PREM 19/797

MT

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Immigration Rules.

IMMIGRATION

September 1979

Referred to	Date	Referred to	Date	Referred to	Date	Referred to	Date
~~20.9.79~~		~~14.6.82~~					
~~2.10.79~~		~~16.6.82~~					
~~3.10.79.~~		~~17.8.82~~					
~~25.10.79.~~		~~26.8.82~~					
~~30.10.79.~~		~~2.9.82~~					
~~1.11.79~~		26.8.82					
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~~13.3.80~~							
~~24.7.80~~							
23.3.81							
~~4.6.82~~							

PREM 19/497

PART 1 ends:-

TF to Home Office 26/8

PART 2 begins:-

FCS to Home Sec 2/9

TO BE RETAINED AS TOP ENCLOSURE

Cabinet / Cabinet Committee Documents

Reference	Date
H(79) 57	19.9.79
H(79) 11th Meeting, Minute 3	26.9.79
C(79) 45	16.10.79
CC(79) 18th Conclusions, Minute 1 (extract)	25.10.79
CC(80) 7th Conclusions, Minute 1 (extract)	21.2.80
H(82) 28	4.6.82
H(82) 10th Meeting, Minute 1	14.6.82

The documents listed above, which were enclosed on this file, have been removed and destroyed. Such documents are the responsibility of the Cabinet Office. When released they are available in the appropriate **CAB** (CABINET OFFICE) CLASSES

Signed C Wayland Date 6 September 2012

PREM Records Team

Published Papers

The following published paper(s) enclosed on this file have been removed and destroyed. Copies may be found elsewhere in The National Archives.

1. House of Commons Hansard, 14 November 1979, columns 1329 – 1348
"Immigration Rules"

2. Cmnd. 7750: Proposals for revision of Immigration Rules, HMSO, November 1979

3. Statement of Changes in Immigration Rules, HMSO, 20 February 1980

Signed C Wayland Date 6 September 2012

PREM Records Team

FICE SA

Immigration

10 DOWNING STREET

From the Private Secretary

26 August, 1982

As I mentioned on the phone, the Prime Minister has seen the Home Secretary's letter to the Lord Chancellor of 10 August covering a copy of the draft Immigration Rules approved by H Committee. The Prime Minister has commented that she is utterly dismayed that we are changing the rules on husbands and fiances, especially at a time of peak unemployment.

TIMOTHY FLESHER

J. F. Halliday, Esq.,
Home Office

Immigration

SOLICITOR GENERAL

01-405 7641 Extn

ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

19/8

The Rt. Hon. William Whitelaw, CH, MC, MP,
Secretary of State for the Home Department,
Home Office,
50, Queen Anne's Gate,
LONDON, SW1.

17 August, 1982.

Dear Willie,

IMMIGRATION RULES

See below

In Michael Havers' absence I am writing in response to your letter of 10 August to make two comments on the draft Immigration Rules.

My first comment relates to paragraph 58C. I am not, of course, questioning the policy regarding the admission of children born in the United Kingdom who are not British citizens, but the drafting of paragraph 58C leads me to ask if it is intended that such children who have been away from the United Kingdom for longer than two years will not normally be given leave to enter even if coming with or to join parents in the United Kingdom. To take an extreme example, the child and his parents, all having indefinite leave to remain, leave the country. The parents return after twenty months leaving the child abroad for a further six months. The Rules as drafted seem to envisage that the parents would be given a further indefinite leave to remain, whilst the child would be refused leave to enter.

/Cont'd.....2

SOLICITOR GENERAL

01-405 7641 Extn

ROYAL COURTS OF JUSTICE

LONDON, WC2A 2LL

My other comment is that the comma in the second line of paragraph 126b should not, I think, be there. My officials have explained to Mrs. Evans in your Legal Adviser's branch the reasons behind that point.

I am sending copies of this letter to the recipients of yours.

Yours ever

John

J

I confess that I am utterly dismayed that we are changing the rules on husbands & fiancés - especially at a time of high unemployment. MT

QUEEN ANNE'S GATE LONDON SWIH 9AT

Prime Minister:

You will recall seeing the minutes of H Committee about the new Immigration Rules. Comments on the main changes are flagged at 'A' and the brief text of the White Paper at 'B'. As the Home Secretary says, the main controversy will be over the admission of husbands and fiancées of British citizens. No doubt in the debates on this issue the Home Secretary will present the change in the context of the substantial reduction in numbers in the last two years. FF 17/8

10 August 1982

Dear Quintin

IMMIGRATION RULES

At the meeting on 14th June H Committee approved the proposals in my memorandum H(82)28 for changes in the Immigration Rules to be incorporated in new Rules when the British Nationality Act is brought into force on 1st January 1983. I now attach a draft of the White Paper foreshadowed in that memorandum. Part I summarises the changes being made and Part II gives the full text of the new Rules, changes from the wording of the present Rules being underlined.

The Annex to this letter gives some comments on the changes described in Part I of the White Paper. I hope the controversy will be largely confined to the main change approved by H Committee on the admission of the husband or fiance of a British citizen, but the changes regarding nationals of European Community countries though not altering our present practice (except as regards police registration) may provide a focal point for expression of anti-Community feeling. There will also no doubt be discussion of the changes in the Rules concerning children born here who do not acquire British citizenship by birth.

As to timing, we have as H Committee asked consulted the Lord Privy Seal, who is content with the proposal to publish the White Paper shortly after the Party Conference, in the week beginning 18th October. We then envisage, with the Chief Whip's agreement, a debate on the White Paper immediately after the debate on The Queen's Speech (on or about 11th November) which would be followed by the laying of a Statement of Changes in the Rules in early December. The legal position is that the Statement of Changes would have effect from 1st January but could be disapproved by a resolution of either House passed within 40 days. We can expect such resolutions to be tabled and I would hope the necessary debates could take place in December, though if this proves impossible they might have to take place early in the New Year.

/To meet

The Rt. Hon. The Lord Hailsham of St. Marylebone, C.H., D.C.L.

To meet this timetable we shall need to send the text of the White Paper to the printers in early September. (The paragraphs in the attached draft will of course be renumbered before that is done.) I shall therefore assume that colleagues are content unless I hear to the contrary by the end of this month.

I am copying this letter to the Prime Minister, other members of H Committee, the Foreign and Commonwealth Secretary, the Attorney General and Sir Robert Armstrong.

Yours ever,

Eddie

Annex

E.R.

A

COMMENTS ON PART I OF DRAFT WHITE PAPER

Children born in the United Kingdom

The provisions in the 1981 Act under which a small number of children born in the United Kingdom will no longer be British citizens at birth were strongly attacked by the Opposition. The relevant Rules will be scrutinised closely. They follow, however, the approach which we indicated to Parliament we would adopt, by allowing such children to be given leave to enter or remain in this country on the same conditions as their parents, and I consider they are fair and reasonable. If parents are here unlawfully a child will not normally be given leave to enter or remain, but in certain cases a child could be admitted for a short period. If a child had remained here he would not be removed without his parents. The draft Rules include provision for special cases where there are genuine compassionate circumstances.

Husbands and fiances

The text of the relevant Rules was approved by H Committee on 14th June.

Businessmen, self-employed and persons of independent means

Persons may at present qualify under the Rules if they have £100,000 capital or income of £10,000 a year. These limits were agreed when we were considering the 1980 Rules and in the case of the income limit, at least, were rather low at that time. The proposed increases take account of subsequent inflation.

Nationals of Euripean Community countries

As indicated in H(82)28 the changes are necessary to meet objections to the existing Rules by the Commission and spell out more clearly the right of E.C. nationals under the Treaty of Rome. I propose to take the opportunity to end the arrangements under which Community nationals, admitted for more than six months but not yet

/accepted

accepted as permanent residents, have to register with the police. The present Rules have no advantages for immigration control so far as these nationals are concerned since there is no legal sanction if they fail to register. Moreover, Community nationals cannot be charged as other nationals are for registration. The requirement on Community nationals to obtain Residence Permits will continue to apply.

E.R.

B

HOME OFFICE

Proposals for Revision

of the

Immigration Rules

Presented to Parliament by the Secretary of State for the Home Department

by Command of Her Majesty

October 1982

LONDON
HER MAJESTY'S STATIONERY OFFICE

£

Cmnd.

E.R.

PART I: INTRODUCTION

General

1. The Government will lay a statement of new Immigration Rules before Parliament shortly, which will come into effect on 1 January 1983, at the same time as the British Nationality Act 1981. The changes proposed are incorporated in the draft Rules which are in Part II of this White Paper. The Government will provide an opportunity in the near future for Parliament to debate their proposals before the new Rules are laid. The changes proposed in the Rules are italicised in the draft Rules in Part II.

Children born in the United Kingdom

2. The draft Rules make provision for those children born in the United Kingdom on or after 1 January 1983 when the British Nationality Act 1981 comes into force, who are not British citizens because at the time of their birth neither of their parents is a British citizen or settled in the United Kingdom. Such children, or their parents on their behalf, would while in the United Kingdom, be able to apply for leave to remain in order to regularise their position, and they would have to obtain leave to enter if they left the country and sought readmission. They would normally be given leave to enter or remain for the same period as their parents (paragraphs 58A - 58G and 117A - 117E).

Husbands and Fiances

3. The draft Rules would allow a husband or fiance to be accepted for settlement if his wife or fiancee was a British citizen, subject to certain existing tests being satisfied (the main tests are that the marriage must not have been contracted primarily for immigration purposes; it must be subsisting; the parties must have met)(paragraphs 50, 52 and 117). At present a man is not accepted for settlement as a husband or fiance unless his wife or fiancee is a citizen of the United Kingdom and Colonies who was born here or one of whose parents was born here. The present Rules were drafted at a time when British nationality law contained no satisfactory definition of persons with a close connexion with this country. But the new status of British citizen introduced by the British Nationality Act now provides

such a definition. The Government think it appropriate and reasonable to rely on the new status of British citizen introduced by the Act to define those women who, because of their close connexion with the United Kingdom, should be allowed to have their husbands or fiance join them here, provided that the other condition are met.

Other changes following the British Nationality Act 1981

4. The draft Rules take account of changes in terminology introduced by the British Nationality Act. In particular, the terms "citizend of the United Kingdom and Colonies" and "patrial" which will not occur in immigration or nationality law after 1 January 1983, have been replaced (paragraphs 4, 5, 41, 81, 121 and 133).

5. The Government intends to continue the special voucher scheme under which certain persons - who will now become British Overseas citizens - are admitted for settlement.

Businessmen, the self-employed and persons of independent means

6. The lower limit on the sum of money required by a person wishing to qualify in these categories would be raised to £150,000 and the limit on income would be raised to £15,000 a year (paragraphs 35, 38 and 110). The present limits have been in force since 1 March 1980 and need to be raised to preserve their effectiveness.

