

2007 No. 882

IMMIGRATION

The Immigration (Leave to
Remain) (Prescribed
Forms and Procedures)
Regulations 2007

<i>Made</i> - - - - -	<i>13th March 2007</i>
<i>Laid before Parliament</i>	<i>19th March 2007</i>
<i>Coming into force</i> - -	<i>2nd April 2007</i>



2007 No. 882

IMMIGRATION

The Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations 2007

Made - - - - - *13th March 2007*

Laid before Parliament *19th March 2007*

Coming into force - - *2nd April 2007*

The Secretary of State, in exercise of the powers conferred upon him by section 31A of the Immigration Act 1971(a) makes the following Regulations:

Citation, commencement and interpretation

1. These Regulations may be cited as the Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations 2007 and shall come into force on 2nd April 2007.

2. In these Regulations:

“asylum claimant” means a person making a claim for asylum which has not been determined or has been granted;

“claim for asylum” has the meaning given in section 94(1) of the Immigration and Asylum Act 1999(b), and a claim for asylum is taken to be determined—

- (a) on the day on which the Secretary of State notifies the claimant of his decision on the claim,
- (b) if the claimant has appealed against the Secretary of State’s decision, on the day on which the appeal is disposed of, or
- (c) if the claimant has brought an in-country appeal against an immigration decision under section 82 of the Nationality, Immigration and Asylum Act 2002(c) or section 2 of the Special Immigration Appeals Commission Act 1997(d), on the day on which the appeal is disposed of;

“dependant”, in respect of a person, means—

- (a) the spouse, civil partner, unmarried partner or same sex partner, or
- (b) a child under the age of eighteen,
of that person; and

“public enquiry office” means a public enquiry office of the Border and Immigration Agency of the Home Office.

(a) 1971 c. 77. Section 31A was inserted by section 165 of the Immigration and Asylum Act 1999 (c. 33) and amended by section 121 of the Nationality, Immigration and Asylum Act 2002 (c. 41). Section 31A has been repealed by the Immigration, Asylum and Nationality Act 2006 (c. 13) from a date to be appointed.

(b) 1999 c. 33.

(c) 2002 c. 41.

(d) 1997 c. 68.

Prescribed Forms

3.—(1) Subject to paragraph (2), the form set out in Schedule 1 is prescribed for an application for limited or indefinite leave to remain in the United Kingdom as:

- (a) a business person,
- (b) a sole representative,
- (c) a retired person of independent means,
- (d) an investor, or
- (e) an innovator,

for the purposes of the immigration rules.

(2) Paragraph (1) does not apply to an application for limited or indefinite leave to remain in the United Kingdom as a business person where the application is made under the terms of a European Community Association Agreement.

4. The form set out in Schedule 2 is prescribed for an application for limited leave to remain in the United Kingdom:

- (a) for work permit employment,
- (b) as a seasonal agricultural worker,
- (c) for the purpose of employment under the Sectors-Based Scheme, or
- (d) for Home Office approved training or work experience,

for the purposes of the immigration rules.

5. The form set out in Schedule 3 is prescribed for an application for limited leave to remain in the United Kingdom as a highly skilled migrant for the purposes of the immigration rules.

6. The form set out in Schedule 4 is prescribed for an application for limited leave to remain in the United Kingdom as:

- (a) the spouse or civil partner of a person present and settled in the United Kingdom, or
- (b) the unmarried partner or same sex partner of a person present and settled in the United Kingdom,

for the purposes of the immigration rules.

7. The form set out in Schedule 5 is prescribed for an application for limited leave to remain in the United Kingdom:

- (a) as a student,
- (b) as a student nurse,
- (c) to re-sit an examination,
- (d) to write up a thesis,
- (e) as a student union sabbatical officer, or
- (f) as a prospective student,

for the purposes of the immigration rules.

