

ILPA immigration update 51

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Sarah Myerscough ILPA Legal Officer 020-7490 1553 [sarah.myerscough @ilpa.org.uk](mailto:sarah.myerscough@ilpa.org.uk)

Immigration Law Practitioners' Association www.ilpa.org.uk 020-7251 8383 (t) 020-7251 8384 (f)

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Statement of changes in Immigration Rules HC 760

A written ministerial statement was been laid in Parliament on 22 November 2012 outlining a number of changes to the Immigration Rules which will come in to force on 13 December 2012. One of the most significant is to paragraph 276ADE of the rules (the reintroduction of the seven-year child concession). With effect from 13 December a new requirement is added, that it 'would not be reasonable to expect the applicant to leave the UK'. There are non-substantive changes for sponsors and migrants coming to the UK under several categories of Points Based System and Sponsorship. In addition there are changes to the criminality threshold in terms of revocation of deportation orders re-entry bans and assessing immigration applications.

More information about the statement of changes is available at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/statementsofchanges/2012/hc760.pdf?view=Binary>

Family Migration

Recent case law, MF (Article 8 – new rules) Nigeria [2012] UKUT 00393 (IAC), has set out clearly that the new definition of Article 8 of the European Convention on Human Rights set out in the immigration rules does not exhaust the meaning of Article 8. Cases that do not fall within the definition in the rules must be considered outside the rules against the "real" Article 8. Please refer to our information sheet Article 8 (No3) 21 December 2012. The full case is available at:

http://www.bailii.org/uk/cases/UKUT/IAC/2012/00393_ukut_iac_2012_mf_nigeria.html

Legacy Cases

The Chief Inspector of the UK Border Agency has issued a damning report on the Agency's handling of legacy cases. The report concurs that grants of discretionary leave rather than indefinite leave represented a change in policy. It finds that information given to parliament on the conclusion of cases was inaccurate. This report and the government's response are available at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2012/november/34-response>

Concession for Syrian Cases

From 15 October 2012 Syrian nationals with temporary permission to stay in the UK have more ways to extend their stay in the UK. If you are a Syrian national and your permission to stay in the UK (leave to remain) is about to expire, or has expired in the last 28 days, and you wish to stay in the UK there are now some new options available to you, including opportunities to switch into a different category without leaving the UK. You may wish to seek legal advice on which is the best option for you. This concession applies only until 15 March 2013. For further information see:

<http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2012/october/38-syria>

Changes to the requirements for biometric residence permits

From 1 December 2012, everyone making an application to the UK Border Agency will be required to provide biometric information to the UK Border Agency and will be issued with a biometric residence permit. Those who already have leave and are not making any new application are not affected.. For further information see:

<http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2012/november/60-brp>