Nationals of European Community Countries

7. The sections in the Rules on nationals of European Community countries and their families (paragraphs 59 - 63B and 125 - 132) have been revised so as to reflect more fully the free movement provisions of Community law. No changes of substance are involved, except that most European Community nationals would no longer be obliged to register with the police (paragraphs 63B and 131A).

Other Changes

8. The opportunity has been taken to make various minor changes relating to passports or travel documents issued by certain States (paragraph 6); students (paragraphs 24 and 97); returning residents (paragraph 56); and work permit holders (paragraph 107).

E.R.

Transitional

9. In general the new Rules would apply to all applications on which a decision is taken after 1 January 1983, but the transitional arrangements made in the present Rules (HC 394) for persons who applied before 14 November 1979, or who had been admitted before 1 March 1980 would be retained where necessary. An application for leave to remain by a person who was admitted under the present Rules as a businessman, self-employed person or person of independent means would be decided under the provisions of those Rules.

PART II: DRAFT IMMIGRATION RULES

CONTENTS

E.R.

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IMMIGRATION RULES

The Home Secretary has, with eff[ect from] 1 January 1983, made changes in the rules laid down by him as to the [practice] to be followed in the administration of the Immigration Act 1971 for [the] entry into and the stay of persons in the United Kingdom, and contai[ned in the] statement laid before Parliament on 20 February 1980 (as amended). [That] statement contains the rules as so changed* and replaces the stateme[nt laid] before Parliament on 20 February 1980 (as amended), except to the [extent] indicated in paragraphs [ ] transitional provisions[ ].

Interpretation

1. In these rules "the Act" me[ans the] Immigration Act 1971 and "the 1981 Act" means the British Nationality Ac[t]. "United Kingdom" passport bears the meaning it has in the Immigratio[n Act]; "Immigration Officer" includes Customs Officer acting as an Immi[gration] Officer; and "passenger" means any Commonwealth citizen or Briti[sh] [pro]tected person who is required by the Act to have leave to enter and a[ny] non-national (including a stateless person) but does not include a m[ember] of the crew of a ship, aircraft, hover-craft or hydrofoil. "Department" includes where appropriate the equivalent Government Depart[ment] in Northern Ireland. A person is "settled in the United Kingdom" w[hen he is] having entered or remained in br[each of] the immigration laws, and is free from any restriction on the period fo[r which] he may remain.[/] A person is also settled here if, despite having [entered or] remained in breach of the immigration laws, he has subsequ[ently] entered lawfully or has been lawfully granted leave to remain, is ordi[narily] resident here, and is free from any restriction on the period for wh[ich he] may remain.

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* The rules contained in this st[atement] except those in Part XI, do not, however, extend to citizens of t[he Republic] of Ireland, who because the Republic forms part of the Common Travel [Area] (see paragraph 8) are admitted freely to the United Kingdom, whether c[oming] from within or outside that Area, except in cases where the Secretary of [State] decides that the exclusion of a particular person is conducive to the [public] good.

[/] But a person entitled to an ex[emption] under section 8 of the Act (otherwise that as a member of the home for[ces] not to be regarded as settled in the United Kingdom except in so far a[s] section 8(5) so provides.

E.R.

SECTION ONE: CONTROL ON ENTRY

PART I: INTRODUCTORY

General

2. Immigration Officers will carry out their duties without regard to the race, colour or religion of people seeking to enter the United Kingdom.

3. A person must, on arrival in the United Kingdom, produce on request by the Immigration Officer a valid national passport or other document satisfactorily establishing his identity and nationality.* Everyone arriving in the United Kingdom is liable to be examined and must furnish the Immigration Officer with such information as may be required for the purpose of deciding whether he requires leave to enter and, if so, whether and on what terms leave should be given.

4. A British citizen and a person who is not a British citizen but has the right of abode does not require leave to enter. A person who claims to be a British citizen because he was on 31 December a citizen of the United Kingdom and Colonies with the right of abode under section 2(1)(c) or section 2(2) of the Act as then in force+, and a person who is not a British citizen but claims to have the right of abode, must prove he has the right of abode by producing a certificate of entitlement duly issued to him by a British Governm representative overseas or by the Home Office, unless he can meet the requirements of section 3(9)(a) or (b) of the Act as amended by the 1981 Act: otherwise he requires leave to enter. Any other person requires leave to enter

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* National. Identity cards, in conjunction with Visitors' cards, may be accepted in lieu of passports from nationals of countries with which an agreement to that effect has been concluded; but visitors' cards are valid only for visits of 6 months or less and may not be used by passengers coming for employment. Nationals of Belgium, Denmark, France, the Federal Republic of Germany, Greece, Italy Luxemburg and the Netherlands may use valid national identity cards instead of passports.

+ A citizen of the United Kingdom and Colonies had the right of abode under section 2(1)(c) of the Act as then in force if he had at any time been settled in the United Kingdom and Islands and had at that time (and while such a citizen) been ordinarily resident there for the last 5 years or more; a citizen of the United Kingdom and Colonies had the right of abode under section 2(2) of the Act as then in force if she was the wife of a man who had the right of abode, or had at any time been the wife of a man who then had the right of abode.

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5. A citizen of the British Dependent Territories, a British Overseas citizen of a British subject by virtue of section 30(a) of the 1981 Act* who holds a United Kingdom passport issued in the United Kingdom and Islands or the Irish Republic should be admitted freely unless the passport is endorsed to show that he is subject to immigration control. British Overseas citizens who hold United Kingdom passports wherever issued, and satisfy the immigration officer that they have previously been admitted for settlement in the United Kingdom, should be freely re-admitted.

6. A passenger who produces a national passport or travel document issued by a territorial entity or authority which is not recognised by Her Majesty's Government as a State or is not dealt with as a Government by them, or which does not accept valid United Kingdom passports for the purpose of its own immigration control, or a passport or travel document which does not comply with international passport practice, may be refused leave to enter on that ground alone.

7. Leave to enter will normally be given for a limited period. The time-limit and any conditions attached - for example a condition restricting

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* Immediately before commencement of the 1981 Act such a person would have been a British subject not possessing citizenship of the United Kingdom and Colonies or the citizenship of any other Commonwealth country or territory.

ø A person who claims to be a British citizen may prove he has the right of abode by producing a United Kingdom passport describing him as such a citizen or as a citizen of the United Kingdom and Colonies with the right of abode (Section 3(9)(a)). A woman who claims to be a British citizen because on 31 December she was a citizen of the United Kingdom and Colonies with the right of abode under section 2(2) of the Act as then in force need not produce a certificate of entitlement if she can show that she had the right of abode on that date apart from any reference in section 2(2) to section 2(1)(c) or (d) as then in force (section 3(9)(b)).

E.R.

employment - will be made known to the passenger by a written notice, which will normally be given to the passenger or be endorsed by the Immigration Officer in the passenger's passport or travel document. After admission any application for extension of the time limit or variation of conditions should be made to the Home Office.

Common Travel Area

8. The United Kingdom, the Channel Islands, the Isle of Man and the Irish Republic collectively form a common travel area. Passengers who have been examined for the purpose of immigration control at the point at which they entered the area do not normally require leave to enter any other part of it. A passenger arriving in the United Kingdom is to be refused leave to enter if there is reason to believe that he intends to enter any of the other parts of the Common Travel Area and that he is not acceptable to the immigration authorities there.

Passengers in Transit

9. Detailed examination of a passenger whose sole purpose is transit to a country outside the Common Travel Area is unlikely to be required once he has satisfied the Immigration Office that he has both the means and the intention of proceeding at once to another country and is assured of entry there. If the Immigration Officer is not so satisfied, leave to enter is to be refused.

Entry Clearances

10. The foreign nationals specified in the Appendix, stateless persons, and other holders of non-national documents* (who are collectively described in these rules as "visa nationals") must produce to the Immigration Officer a passport or other identity document endorsed with a United Kingdom visa issued for the purpose for which they seek entry, and should be refused leave to enter if they have no such current visa. Any other foreign national who wishes to ascertain in advance whether he is eligible for admission to the

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* But holders of refugee travel documents issued under the 1951 Convention relating to the Status of Refugees by countries which are signatories of the Council of Europe Agreement of 1959 on the Abolition of Visas for Refugees do not require visas if coming on visits of 3 months or less.

E.R.

United Kingdom can apply to the entry clearance officer in the country in which he is living for the issue of a visa or a Home Office letter of consent; or application for a Home Officer letter of consent may be made to the Home Office on his behalf by someone in the United Kingdom. This procedure is of particular value when the claim to admission depends on proof of facts entailing enquiries in this country or overseas.

11. A Commonwealth citizen who wishes to ascertain in advance whether he is eligible for admission to the United Kingdom can apply to the entry clearance officer in the country in which he is living for the issue of an entry certificate. This procedure is of particular value when the claim to admission depends on proof of facts entailing enquiries in this country or overseas.

12. Visas, entry certificates and Home Office letters of consent are to be taken as evidence of the holder's eligibility for entry to the United Kingdom, and accordingly accepted as "entry clearances" within the meaning of the Act. Entry clearances may be granted at the appropriate British mission abroad in accordance with the provisions in this statement governing the grant or refusal of leave to enter by an Immigration Officer and, where appropriate, the term " entry clearance officer" may be substituted for "Immigration Officer accordingly. Applications are to be decided in the light of the circumstances existing at the time of the decision except that an applicant will not be refused an entry clearance under paragraphs 46 or 47 solely on account of his becoming over age between the receipt of his application and the date of the decision on it.

13. A passenger who holds an entry clearance which was duly issued to him and is still current is not to be refused leave to enter unless the Immigration Officer is satisfied that:

(a) whether or not to the holder's knowledge, false representations were employed or material facts were not disclosed, either in writing or orally, for the purpose of obtaining the clearance, or

(b) a change of circumstances since it was issued has removed the basis of the holder's claim to admission, except where the change of circumstances amounts solely to the person becoming over age for entry under paragraphs 46 or 47 since the issue of the entry clearance, or

E.R.

(c) refusal is justified on grounds of restricted returnability, on medical grounds, on grounds of criminal record, because the passenger is the subject of a deportation order or because exclusion would be conducive to the public good. The scope of the power to refuse leave to enter on these grounds is set out in paragraphs 15 and 71-76.

14. An Immigration Officer may examine the holder of an entry clearance so far as is necessary to determine whether any of the exceptions mentioned in paragraph 13 applies, and in determining this question may act on reasonable inferences from the results of that examination and any other information available to him. But the examination should not be carried further than is necessary for this purpose and for the purpose of deciding whether leave to enter should be given for a limited period and subject to any conditions.

Restricted Returnability

15. A person who does not satisfy the Immigration Officer that he will be admitted to another country after a stay in the United Kingdom may be refused leave to enter. If his permission to enter another country has to be exercised before a given date, the length of his stay in the United Kingdom should be restricted so as to terminate at least 2 months before that date. If his passport or travel document is endorsed with a restriction on the period for which he may remain outside his country of normal residence, his stay in the United Kingdom should be limited so as not to extend beyond the period of authorised absence. The holder of a travel document issued by the Home Office should not be given leave to enter for a period extending beyond the validity of that document. This paragraph does not apply to persons who are eligible for admission for settlement.