8. The form set out in Schedule 6 is prescribed for an application for limited leave to remain in the United Kingdom as a participant in the Science and Engineering Graduates Scheme for the purposes of the immigration rules.

9. The form set out in Schedule 7 is prescribed for an application for limited leave to remain in the United Kingdom as a participant in the Fresh Talent: Working in Scotland Scheme for the purposes of the immigration rules.

10.—(1) The form set out in Schedule 8 is prescribed for an application for limited leave to remain in the United Kingdom as:

- (a) a visitor,
- (b) a visitor seeking to undergo or continue private medical treatment,
- (c) a postgraduate doctor or dentist or a trainee general practitioner,
- (d) an au pair,
- (e) a teacher or language assistant under an approved exchange scheme,
- (f) a representative of an overseas newspaper, news agency or broadcasting organisation,
- (g) a private servant in a diplomatic household,
- (h) a domestic worker in a private household,

- (i) an overseas government employee,
- (j) a minister of religion, missionary or member of a religious order,
- (k) a visiting religious worker or a religious worker in a non-pastoral role,
- (l) a member of the operational ground staff of an overseas-owned airline,
- (m) a person with United Kingdom ancestry,
- (n) a writer, composer or artist,
- (o) an overseas qualified nurse or midwife, or
- (p) the spouse, civil partner or child of an armed forces member who is exempt from immigration control under section 8(4) of the Immigration Act 1971,

for the purposes of the immigration rules.

(2) Subject to paragraph (3), the form set out in Schedule 8 is prescribed for an application for limited leave to remain in the United Kingdom for any other reason or purpose for which provision is made in the immigration rules but which is not covered by the forms prescribed by regulations 3 to 9.

(3) Paragraph (2) does not apply to an application for limited leave to remain in the United Kingdom where:

- (a) the application is made under the terms of a European Community Association Agreement, or
- (b) the basis on which the application is made is that the applicant is an asylum claimant or a dependant of an asylum claimant.

11. The form set out in Schedule 9 is prescribed for an application for indefinite leave to remain in the United Kingdom as:

- (a) the spouse or civil partner of a person present and settled in the United Kingdom, or
- (b) the unmarried partner or same sex partner of a person present and settled in the United Kingdom,

for the purposes of the immigration rules.

12. The form set out in Schedule 10 is prescribed for an application for indefinite leave to remain in the United Kingdom as:

- (a) the child under the age of eighteen of a parent, parents or relative present and settled in the United Kingdom,
- (b) the adopted child under the age of eighteen of a parent or parents present and settled in the United Kingdom, or
- (c) the parent, grandparent or other dependent relative of a person present and settled in the United Kingdom,

for the purposes of the immigration rules.

13. The form set out in Schedule 11 is prescribed for an application for indefinite leave to remain in the United Kingdom as a victim of domestic violence.

14.—(1) The form set out in Schedule 12 is prescribed for an application for indefinite leave to remain in the United Kingdom:

- (a) as a work permit holder,
- (b) as a highly skilled migrant,
- (c) as a representative of an overseas newspaper, news agency or broadcasting organisation,
- (d) as a private servant in a diplomatic household,
- (e) as a domestic worker in a private household,
- (f) as an overseas government employee,
- (g) as a minister of religion, missionary or member of a religious order,
- (h) as a member of the operational ground staff of an overseas-owned airline,
- (i) as a person with United Kingdom ancestry,
- (j) as a writer, composer or artist,
- (k) on the basis of long residence in the United Kingdom, or
- (l) as a foreign or Commonwealth citizen discharged from HM Forces,

for the purposes of the immigration rules.

(2) Subject to paragraph (3), the form set out in Schedule 12 is prescribed for an application for indefinite leave to remain in the United Kingdom for any other reason or purpose for which provision is made in the immigration rules but which is not covered by the forms prescribed by regulations 11, 12 or 13.

