relevant examinations or tests in order to satisfy the Secretary of State that the knowledge of language and life requirement is met.

***Changes to Domestic Violence***

Explanatory Note says “These changes clarify the existing eligibility criteria. There has been no change in policy. “