E.R.

Refugees

16. Where a person is a refugee full account is to be taken of the provision of the Convention and Protocol relating to the Status of Refugees (Cmd 9171 and Cmnd 3906). Nothing in these rules is to be construed as requiring action contrary to the United Kingdom's obligations under these instruments.

Part II of these rules deals with admission for temporary purposes, Part III with admission for employment and Part IV with admission for settlement. [Part IVA] makes provision for children born in the United Kingdom who are not British citizens. In all cases admission is subject to the possession of a valid current entry clearance where that is required by these rules and to the passenger being acceptable under Part VIII. Part V contains special provisions concerning nationals of European Community countries and their families.

PART II: PASSENGERS COMING FOR TEMPORARY PURPOSES

Visitors

17. A passenger seeking entry as a visitor, including one coming to stay with relatives or friends, is to be admitted if he satisfies the Immigration Officer that he is genuinely seeking entry for the period of the visit as stated by him and that for that period he will maintain and accommodate himself and any dependants, or will, with any dependants, be maintained and accommodated adequately by relatives or friends, without working or recourse to public funds, and can meet the cost of the return or onward journey. But in all cases leave to enter is to be refused if the Immigration Officer is not satisfied and in particular, leave to enter is to be refused where there is reason to belie that the passenger's real purpose is to take employment or that he may become a charge on public funds if admitted.

18. Visitors may be admitted for private medical treatment at their own expense provided that in the case of a passenger suffering from a communicable disease the Medical Inspector is satisfied that there is no danger to public health. The Immigration Officer must be satisfied as to the passenger's intentions in accordance with paragraph 17 and that the maintenance and accommodation requirements of that paragraph are met. He should also take into account the Medical Inspector's assessment of the likely cost of treatment in deciding whether the passenger's means would be adequate. The passenger may be required to produce evidence that arrangements have been made for consultation or treatment.

E.R.

19. Passengers admitted to the United Kingdom as visitors are free to transact business during their visit. Those wishing to establish themselves in business or self-employment in the United Kingdom must, however, comply with paragraphs 35-37.

20. The Immigration Officer should impose a time limit on the period of the visitor's stay and on that of any dependants accompanying him. A period of 6 months will normally be appropriate; but a longer period (not exceeding one year) may be allowed to a passenger who satisfies the Immigration Officer of his ability to maintain and accommodate himself and his dependants for that time as required by paragraph 17. The period should not be restricted to less than 6 months unless this is justified by special reasons - for example, in cases of restricted returnability (see paragraph 15) or if the passenger is due to leave the United Kingdom on a particular charter service, or in transit to another country, or if his case ought to be subject to early review by the Home Office. Visitors should normally be prohibited from taking employment.

Students

21. A passenger seeking entry to study in the United Kingdom should be admitted (subject to paragraph 13) if he presents a current entry clearance granted for that purpose. An entry clearance will be granted if the applicant produces evidence which satisfies the entry clearance officer that he has been accepted for a course of study at a university, a college of education or further education, an independent school or any bona fide private educational institution that the course will occupy the whole or a substantial part of his time: and that he can, without working and without recourse to public funds, meet the cost of the course and of his own maintenance and accommodation and that of any dependants during the course.

22. An applicant is to be refused an entry clearance as a student if the entry clearance officer is not satisfied that the applicant is able, and intends to follow a full-time course of study and to leave the country on completion of it. In assessing the case the officer should consider such points as whether the applicant's qualifications are adequate for the course he proposes to follow, and whether there is any evidence of sponsorship by his home government or any other official body. As a general rule an entry clearance is not to be granted unless the applicant proposes to spend not less than 15 hours a week in organised daytime study of a single subject or of related subjects, and is not to be granted for the taking of a correspondence course.

E.R.

23. An applicant accepted for training as a nurse or midwife at a hospital should be granted an entry clearance as a student unless there is evidence that he or she had obtained acceptance by misrepresentation or does not intend to follow the course. Doctors and dentists are admissible for full-time post-graduate study even though they also intend during their stay to seek employment in training posts related to their studies.

24. A passenger who holds a current entry clearance, or who can satisfy the Immigration Officer that he fulfils the requirements of paragraphs 21-23 may be admitted for an appropriate period depending on the length of the course of study and on his means, with a condition restricting his freedom to take employment; he should be advised to apply to the Home Office before the expiry of his leave to enter for any extension of stay that may be required. A passenger who satisfies the Immigration Officer that he has genuine and realistic intentions of studying in the United Kingdom and satisfies the requirements of paragraph 22 but cannot satisfy the requirements of paragraph 21 or 23 may be admitted for a short period, within the limit of his means with a prohibition on the taking of employment and should be advised to apply to the Home Office for further consideration of his case. Otherwise a passenger arriving without an entry clearance who is seeking entry as a student is to be refused admission.

25. The wife and children under 18 (as defined in paragraphs 44-46) of a person admitted as a student should be given leave to enter for the period of his authorised stay if they can be maintained and accommodated without recourse to public funds. Their freedom to take employment should not be restricted unless the student himself is prohibited from taking employment in which case the prohibition should extend to the wife and children.

"Au Pair"

26. "Au pair" is an arrangement under which an unmarried girl aged 17 to 27 inclusive and without dependants who is a national of a Western European country, include Malta, Cyprus and Turkey, may come to the United Kingdom to learn the English language and to live for a time as a member of an English-speaking family. A girl coming for full-time domestic employment requires a work permit; and a girl admitted under an "au pair" arrangements has no claim to stay in the United Kingdom in some other capacity. When the Immigration Officer is satisfied that an "au pair" arrangement has been made he may admit the passenger for a period of up to 12 months with a prohibition on her taking employment. If a passenger has previously spent time in the United Kingdom as an "au pair" girl she may be admitted for a further period as an "au pair" girl but the total aggregate period should not exceed 2 years.

E.R.

PART III: PASSENGERS COMING FOR EMPLOYMENT OR BUSINESS OR AS PERSONS OF INDEPENDENT MEANS

Work Permits

27. If a passenger is coming to the United Kingdom to seek employment or to take employment for which he has no work permit, and he is not eligible for admission under paragraphs 29-34 or Part IV, leave to enter is to be refused. Permits are issued by the Department of Employment in respect of a specific employer. The passession of a work permit does not absolve the holder from complying with visa requirements.

28. The holder of a current work permit should normally be admitted for the period specified in the permit, subject to a condition permitting him to take or change employment only with the permission of the Department of Employment. The Immigration Officer is, however, to refuse leave to enter if his examination reveals good reason for doing so. For example, leave to enter should be refused where, whether or not to the holder's knowledge false representations were employed or material facts were not disclosed, either in writing or orally, for the purpose of obtaining the permit, or the holder's true age puts him outside the limits for employment, or he does not intend to take the employment specified, or is not capable of doing so. But if the period of validity of the permit has expired the Immigration Officer may nevertheless admit the passenger if satisfied that circumstances beyond his control prevented his arrival before the permit expired and that the job is still open to him.

Exception on grounds of United Kingdom ancestry

29. Upon proof that one of his grandparents was born in the United Kingdom and Islands, a Commonwealth citizen who wishes to take or seek employment in the United Kingdom will be granted an entry clearance for that purpose. A passenger holding an entry clearance granted in accordance with this paragraph does not need a work permit and, subject to paragraph 13, should be given indefinite leave to enter.

Working holidays

30. Young Commonwealth citizens aged 17 to 27 inclusive who satisfy the Immigration Officer that they are coming to the United Kingdom for an extended holiday before settling down in their own countries, and that they intend to take only employment which will be incidental to their holiday, may be admitted on the understanding that they will not have recourse to public funds, for up to 2 years provided that they have the means to pay for their return journey.

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Where the Immigration Officer has reason to believe that recourse to public funds is likely, he will refuse leave to enter. If a passenger has previously spent time in the United Kingdom on a working holiday he may be admitted for a further period for the same purpose but the total aggregate period should not exceed 2 years.

Permit-free employment

31. Passengers in the following categories, although coming for employment, do not need work permits and may, subject to paragraph 13, be admitted for an appropriate period not exceeding 12 months if they hold a current entry clearance granted for the purpose:

(a) ministers of religion, missionaries and members of religious orders, if they are coming to work full-time as such and can maintain and accommodate themselves and their dependants without recourse to public funds. Members of religious orders engaged in teaching at establishment maintained by their order will not require work permits, but if they are otherwise engaged in teaching, permits will be required;

(b) representatives of overseas firms which have no branch, subsidiary or other representative in the United Kingdom;

(c) representatives of overseas newspapers, newsagencies and broadcasting organisations, on long-term assignment to the United Kingdom.

32. Doctors and dentists coming to take up professional appointments do not need work permits and may, subject to paragraph 13, be admitted for an appropriat period not exceeding 12 months if they hold a current entry clearance granted for the purpose. Doctors eligible for hospital employment without undertaking the Department of Health and Social Security Attachment Scheme, and dentists seeking employment in or practising their profession, should be admitted without work permits for up to 6 months.

33. Passengers in the following categories, although coming for employment do not need work permits and may, subject to paragraph 13, be admitted for an appropriate period not exceeding 12 months if they hold a current entry clearance granted for the purpose or other satisfactory documentary evidence that they do not require permits:

(a) private servants (aged 16 and over) of members of the staffs of diplomatic or consular missions or of members of the family forming part of the household of such persons;

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(b) persons coming for employment by an overseas Government or in the employment of the United Nations Organisation or other international organisation of which the United Kingdom is a member;

(c) teachers and language assistants coming to schools in the United Kingdom under exchange schemes approved by the Education Departments or administered by the Central Bureau for Educational Visits and Exchanges or the League for the Exchange of Commonwealth Teachers;

(d) seamen under contract to join a ship in British waters;

(e) operational staff (but not other staff) of overseas owned airlines;

(f) seasonal workers at agricultural camps under approved schemes.

34. Doctors coming under arrangements approved by the Department of Health and Social Security with a view to their taking up attachments under the Department's Attachment Scheme should be admitted without work permits for up to 6 months.

Businessmen and self-employed persons

35. A passenger seeking admission for the purpose of establishment himself in the United Kingdom in business or in self-employment, whether on his own account or in partnership, must hold a current entry clearance issued for that purpose. A passenger who has obtained such an entry clearance should be admitted, subject to paragraph 13, for a period not exceeding 12 months with a condition restricting his freedom to take employment. For an applicant to obtain an entry clearance for this purpose he will need to satisfy the requirements of either paragraph 36 or paragraph 37. In addition he will need to show that he will be bringing money of his own to put into the business; that his level of financial investment will be proportional to his interest in the business; that he will be able to bear his share of the liabilities; that he will be occupied full-time in the running of the business; and that there is a genuine need for his services and investment. In no case should the amount of money to be invested by the applicant be less than £150,000 and evidence that this amount or more is under his control and disposable in the United Kingdom must be produced.