(3) Paragraph (2) does not apply to an application for indefinite leave to remain in the United Kingdom where:

- (a) the application is made under the terms of a European Community Association Agreement,
- (b) the basis on which the application is made is that the applicant is an asylum claimant or a dependant of an asylum claimant.

15. An application for leave to remain in the United Kingdom which is made by a person (“the main applicant”) on a form prescribed by any of the regulations 3 to 14 above may include an application in respect of any person applying for leave to remain in the United Kingdom as a dependant of the main applicant.

Prescribed procedures

16.—(1) The following procedures are prescribed in relation to an application for which a form is prescribed by regulations 3 to 14:

- (a) the form shall be signed and dated by the applicant, save that where the applicant is under the age of eighteen, the form may be signed and dated by the parent or legal guardian of the applicant on behalf of the applicant;
- (b) the application shall be accompanied by such documents and photographs as specified in the form; and
- (c) each part of the form shall be completed as specified in the form.

(2) The following procedures are prescribed in relation to delivery of an application for which a form is prescribed:

- (a) in relation to an application for which a form is prescribed by regulation 3, the application shall be sent by prepaid post or by courier to the Border and Immigration Agency of the Home Office; it may not be submitted in person at a public enquiry office,
- (b) in relation to an application for which a form is prescribed by regulation 4, the application shall be:
 - (i) sent by prepaid post or by courier to Work Permits (UK) at the Border and Immigration Agency of the Home Office, or
 - (ii) submitted in person at the Croydon public enquiry office (but no other public enquiry office),
- (c) in relation to an application for which a form is prescribed by regulation 5, the application shall be sent by prepaid post or by courier to Work Permits (UK) at the Border and Immigration Agency of the Home Office, and may not be submitted in person at a public enquiry office,
- (d) in relation to an application for which a form is prescribed by regulations 6 to 12 and regulation 14, the application shall be:
 - (i) sent by prepaid post to the Border and Immigration Agency of the Home Office, or
 - (ii) submitted in person at a public enquiry office,
- (e) in relation to an application for which a form is prescribed by regulation 13, the application shall be sent by prepaid post to the Border and Immigration Agency of the Home Office; it may not be submitted in person at a public enquiry office.

17.—(1) A failure to comply with any of the requirements of regulation 16(1) to any extent will only invalidate an application if:

- (a) the applicant does not provide, when making the application, an explanation for the failure which the Secretary of State considers to be satisfactory,
- (b) the Secretary of State notifies the applicant, or the person who appears to the Secretary of State to represent the applicant, of the failure within 28 days of the date on which the application is made, and
- (c) the applicant does not comply with the requirements within a reasonable time, and in any event within 28 days, of being notified by the Secretary of State of the failure.

- (2) For the purposes of this regulation, the date on which the application is made is:
- (a) in the case of an application sent by post, the date of posting,
 - (b) in the case of an application submitted in person, the date on which the application is delivered to, and accepted by, a public enquiry office, and
 - (c) in the case of an application sent by courier, the date on which the application is delivered to Work Permits (UK) at the Border and Immigration Agency of the Home Office.

Revocation and transitional provision

18.—(1) Subject to paragraph (3), the Regulations referred to in paragraph (2) are revoked.

(2) Those Regulations are:

- (a) the Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations 2006(a);
- (b) the Immigration (Leave to Remain) (Prescribed Forms and Procedures) (Amendment) Regulations 2006(b); and
- (c) the Immigration (Leave to Remain) (Prescribed Forms and Procedures) (Amendment No. 2) Regulations 2006(c).

(3) An application made on a form prescribed by the Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations 2006 shall be deemed to have been made on the corresponding form prescribed by these Regulations if made within 21 days of these Regulations coming into force for the purposes of section 31A of the Immigration Act 1971.

Home Office
13th March 2007

Liam Byrne
Minister of State

(a) S.I. 2006/1421, amended by S.I. 2006/1548, 2006/2899.
(b) S.I. 2006/1548.
(c) S.I. 2006/2899.