36. Where the applicant intends to take over, or join as a partner, an existing business, he will need, in addition to meeting the requirements of the preceding paragraph, to show that his share of the profits will be sufficient to maintain and accommodate him and his dependants. Audited accounts of the business for previous years must be produced to the entry clearance officer in order to establish the precise financial position, together with a written

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statement of the terms on which he is to enter or take over the business. There must be evidence to show that his services and investment will create new, paid, full-time employment in the business for persons already settled here. An entry clearance is to be refused if an applicant cannot satisfy all the relevant requirements of this or the preceding paragraph or where it appears that the proposed partnership or directorship amounts to disguised employment or where it seems likely that, to obtain a livelihood, the applicant will have to supplement his business activities by employment of any kind or by recourse to public funds.

37. If the applicant wishes to establish a new business in the United Kingdom on his own account or to be self-employed he will need to meet the requirements of paragraph 35 and satisfy the entry clearance officer that he will be bringing into the country sufficient funds of his own to establish an enterprise that can realistically be expected to maintain and accommodate him and any dependants without recourse to employment of any kind (other than his self-employment) or to public funds. He will need to show in addition that the business will provide new, paid, full-time employment in the business for persons already settled here. An entry clearance is to be refused if an applicant cannot satisfy all the requirements of this paragraph and of paragraph 35.

Persons of independent means

38. A passenger seeking entry as a person of independent means must hold a current entry clearance issued to him for that purpose. He should, subject to paragraph 13, be admitted for an initial period of up to 12 months with a prohibition on the taking of employment. For an applicant to obtain entry clearance, he will need to show that he has, under his control and disposable in the United Kingdom, a sum not less than £150,000 or income of not less than £15,000 a year. He must also be able and willing to maintain himself and support and accommodate any dependants indefinitely in the United Kingdom without working, with no assistance from any other persons and without recourse to public funds. An entry clearance is not, however, to be granted solely because these financial conditions are met. In addition the applicant must demonstrate a close connection with the United Kingdom (including for example the presence of close relatives here or periods of previous residence) or that his admission would be in the general interests of the United Kingdom.

Writers and artists

39. A passenger seeking entry as a writer or an artist must hold a current entry clearance granted to him for that purpose. He may be admitted for an

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initial period of up to 12 months subject to a condition restricting his freedom to take employment. For an applicant to obtain an entry clearance he will need to show that he does not intend to do work other than that related to his self-employment as a writer or artist and that he will be able to maintain and accommodate himself and any dependants from his own resources including the proceeds of that self-employment without recourse to public funds.

Dependants of persons admitted under paragraphs 27-39

40. The wife and the children under 18 of a person admitted to the United Kingdom to take or seek employment, or as a businessman, a self-employed person, a writer or artist or a person of independent means, should be given leave to enter for the period of his authorised stay if, apart from his having only limited leave to enter, the requirements of paragraphs 42-46 are fulfilled. Their freedom to take employment should not be restricted unless the head of the family is himself prohibited from taking employment, in which case the prohibition should extend to the wife and children. No other dependants are to be admitted before the person is settled here.

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PART IV: PASSENGERS COMING FOR SETTLEMENT

United Kingdom passport holders

41. Where the passenger is a British Overseas citizen and presents a special voucher issued to him by a British Government representative overseas (or an entry clearance in lieu), he is to be admitted for settlement, as are his dependants if they have obtained entry clearance for that purpose and satisfy the requirements of paragraph 42; but such a passenger who come for settlement without a special voucher or entry clearance is to be refused leave to enter.

Dependants: general provisions

42. This paragraph and paragraphs 43-49 cover the admission for settlement of the dependants of a person who is present in the United Kingdom and settled here, or who is on the same occasion given indefinite leave to enter. In all such cases (except those mentioned in the last sentence of this paragraph) that person must be able and willing to maintain and accommodate his dependents without recourse to public funds in accommodation of his own or which he occupies himself and he should give an undertaking in writing to this effect if requested. This requirement does not apply to the admission of the wife, or a child under the age of 18, of a Commonwealth citizen who has the right of abode or was settled in the United Kingdom on the coming into force of the Act.

43. In addition, a passenger seeking admission as a dependant under this Part of the rules must hold a current entry clearance granted to him for that purpose.

Wives

44. The wife of a person who is settled in the United Kingdom or is on the same occasion being admitted for settlement is herself to be admitted for settlement if the requirements of paragraphs 42 and 43 are satisfied. A member of HM Forces based in the United Kingdom but serving overseas should be regarded for this purpose as being in the United Kingdom.

45. A woman who has been living in permanent association with a man has no claim to enter but may be admitted, subject to the requirements of paragraphs 42 and 43, as if she were his wife, due account being taken of any local custom or tradition tending to establish the permanence of the association. A woman is not, however, to be admitted under this provision unless any previous marriage by either party has permanently broken down. Nor may she be admitted if the man has already been joined by his wife, or another woman admitted under this paragraph, whether or not the relationship still subsists.

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Children

46. If the requirements of paragraphs 42 and 43 are satisfied, children under 18, provided that they are unmarried, are to be admitted for settlement

(a) if both parents are settled in the United Kingdom, or

(b) if both parents are on the same occasion admitted for settlement, or

(c) if one parent is settled in the United Kingdom and the other is on the same occasion admitted for settlement, or

(d) if one parent is dead and the other parent is settled in the United Kingdom or is on the same occasion admitted for settlement, or

(e) if one parent is settled in the United Kingdom or is on the same occasion admitted for settlement and has had the sole responsibility for the child's upbringing, or

(f) if one parent or a relative other than a parent is settled or accepted for settlement in the United Kingdom and there are serious and compelling family or other considerations which make exclusion undesirable - for example, where the other parent is physically or mentally incapable of looking after the child - and suitable arrangements have been made for the child's care.

In this paragraph "parent" includes the stepfather of a child whose father is dead; the stepmother of a child whose mother is dead; and the father as well as the mother of an illegitimate child. It also includes an adoptive parent, but only where there has been a genuine transfer of parental responsibility on the ground of the original parents' inability to care for the child, and the adoption is not one of convenience arranged to facilitate the child's admission.

47. Children aged 18 or over must qualify for settlement in their own right unless there are the most exceptional compassionate circumstances (in which case their cases should be considered under paragraph 48). Special consideration may, however, be given to fully dependent and unmarried daughters over 18 and under 21 who formed part of the family unit overseas and have no other close relatives in their own country to turn to. The requirements of paragraphs 42 and 43 must be met in all cases.

Parents, grandparents and other relatives

48. Widowed mothers, fathers who are widowers aged 65 or over and parents travelling together of whom at least one is aged 65 or over should be admitted for settlement only where the requirements of paragraphs 42 and 43 and the

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following conditions are met. They must be wholly or mainly dependent upon sons or daughters settled in the United Kingdom who have the means to maintain their parents and any other relatives who would be admissible as dependants of the parent and adequate accommodation for them. They must also be without other close relatives in their own country to turn to. This provision should not be extended to people below 65 (other than widowed mothers) except where they are living alone in the most exceptional compassionate circumstances, including having a standard of living substantially below that of their own country, but may in such circumstances be extended to sons, daughters, sisters, brothers, uncles and aunts of whatever age who are mainly dependent upon relatives settled in the United Kingdom. The requirements of paragraphs 42 and 43 must be met in any such cases.

49. Where a parent has remarried admission should not be granted under the preceding paragraph unless he or she cannot look to the spouse or children of the second marriage for support, and the children in the United Kingdom have sufficient means and accommodation to maintain both the parent and any spouse or children of the second marriage who would be admissible as dependants. The provisions of this and the preceding paragraph apply to grandparents of persons settled in the United Kingdom as they apply to parents.

Husbands

50. The husband of a woman who is settled in the United Kingdom, or who is on the same occasion being admitted for settlement, is to be admitted if he holds a current entry clearance granted to him for that purpose. An entry clearance will be refused if the entry clearance officer has reason to believe:

(a) that the marriage was one entered into primarily to obtain admission to the United Kingdom; or

(b) that one of the parties no longer has any intention of living permanently with the other as his or her spouse; or

(c) that the parties to the marriage have not met.

Where the entry clearance officer has no reason to believe that any of (a) to (c) above applies, an entry clearance will be issued provided that the wife is a British citizen.

51. A passenger who holds an entry clearance issued under the preceding paragraphs should, subject to paragraph 13, be admitted for an initial period of up to 12 months provided that leave to enter shall not be refused on grounds of restricted returnability or on medical grounds.

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Fiances

52. A man seeking to enter the United Kingdom for marriage to a woman settled here and who intends himself to settle thereafter should not be admitted unless he holds a current entry clearance granted to him for that purpose. An entry clearance will be refused if the entry clearance officer has reason to believe:

(a) that the primary purpose of the intended marriage is to obtain admission to the United Kingdom; or

(b) that there is no intention that the parties to the marriage should live together permanently as man and wife; or

(c) that the parties to the proposed marriage have not met.

Where the entry clearance officer has no reason to believe that any of (a) to (c) applies, an entry clearance will, subject to the maintenance and accommodation requirements of this paragraph, be issued provided that the woman is a British citizen. An entry clearance should not be issued unless the entry clearance officer is satisfied that adequate maintenance and accommodation will be available for the finace until the date of his marriage, without the need to have recourse to public funds.

53. A man holding an entry clearance issued under the preceding paragraph should, subject to paragraph 13, be admitted for 3 months and advised to apply to the Home Office once the marriage has taken place for an extension of stay. A prohibition on employment should be imposed.

54. A man seeking limited leave to enter the United Kingdom for marriage to a woman settled here may be admitted only if the Immigration Officer is satisfied that the marriage will take place within a reasonable time; that the passenger and his wife will leave the United Kingdom shortly after the marriage; and that the requirements of paragraph 17 are met. Where the Immigration Officer is so satisfied, the passenger may be admitted for 3 months, with a prohibition on employment.

Fiancees

55. A woman seeking to enter to marry a man settled in the United Kingdom should be admitted if the Immigration Officer is satisfied that the marriage will take place within a reasonable time and that adequate maintenance and accommodation will be available, without the need to have recourse to public funds, both before and after the marriage. She may be admitted for a period of up to 3 months subject to a condition prohibiting the taking of employment and should be advised to apply to the Home Office for an extension of stay once the marriage has taken place.

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Returning Residents

56. A Commonwealth citizen who satisfies the Immigration Officer that he was settled in the United Kingdom at the coming into force of the Act, and that he has been settled here at any time during the 2 years preceding his return, is to be admitted for settlement. Any other passenger returning to the United Kingdom from overseas (except one who received assistance from public funds towards the cost of leaving this country) is to be admitted for settlement on satisfying the Immigration Officer that he had indefinite leave to enter or remain in the United Kingdom when he left and that he has not been away for longer than 2 years.

57. A passenger who has been away from the United Kingdom too long to benefit from the preceding paragraph may nevertheless be admitted if, for example, he has lived here for most of his life.

58. A passenger whose stay in the United Kingdom was subject to a time limit and who returns after a temporary absence abroad has no claim to admission as a returning resident. His application to re-enter should be dealt with in the light of all the relevant circumstances. The same time limit and any conditions attached may be re-imposed or it may be more appropriate to treat him as a new arrival.

PART IV [A]: CHILDREN BORN IN THE UNITED KINGDOM WHO ARE NOT BRITISH CITIZENS.

58A. Paragraphs 58B - 58G apply only to children who were born in the United Kingdom but who because neither of their parents was a British citizen or settled in the United Kingdom at the time of their birth, are not British citizens.

58B. A child to whom these paragraphs apply requires leave to enter. He may have obtained leave to remain before he embarked from the United Kingdom, and where such leave has been obtained it will assist the immigration officer in deciding the child's claim to enter. It would be advisable for a child, or a parent on his behalf, to apply for leave to remain under paragraphs 117A - 117E if it is expected that the child will travel and seek readmission to the United Kingdom.

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58C. A child who has not been away from the United Kingdom for longer than 2 years is to be given leave to enter for the same period and on the same conditions as his parents, on the immigration officer being satisfied that he was born in the United Kingdom and is coming with, or to join his parents or a parent in the United Kingdom. If the parents have or are granted leaves of different duration the child should be given leave for whichever period is longer, except that if the parents are living apart the child should be given leave for the same period and on the same conditions as the parent who has day to day responsibility for him.

In this paragraph 'parents' and 'parent' includes the stepfather of a child whose father is dead; the stepmother of a child whose mother is dead; and the father as well as the mother of an illegitimate child. It may also include a person who is not a parent, but only where there has been a genuine transfer of parental responsibility on the ground of the parents' inability to care for the child.

58D. A child will qualify for leave to enter under paragraph 58C irrespective of any requirements elsewhere in these Rules which would otherwise apply as to maintenance and accommodation and as to the presence in the United Kingdom of both parents; and if he is travelling with parents neither of whom requires an entry certificate, or is travelling without his parents, he need not have an entry certificate himself. However a visa national will need to produce a current visa.

58E. If a child is seeking to enter with or to join parents or a parent (as defined in paragraph 58C) one of whom is a British citizen or has the right of abode though he is not a British citizen; the leave granted under paragraph 58C should be indefinite leave to enter. Indefinite leave to enter should also be granted under that paragraph in any case where the parental rights and duties in relation to the child are vested solely in a local authority.

58F. If a child does not qualify for leave to enter under paragraph 58C because neither of his parents has a current leave he will normally be refused leave to enter. However he may be granted leave for a limited period only, if both of his parents are in the United Kingdom and it appears unlikely that they will be removed in the immediate future, and if there is no other person outside the United Kingdom who could reasonably be expected to care for him.

58G. A child may also be given leave to enter if he qualifies under any other paragraph of Section One of these rules.

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PART V: NATIONALS OF EUROPEAN COMMUNITY COUNTRIES AND THEIR FAMILIES

59. The provisions in Section One of these Rules apply to nationals of Member States of the European Community and their families only to the extent permitted by Community law.

60. A national of a Member State of the European Community is entitled to admission to take or seek employment *, to set up in business, to become self-employed or otherwise to exercise the right of establishment or the rights relating to the provision or receipt of services as provided in Community law ≠.

61. Members of the family of a Community national entitled to be admitted in accordance with paragraph 60, whether or not themselves Community nationals, are to be admitted on the same basis as the family member on whom they are dependent, provided that family members who are not themselves Community nationals and who are coming for settlement must hold a current entry clearance granted for that purpose. Members of the family comprise the person's spouse, their children under 21, their other children and grandchildren if still dependent, parents, grandparents and great-grandparents.

62. A person entitled to be admitted in accordance with paragraph 59, 60 or 61 may be refused admission only if exclusion is conducive to the public good on grounds of public policy, public security or public health.

63. Provided he does not fall a charge on public funds, a person admitted in accordance with paragraph 59, 60 or 61 is free to remain for up to 6 months without further formality, but is required to apply for a Residence Permit if he wishes to stay longer (see paragraph 126).

63A. A Community national who would be entitled to benefit from the Community law provisions relating to the free movement of labour if coming to work or to seek work will normally be admitted for 6 months without restriction as regards employment or occupation if the purpose of his visit does not fall within the terms of paragraphs 60 or 61 provided that he satisfies the Immigration Officer that he is not likely to become a charge on public funds or otherwise liable to refusal or leave to enter under Part VIII of these Rules.

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* The entitlement to admission to take or seek employment does not apply to nationals of Greece until 1988.

≠ The more important relevant provisions of Community law include Council Regulations 1612/68 EEC; 1251/70 EEC. Council Directives 64/221 EEC; 63/360 EEC; 72/194 EEC; 73/148 EEC; 75/34 EEC; 75/35 EEC Council Declaration 1451/68 EEC.

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63B. The provisions of Part VII of these rules will not normally apply to a person entitled to admission under paragraphs 60 and 61, except in the case of a family member who is not himself a Community national.

PART VI: ASYLUM

64. Special considerations arise where the only country to which a person could be removed is one to which he is unwilling to go owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion. Any case in which it appears to the Immigration Officer as a result of a claim or information given by the person seeking entry at a port that he might fall within the term of this provision is to be referred to the Home Office for decision regardless of any grounds set out in any provision of these rules which may appear to justify refusal or leave to enter. Leave to enter will not be refused if removal would be contrary to the provisions of the Convention and Protocol relating to the Status of Refugees.

PART VII: REGISTRATION WITH THE POLICE

65. A condition requiring registration with the police should normally be imposed on any foreign national aged 16 or over who is given limited leave to enter:

(a) for employment for longer than 3 months, unless he is in one of the permit-free categories listed in paragraphs 31(a), 32, 33(a) or 34;

(b) for longer than 6 months under the following provisions of these rules:
paragraph 17 (visitors)
paragraph 21 (students)
paragraph 26 ("au pair")
paragraph 35 (businessmen and self-employed persons)
paragraph 38 (persons of independent means)
paragraph 39 (writers and artists)
paragraph 50 (husbands)
paragraph 63B (family members who are not themselves Community nationals)

(c) under paragraph 25 or 40 as the wife or child of a person who is required to register with the police.

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66. Such a condition may also be imposed, exceptionally, in any other case where the Immigration Officer considers it necessary in order to ensure that a foreign national complies with the terms of a limited leave to enter.

PART VIII: REFUSAL OF LEAVE TO ENTER

General

67. A passenger who does not qualify for admission under the foregoing provisions of these rules is to be refused leave to enter. In addition, the Immigration Officer has power (subject to the restrictions contained in the next paragraph) to refuse leave to enter on any of the grounds set out in paragraphs 71-76 below. Except as provided for in paragraph 64, the fact that a passenger satisfies the formal requirements of the foregoing provisions of these rules is not conclusive in his favour. Leave to enter may be refused if, for example, the passenger has not observed the time limit or conditions imposed on any grant of leave to enter or remain; if, whether or not to his knowledge, false representations have been employed, or material facts not disclosed, orally or in writing, for the purpose of obtaining an entry clearance; or if a previous leave to enter or remain has been obtained by deception. But a passenger who holds a current entry clearance is not to be refused leave to enter except in the circumstances described in paragraph 13.

68. A passenger who

(a) is a Commonwealth citizen who was settled in the United Kingdom at the coming into force of the Act, and qualifies for readmission under paragraph 56, or

(b) qualifies for admission under paragraph 44 or 46 as the wife or the child under 18 of a Commonwealth citizen who was settled in the United Kingdom at the coming into force of the Act and holds an entry clearance issued for that purpose,

is to be refused leave to enter only on the ground that he or she is currently subject to a deportation order.

69. The power to refuse leave to enter is not to be exercised by an Immigration Officer acting on his own. The authority of a Chief Immigration Officer or of an Immigration Inspector must always be obtained.

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Medical

70. A passenger who intends to remain in the United Kingdom for more than 6 months should normally be referred to the Medical Inspector for examination. If he produces a medical certificate, he should be advised to hand it to the Medical Inspector. Any passenger who mentions health or medical treatment as a reason for his visit, or who appears not to be in good health or appears to be mentally or physically abnormal, should also be referred to the Medical Inspector; and the Immigration Officer has discretion, which should be exercised sparingly, to refer for examination in any other case.

71. Where the Medical Inspector advises that medical reasons it is undesirable to admit the passenger the Immigration Officer should refuse leave to enter unless he considers admission warranted by strong compassionate reasons. He may also refuse leave to enter where the passenger declines to submit to a medical examination. And where the Medical Inspector advises that a passenger is suffering from a specified disease or condition which may interfere with his ability to support himself or his dependants, the Immigration Officer should take account of this, in conjunction with other factors, in deciding whether to admit the passenger.

72. Returning residents of the spouses and children under 18 of people settled in the United Kingdom should not be refused leave to enter on medical grounds. But where a person would be refused leave to enter on medical grounds if he were not a returning resident or the spouse or child of a resident, or in any case where it is decided on compassionate grounds not to exercise the power to refuse leave to enter, or in any other case in which the Medical Inspector so recommends, the Immigration Officer should give the person a notice requiring him to report to the Medical Officer of Environmental Health designated by the Medical Inspector with a view to further examination and any necessary treatment.

73. The entry clearance officer has the same discretion to refer applicants for entry clearance for medical examination as an Immigration Officer to refer passengers to a Medical Inspector and the same principles will apply when he decides whether or not to issue an entry clearance.

Criminal record

74. Any passenger, other than the wife or child under 18 of a person settled in the United Kingdom, who has been convicted in any country, including the United Kingdom, either of an offence included in the list of extradition crimes

contained in the First Schedule to the Extradition Act 1870, as amended, or of an offence for which a person is returnable under the Fugitive Offenders Act 1967, is to be refused leave to enter unless the Immigration Officer considers admission to be justified for strong compassionate reasons.

Subject to deportation order

75. Any passenger who is currently subject to a deportation order is to be refused leave to enter. If he wishes to make representations, he should be advised that after his departure it will be open to him to apply for revocation of the order and, where appropriate, that he will have a right of appeal if revocation is refused.

Exclusion conducive to the public good

76. Any passenger except the wife and child under 18 of a person settled in the United Kingdom may be refused leave to enter on the ground that his exclusion is conducive to the public good, where

(a) the Secretary of State has personally so directed, or

(b) from information available to the Immigration Officer it seems right to refuse leave to enter on that ground - if, for example in the light of the passenger's character, conduct or associations it is undesirable to give him leave to enter.

Country of destination on removal

77. The power to refuse leave to enter should normally be exercised so as to secure the passenger's removal to the country in which he boarded the ship or aircraft that brought him to the United Kingdom. Removal to a different country may, however, be justified by the circumstances of a particular case.

Communication with friends, etc.

78. Before removal a passenger should be given the opportunity to telephone friends or relatives in this country, or his High Commission or Consul, if he wishes to do so.

Right to apply for bail

79. Where a passenger is detained pending a decision whether to admit him he is to be notified, when 7 days have elapsed since his arrival in the United Kingdom, of his right to apply to an adjudicator for bail. To assist

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him in deciding whether to exercise this right he should be given facilities to communicate with friends, relatives, a legal adviser, the United Kingdom Immigration Advisory Service or his High Commission or Consul as he may wish.

PART IX: RIGHTS OF APPEAL

80. Where refusal of leave to enter is confirmed, the passenger should be handed a notice informing him of the decision and of the reasons for refusal. This notice will also state his right of appeal, except in cases of refusal under paragraph 76(a) in which by virtue of section 13(5) of the Act no appeal lies. If he has difficulty in understanding the notice, its meaning should be explained to him.

81. A person who claims to have the right of abode may appeal immediately against a decision that he or she requires leave to enter the United Kingdom provided -

he is a British citizen who is not within section 3(9) of the Act; or

he is within section 3(9) of the Act, but he satisfies the requirement in section 3(9)(a) or (b) of the Act, or produces a certificate of entitlement.

A person who holds a current entry clearance or who is a person named in a curre work permit and who is entitled to appeal against refusal of leave to enter may also appeal before he is removed from the United Kingdom. To assist him in deciding whether to appeal he should be given facilities to communicate with friends, relatives, a legal adviser, the United Kingdom Immigration Advisory Service or his Consul or High Commission as he may wish. In such a case, if notice of appeal is lodged, the Immigration Officer should provide the adjudicato and the appellant, as soon as possible, with a written summary of the facts of the case and the reasons for the decision. When it is not practicable to supply a written statement, the representative of the Immigration Service at the hearing will outline the case.

82. In all other cases, irrespective of the passenger's national status, it should be explained to him that his right of appeal is exercisable only after he has left the United Kingdom.

83. Where a passenger is admitted but is aggrieved by a time limit or condition imposed, or it is clear that it will leave him dissatisfied, it should be explained that his proper course is to apply to the Home Office for variation of his leave, and that he will have a right of appeal if variation is refused, provided he applies before the time limit on his stay expires.

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SECTION TWO: CONTROL AFTER ENTRY

The powers conferred by the Act are to be exercised without regard to a person's race, colour or religion.

PART X: VARIATION OF LEAVE TO ENTER OR REMAIN

Introductory

84. Under sections 3 and 4 of the Immigration Act 1971 an Immigration Officer, when admitting to the United Kingdom a person subject to control under that Act, may give leave to enter for a limited period and, if he does may impose conditions restricting employment or occupation in the United Kingdom or requiring the person to register with the police. He may also require him to report to the appropriate Medical Officer of Environmental Health. Under section 24 of the Act it is an offence knowingly to remain beyond the time limit or to fail to comply with such a condition or requirement.

85. Under section 3(3) of the Act a limited leave to enter or remain in the United Kingdom may be varied by extending or restricting its duration, by adding, varying or revoking conditions or by removing the time limit (whereupon any conditions attached to the leave cease to apply). The main purpose of this Part of the rules is to set out, in relation to the chief categories concerned, the principles on which leave to enter or remain will, on application, be varied. It also sets out the principles on which leave to remain will be given to a child born in the United Kingdom who has not obtained leave to enter. In the following paragraphs "leave to enter" includes leave to remain.

Rights of appeal

86. Under section 14 of the Act a person may appeal against any variation of his leave to enter or any refusal to vary it. However, there is no appeal against a variation of leave which reduces its duration, or against a refusal to extend or remove a time limit, if the Secretary of State personally decides that the departure of the person concerned from the United Kingdom would be conducive to the public good as being in the interests of national security or of the relations between the United Kingdom and any other country or for other reasons of a political nature. There is no right of appeal either in respect of a variation made by statutory instrument. Where

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(a) an application for variation of leave to enter is refused; or

(b) a variation is made otherwise than on the application of the person concerned, or is less favourable than that for which he applied,

notice of the decision and, if an appeal lies, of his right of appeal will normally be handed to the person concerned or set to his last known address or may be so given or sent to a person who has made the application on behalf of another. If notice of appeal is given within the period allowed, an explanatory statement summarising the facts of the case on the basis of which the decision was taken will be sent to the independent appellate authorities, who will notify the appellant of the arrangements for any appeal to be heard.

Refugees

87. Where a person is a refugee full account is to be taken of the provisions of the Convention and Protocol relating to the Status of Refugees. Nothing in these rules is to be construed as requiring action contrary to the United Kingdom's obligations under these instruments.

General considerations

88. The succeeding paragraphs set out the principles to be followed in dealing with applications for variation of leave to enter or remain, or, in the absence of such an application, in deciding to vary leave. <u>They apply also to applications for leave to remain by children born in the United Kingdom who are not British citizens and who have not obtained leave to enter.</u> In deciding these matters account is to be taken of all the relevant facts; the fact that the applicant satisfies the formal requirements of these rules for stay, or further stay, in the proposed capacity is not conclusive in his favour. For example, refusal will be the normal course if the applicant has made false representations in obtaining leave to enter (including the giving of undertakings, express or implied, which he has not honoured, as to the duration and purpose of his stay); if he has not observed the time limit or conditions subject to which he was admitted, or given leave to remain: if in the light of his character, conduct or associations it is undesirable to permit him to remain;if he represents a danger to national security; or if he might not be returnable to another country if allowed to remain for the period for which he wishes to stay. In such circumstances it is not necessary to consider

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any claim by the person concerned that he satisfies the formal requirements of these rules. Refusal of an extension of stay will also be justified where an applicant takes an unreasonable time to produce any evidence required under the rules.

89. A person's leave to enter or remain in the United Kingdom may be curtailed if, for example, he fails to comply with any conditions attached to the leave or, if given leave to enter or remain to follow a course of study, he fails to attend that course regularly.

90. Except as provided in paragraph 105, people admitted as visitors or students or for other temporary purposes have no claim to remain here for any other purpose. In particular, except as specified in paragraphs 117 and 119, applications to remain are to be refused where the application is to remain for a purpose for which an entry clearance is required. Applications to remain for other purposes (not including employment, which is dealt with in the next paragraph) may be granted, provided that the relevant requirements of these rules are met, unless it appears that the applicant is attempting to remain permanently.

91. In regard to variation of leave to enter with a view to employment, the general position is that where a person wishes to come to work in the United Kingdom the employer must have obtained a work permit before the person sets out. Applications to remain for employment from persons admitted as visitors or students (including those whose studies were financed by Her Majesty's Government, an international scholarship agency or by their home government) or from persons admitted for other temporary purposes should be refused without reference to the Department of Employment unless the conditions subject to which the applicant was given leave to enter left him free to take employment without the consent of the Secretary of State for Employment. In such a case there is still no claim to remain here in employment but it may be appropriate to refer the case to the Department of Employment. Only if that Department is prepared in the particular case to approve the proposed employment may an appropriate extension of stay be granted: where the circumstances of the case are such as to make reference to the Department inappropriate (for example where any of the factors mentioned in paragraph 88 apply), or where the Department does not approve the proposed employment, an extension should be refused. This paragraph does not apply to doctors

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registered with the General Medical Council nor to people who have been offered employment as a nurse or midwife on completion of their training at a hospital in the United Kingdom, provided that the training was not financed by an international scholarship agency or by their home government.

Crew members

92. A person who has been given leave to enter to join a ship or an aircraft as a member of its crew, or a crew member who has been given leave to enter for hospital treatment, repatriation or transfer to another ship or aircraft in the United Kingdom, should be granted an extension of stay only when this is necessary to fulfil the purpose for which he was given leave to enter, unless he qualifies for an extension of stay in accordance with paragraph 115 or 117.

Visitors

93. People admitted as visitors will have satisfied the Immigration Officer that their intention was to come for a limited period. Most of them will have been admitted for a stay of 6 months; but the Immigration Officer may have authorised entry for a shorter or longer period and will normally have imposed a condition prohibiting employment.

94. Where a visitor wishes to extend his visit, and provided that he has sufficient means to maintain himself and any dependants, without working and without becoming a charge on public funds, for the remainder of his proposed stay and intends to leave at the end of it, and extension should be granted, provided that the duration of the visit would not as a result exceed one year.

95. Where a visitor applies for an extension of stay to undergo or continue private medical treatment he should produce evidence about the arrangements made for consultation or treatment, or the progress made with the treatment, and its likely duration, and evidence that he can meet the cost of the treatment and maintain and accommodate himself and any dependants during his stay without recourse to public funds. If the evidence produced is satisfactory an extension may be granted. But an extension is to be refused if insufficient evidence of these matters is forthcoming or there is reason to believe that the treatment will be at public expense or that the applicant does not intend to leave the United Kingdom at the end of his treatment.

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Working holidays

96. Young Commonwealth citizens who have come to the United Kingdom on a working holiday will normally have been admitted for up to 2 years. Young Commonwealth citizens, aged 17 to 27 inclusive, admitted for some other temporary purpose may be granted an extension of stay as working holidaymakers provided that they meet the requirements of paragraph 30.

Students

97. A A person who satisfied the Immigration Officer that he had been accepted here for a full-time course as a student, could maintain and accommodate himself during his stay, and would leave when his studies were completed, is likely to have been admitted for an appropriate period, depending on the length of his course, with a condition restricting his freedom to take employment. Alternatively a student may have been given leave to enter for a short period under the provisions of the penultimate sentence of paragraph 24, with a prohibition on employment, and advised to apply to the Home Office for a variation of his leave when he had completed his arrangements for study.

98. A student or would-be student who applies for variation of his leave for the purpose of study may, subject to paragraph 99, be granted an extension for an appropriate period if he produces evidence, which is verified on a check being made, that he is enrolled for a full-time course of daytime study which meets the requirements for admission as a student; that he has (if he is a student) given and is giving regular attendance; and that he is able to maintain and accommodate himself and any dependants without working and without recourse to public funds. An extension should be refused if there is reason to believe that the student does not intend to leave at the end of his studies.

99. Extensions of stay should not be granted to students who appear to be moving from one course to another without any intention of bringing their studies to a close. An extension of stay should normally be refused if it would lead to more than four years being spent on short course. For the purposes of this paragraph a short course is one of less than two years but includes a longer course where this is broken off before being completed.

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100. The stay of people whose studies are financed by Her Majesty's Government, an international scholarship agency, or by their home government, should be limited to the duration of their award. They will not thereafter normally be eligible to remain for further studies.

101. Doctors, dentists and nurses admitted as postgraduate students will be permitted to take full-time employment which is associated with their studies. Other bona fide students may, with the consent of the Department of Employment, work in their free time or vacations and there is no restriction on the freedom of their wives to take employment: earnings so obtained may be taken into account in assessing the adequacy of their arrangements for maintenance. If the Immigration Officer imposed a condition prohibiting employment on someone who later establishes satisfactorily that he is engaged on a full-time course of studies, the condition may be varied to one permitting him to take approved employment. Except as mentioned in this paragraph, employment is inconsistent with student status.

Training and work experience

102. A person holding a permit from the Department of Employment for training on the job will have been admitted for the period specified in the permit up to a maximum of 12 months and subject to a condition restricting him to approved employment. When a trainee who is subject to such a condition applies for an extension of stay in order to continue to complete the training for which he was admitted, the application may be granted if the Department of Employment confirm that his training is continuing and that he is making satisfactory progress.

103. A person holding a permit from the Department of Employment for short-term employment not leading to additional qualifications or skills but enabling him to widen his occupational experience and in some cases also to improve his knowledge of English will have been admitted for the period specified in the permit, up to a maximum of 12 months and subject to a condition restricting him to approved employment. An application for extension of stay to continue the engagement for a further limited period will be granted only if, in exceptional circumstances, the Department of Employment approve the proposed extension.

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104. Transfers from training or work experience to ordinary employment will not be allowed nor does training or employment approved under these paragraphs constitute approved employment for purposes of settlement (see paragraph 119).

105. Visitors and students may be granted extensions to stay as trainees if the Department of Employment consider the offer of training to be satisfactory and if there is no reason to believe that the applicant does not intend to leave the United Kingdom on completion of his training: otherwise an extension should be refused.

"Au pair"

106. Where the Immigration Officer was satisfied that an "au pair" arrangement had been made, the girl will normally have been admitted for up to 12 months, with a condition prohibiting her employment. Where she subsequently applies for an extension of stay in the "au pair" capacity, an extension to bring the aggregate of her periods of stay up to 2 years in an "au pair" capacity may be granted if the "au pair" arrangement is satisfactory. When an extension is granted the applicant should be informed that 2 years is the maximum period permitted. An application from a girl admitted on some other temporary basis for an extension of stay in an "au pair" capacity may be granted if she could fulfil the requirements of paragraph 26. Such an extension should be subject to a prohibition on her taking employment.

Work permit holders

107. A person coming here to work, and having a work permit issued by the Department of Employment, will normally have been admitted for the period specified in the permit. At the end of that period an extension of stay may be granted if the applicant is still engaged in and the employer confirms that he wishes to continue to employ him in the employment specified in the permit, or other employment approved by the Department of Employment. Where a permit was issued for a period of other than 12 months, an application for an extension of stay in the employment for which the permit was issued should be referred to the Department of Employment. Only if that Department is prepared in the particular case to approve the continued employment may an appropriate extension of stay be granted. In other cases, unless there is any exceptional reason to the contrary, this extension should be for a further

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3 years. A corresponding extension should be granted to the applicant's wife and children, where appropriate and where the maintenance and accommodation requirements of paragraph 42 continue to be met. Cases where the applicant is no longer in approved employment should be considered in the light of all the relevant circumstances.

Permit-free categories

108. A person admitted in accordance with paragraphs 31-34 with the exception of crew members (see paragraph 92), may be granted extensions of stay if he is still engaged in the category of employment for which he was admitted and the employer confirms that he wishes to continue to employ him. Unless there are special reasons to the contrary the extension should be for 3 years except in the case of a teacher or language assistant under an exchange scheme, in whose case the maximum period of stay should be two years, or a seasonal worker at an agricultural camp, in whose case an extension in that capacity is not to be granted beyond 30th November in any year. A corresponding extension should be granted to an applicant's wife and children where appropriate and where the support and accommodation requirements of paragraph 42 continue to be met. A person given leave to enter or remain in some other capacity has no claim to remain for permit-free employment and applications to do so should be refused, except in the case of doctors registered with the General Medical Council, who may be granted extensions of stay for up to 3 years.

Businessmen and self-employed persons

109. People given limited leave to enter or remain in some other capacity have no claim to establish themselves here for the purpose of setting up in business whether on their own account or as partners in a new or existing business, or to be self-employed, and their applications for extension of stay or leave to remain for these purposes are to be refused.

110. In considering applications for extension of stay from people admitted with entry clearances for the purpose of setting up in business or self employment, the following factors are to be taken into account. There must be evidence that the applicant is devoting money of his own to the business proportional to his interest in it and that he is able to bear his share of any liability the business may incur. The applicant's part in the business

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must not amount to disguised employment; and it must be clear that he does not and will not have to supplement his business activities by employment of any kind or by recourse to public funds. In no case should his investment in the business be less than £150,000. Evidence should be sought that the applicant is occupied full-time in the running of the business and that there is a genuine need for his services and investment. There must be evidence that his share of the profits is sufficient to maintain and accommodate him and any dependants without recourse to public funds. Audited accounts are to be produced to establish the precise financial position. There must also be evidence that his services and investments have created paid full-time employment in the business for persons already settled here. For the purposes of this paragraph business includes self-employment (other than as a writer or artist).

111. An application for an extension of stay in order to remain in business or self-employment here should not be granted unless the requirements of paragraph 110 are met, in which case the applicant's stay may be extended fora period up to 12 m onths on a condition restricting his freedom to take employment. Further extensions should only be granted if these requirements continue to be met.

Writers and artists

112. A person who was admitted as the holder of an entry clearance issued to him as a writer or an artist may be granted extensions of stay not exceeding 12 months, subject to a condition restricting his freedom to take employment, if he can produce satisfactory evidence that he is maintaining and accommodating himself and his dependants from the proceeds of his self-employment as a writer or artist without recourse to public funds and without having resorted to employment for which a work permit is necessary. People given limited leave to enter or remain in some other capacity have no claim to remain as writers or artists and their applications for extension of stay or leaveto remain for these purposes are to be refused.

Persons of independent means

113. A person who was admitted as the holder of an entry clearance issued to him as a person of independent means should be asked to provide evidence that he continues to meet the requirements of paragraph 38. If the evidence

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is satisfactory, the applicant may be granted an extension of stay, not exceeding 12 months, and prohibited from taking employment. People given limited leave to enter or remain in some other capacity have no claim to remain as persons of independent means and their applications for extension of stay or leave to remain in this capacity are to be refused.

Marriage

114. A woman who satisfied the Immigration Officer that she was coming to the United Kingdom for early marriage to a man settled here as defined in paragraph 1 will normally have been admitted for 3 months subject to a condition prohibiting her from taking employment. If the marriage takes place within the 3 months period, she should be given indefinite leave to remain. If it does not, an extension of stay is to be granted only if good cause is shown for the delay and there is satisfactory evidence that the marriage will take place at an early date.

115. A woman admitted in a temporary capacity who marries a man settled here should on application be given indefinite leave to remain. If she marries a person who has only limited leave to enter, her leave should, if necessary, be varied by extending its duration so that it coincides with his.

116. Fiances arriving with entry clearances for the purpose of marriage to a woman settled here are normally admitted for 3 months. Subject to paragraph 117, if the marriage takes place within that period the man's stay should be extended for a further period not exceeding 12 m onths. Where an extension is granted any prohibition on the taking of employment should be removed and, subject to paragraph 117, the time limit should be removed at the end of that period. If the marriage does not take place within the initial 3 months an extension of stay is to be granted only if good cause is shown for the delay and there is satisfactory evidence that the marriage will take place at an early date thereafter. Subject to paragraph 117, a man who was admitted for a limited period as the husband of a woman settled here may have the time limit removed at the end of that period.

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117. Where a man admitted in a temporary capacity marries a woman settled here, an extension of stay or leave to remain will not be granted, nor will any time limit on stay be removed, if there is reason to believe:

(a) that the marriage was entered into primarily to obtain settlement here; or

(b) that the parties to the marriage have not met; or

(c) that the husband has remained in breach of the immigration laws before the marriage; or

(d) that the marriage has taken place after a decision has been made to deport him or he has been recommended for deportation or been given notice under section 6(2) of the Immigration Act 1971; or

(e) that the marriage has been terminated; or

(f) that one of the parties no longer has any intention of living permanently with the other as his or her spouse.

Where there is no reason to believe that any of (a) to (f) applies the husband will be allowed to remain, for 12 months in the first instance, provided that the wife is a British citizen. At the end of the 12 months' period the time limit on the husband's stay may, subject to (a) to (f) above be removed.

Children born in the United Kingdom

117A. Paragraphs 117B-117E apply only to children who were born in the United Kingdom but who because neither or their parents was a British citizen or settled in the United Kingdom at the time of their birth, are not British citizens.

117B. A child should be given leave to remain for the same period and on the same conditions as his parents. If the parents have leaves of different duration the child should be given leave for whichever period is longer; except that if the parents are living apart the child should be given leave to remain for the same period and on the same conditions as the parent who has day to day responsibility for him. In this paragraph 'parents' and 'parent' includes the stepfather of a child whose father is dead; the stepmother of a child whose mother is dead; and the father as well as the mother of an illegitimate child. It may also include a person who is not a parent, but only where there has been a genuine transfer of parental responsibility to that person on the ground of the parents' inability to care for the child.

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117C. A child will qualify for leave to remain under paragraph 117B irrespective of any requirements elsewhere in these rules which would otherwise apply as to maintenance and accommodation.

117D. Where a child is applying for leave to remain with parents (as defined in paragraph 117B) one of whom is a British citizen or has the right of abode in the United Kingdom though not a British citizen, the leave granted under paragraph 117B should be indefinite leave to remain. Indefinite leave to remain should be granted in any case where the parental rights and duties in relation to the child are vested solely in a local authority.

117E. A child may also be given leave to remain if he qualifies under any other paragraph of Section Two of these rules. For this purpose, if the child has not previously been granted leave to enter he should be treated in the same way as if he had been admitted in a temporary capacity.

Holders of restricted travel documents and passports

118. The holder of a passport or travel document which is endorsed with a restriction on the period for which he may remain outside his country of normal residence is not to have his stay in the United Kingdom extended beyond the period of his authorised absence. And if a person's permission to enter another country is limited his stay in the United Kingdom should not be extended to come nearer than 2 months to the expiry of that permission. This paragraph does not apply to a person who qualifies for removal of the time limit of his stay.

Settlement

119. This paragraph applies to persons who were admitted or allowed to remain for one of the following purposes:

(a) approved employment;
(b) permit-free employment as described in paragraphs 31, 32 and 33(b) and (c);
(c) to set up in business;
(d) in self-employment;
(e) as a writer or artist;
(f) as a person of independent means

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Such a person may have the time limit on his stay removed if he has remained here in that capacity for 4 years. Applications for removal of the time limit are to be considered in the light of all the relevant circumstances including those set out in paragraph 88 and, in the case of a person in employment, whether the employer wishes to continue to employ him. Applications for variation of leave to enter or remain with a view to settlement may also be received from persons given leave to enter or remain otherwise than for the purposes set out above, tut permission in such cases has to be limited to close relatives of persons who are settled in the United Kingdom. Particulars are set out in paragraphs 42-49.

Asylum

120. A person may apply for asylum in the United Kingdom on the ground that, if he were required to leave, he would have to go to a country to which he is unwilling to go owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion. Any such claim is to be carefully considered in the light of all the relevant circumstances.

Right of abode

121. A Commonwealth citizen who has been given limited leave to enter may later claim to have the right of abode. If such a person establishes a claim to the right of abode, for example by showing that immediately before the commencement of the 1981 Act he was a Commonwealth citizen born to a parent who at the time of the birth had citizenship of the United Kingdom and Colonies by his birth in the United Kingdom or in any of the Islands, and the person has not ceased to be a Commonwealth citizen in the meanwhile, the time limit on his stay should be removed. If the application is refused, the person should be notified of the right of appeal against refusal of a certificate of entitlement.

Registration with the police

122. A foreign national given limited leave to enter may be subject to a condition requiring him to register with the police. When a foreign national on whom this condition was not imposed on arrival is granted an extension of

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stay which has the effect of allowing him to remain in the United Kingdom for employment for longer than 3 months or otherwise for longer than 6 months, reckoned from the date of his arrival, a condition requiring registration should be imposed unless he is under the age of 16, or the extension of stay is for employment of a kind mentioned in paragraphs 31(a), 32, 33(a) or 34.

123. In response to applications for removal of the condition requiring registration it should be explained that this condition lapses when the time limit on the applicant's stay is removed, but will not be revoked before then.

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Procedure

124. When leave to enter is varied an entry is to be made in the applicant's passport or travel document (and in his registration certificate where appropriate) or the decision may be made known in writing to some other appropriate way.

NATIONALS OF EUROPEAN COMMUNITY COUNTRIES AND THEIR FAMILIES

Introductory

125. The provisions in Section Two of these Rules apply to a person admitted in accordance with Part V of these Rules only to the extent permitted by Community law (see the second footnote to paragraph 60)

General

126. A person admitted in accordance with Part V of these Rules may normally remain in the United Kingdom for 6 months before applying for a "Residence Permit for a National of a Member State of the EEC". Such a Residence Permit will be issued if the person.

a) has entered employment; or

b) has established himself in business or in a self-employed occupation, or otherwise in accordance with the provisions of Community law relating to the right of establishment and the rights relating to the provision and receipt of services; or

c) is a member of the family (see paragraph 61) of a person to whom (a) or (b) above applies. Such a person will be issued with a Residence Permit if he is a Community national, or granted an extension of stay if he is not, in the same terms as those relating to the spouse or persons on whom he is dependent.

127. In the case of a person to whom paragraph 126(a) applies the Residence Permit should be limited to the duration of the employment if this is expected to exceed 3 months but to be less than 12 months; otherwise the Residence Permit should normally be valid for 5 years. A Residence Permit should not normally be issued if the person has not entered employment within six months of the date of entry to the United Kingdom nor if during that time he has become a charge on public funds.

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128. In the case of a person to whom paragraph 126(b) applies the Residence Permit should normally be valid for 5 years. If such a person is unable to produce evidence that he has established himself in business or in a self-employed occupation within 6 months of the date of entry to the United Kingdom he may, depending on the circumstances, be refused a Residence Permit, or he may be granted a short extension of his stay in order to complete arrangements for so establishing himself.

129. A person may be required to leave the United Kingdom, subject to appeal, if he falls a charge on public funds before issue of a first Residence Permit, or if, after 6 months from admission, he fails to meet the requirements of paragraphs 126(a) or (b) above. After written warning, the duration of a Residence Permit may be curtailed, subject to appeal, if it is evident that the holder no longer satisfies the conditions of 126(a), (b) or (c) above. However, the duration of a Residence Permit issued to a worker will not be curtailed solely on the grounds that he is no longer in employment where this is because he is temporarily incapable of work as a result of illness or accident or because he is involuntarily unemployed.

130. A person issued with a Residence Permit for 5 years who has remained in the United Kingdom for 4 years and has during that time fulfilled the conditions in paragraph 126(a), (b) or (c) and continues to do so may, on request, have his Residence Permit endorsed to show permission to remain in the United Kingdom indefinitely. However, a first renewal of the Residence Permit for a period of not less than 12 months may be more appropriate in the case of a person whose Residence Permit was issued for employment but who, on its expiry, has been involuntarily unemployed for a period of 12 consecutive months.

131. A person who meets the requirements of paragraphs 126(a), (b) or (c) may not be deported from the United Kingdom on the ground that removal is conducive to the public good except where this is justified on grounds of public policy, public security of public health.

131A The provisions in paragraphs 122 will not normally apply to a person issued with a Residence Permit in accordance with paragraphs 126 (a) (b) or (c) except in the case of a family member who is not himself a Community national.

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Settlement

132. The time limit on the stay of the following categories of Community nationals should be removed;

(a) a person who has been continuously resident in the United Kingdom for at least 3 years, has been in employment in the United Kingdom or any other Member State of the European Community for the preceding 12 months, and has reached the age of entitlement to a State retirement pension;

(b) a person who has ceased to be employed owing to a permanent incapacity for work, arising out of an accident at work or an occupational disease entitling him to a State disability pension;

(c) a person who has been continuously resident in the United Kingdom for more than 2 years, and who has ceased to be employed owing to a permanent incapacity for work.

(d) a member of the family (see paragraph 61) of a person to whom (a), (b) or (c) above applies.

(e) a member of the family (see paragraph 61) of a person who dies during his working life after having resided continuously in the United Kingdom for at least 2 years, or whose death results from an accident at work or an occupational disease.

PART XI: DEPORTATION

133. Under sections 3(5)-(6) and 5(1)-(4) of the Act the Secretary of State may, if he thinks fit, make a deportation order requiring a person who does not have the right of abode to leave and to remain thereafter out of the United Kingdom:

(i) if the person has failed to comply with a condition attached to his leave to enter or remains beyond the authorised time;

(ii) if the Secretary of State deems the person's deportation to be conducive to the public good;

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(iii) if the person is the wife or the child under 18 of a person ordered to be deported;

(iv) if the person, after reaching the age of 17, is convicted of an offence for which he is punishable with imprisonment and the court recommends deportation.

134. The power to deport applies generally to all people subject to control under the Act but, under section 8(3) it does not apply to any member of a mission (within the meaning of the Diplomatic Privileges Act 1964), any person who is a member of the family and forms part of the household of such a member, and any other person entitled to the like immunity from jurisdiction as is conferred by the 1964 Act on a diplomatic agent. Under section 7 a citizen of the Irish Republic or Commonwealth citizen who has been ordinarlly resident in the United Kingdom continuously since the coming into force of the Act is not liable to be deported on the ground that his deportation is conducive to the public good, and if he was ordinarily resident here on the coming into force of the Act and has been so resident for the preceding 5 years he is not liable to deportation on any ground.

Rights of appeal

135. Against the making of a deportation order on the recommendation of a court there is no appeal within the immigration appeal system, but there is a right of appeal to a higher court against the recommendation itself. An order may not be made while it is still open to the person to appeal against the relevant conviction, sentence or recommendation, or while an appeal is pending. Nor is there a right of appeal (except as to the country of destination-see paragraph 137) where a deportation order is made on the ground that the Secretary of State deems the person's deportation to be conducive to the public good as being in the interests of national security or of the relations between the United Kingdom and any other country or for other reasons of a political nature. But such cases are subject to a non-statutory advisory procedure and the person proposed to be deported on that ground will be informed so far as possible, of the nature of the allegations against him and will be given the opportunity to appear before the advisers, and to make representations to them, before they tender advice to the Secretary of State.

136. Where it is proposed to deport a person because it is deemed that his expulsion will be conducive to the public good on other than security or political grounds there is a right of appeal under section 15 of the Act direct to the Immigration Appeal Tribunal. An appeal against a decision to make a deportation order against a person as belonging to the family of another person also lies direct to the Tribunal. Where, however, the appeal is against a decision to make a deportation order for breach of conditions or for remaining beyond the authorised time it will be heard by an adjudicator in the first instance-unless there is pending an appeal against a decision to make an order against a person as belonging to the family of the person alleged to have broken a condition or remained beyond the authorised time, in which case both appeals will be heard by the Tribunal. An order may not be made while it is still open to the person to appeal against the Secretary of State's decision, or while an appeal is pending.

137. In all cases of deportation the person in aspect of whom the order has been or is to be made has a right of appeal against the removal directions on the ground that he ought to be removed (if at all) to a country or territory specified by him, other than the one named in the directions.

Refugees

138. Where a person is a refugee full account is to be taken of the provisions of the Convention and Protocol relating to the Status of Refugees. Nothing in these rules to to be construed as requiring action contrary to the United Kingdom's obligations under these instruments.

Consideration of the merits

139. In considering whether deportation is the right course on the merits, the public interest will be balanced against any compassionate circumstances of the case. While each case will be considered in the light of the particular circumstances, the aim is an exercise of the power of deportation that is consistent and fair as between one person and another, although one case will rarely be identical with another in all material respects.

140. Most of the cases in which deportation may be the appropriate course fall into two main categories. There are, first those cases which come to notice following a conviction for a criminal offence and in which it is fitting that, because of his conduct, a person should no longer be allowed to remain here: and, second, those cases in which the person is here, or is remaining here, in defiance of the immigration control.

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Deportation following a conviction

141. In considering whether to give effect to a recommendation for deportation made by a court on conviction the Secretary of State will take into account every relevant factor known to him, including:

age
length of residence in the United Kingdom
strength of connections with the United Kingdom
personal history, including character, conduct and employment record
domestic circumstances
the nature of the offence of which the person was convicted
previous criminal record
compassionate circumstances
any representations received on the person's behalf.

In certain circumstances, particularly in the case of young or first offenders, supervised departure, with a prohibition on re-entry, may be arranged as an alternative to the deportation recommended by the court provided that the person is willing to leave the country.

142. Where the court has not recommended deportation there may nevertheless be grounds, in the light of all the relevant information and subject to the right of appeal, for deportation, for curtailment of stay or a refusal to extend stay followed, after departure, by a prohibition on re-entry.

Deportation for breach of conditions or unauthorised stay

143. Deportation will normally be the proper course where the person has failed to comply with or has contravened a condition or has remained without authorisation. Full account is to be taken of all the relevant circumstances known to the Secretary of State, including those listed in paragraph 141, before a decision is reached.

Deportation on conducive grounds

144. The Secretary of State has the power to deport a person if he deems it conducive to the public good. General rules about the circumstances in which deportation is justified on these grounds cannot be laid down, and each case will be considered carefully in the light of the relevant circumstances known to the Secretary of State including those listed in paragraph 141.

E.R.

Deportation of members of families

145. There is power to make a deportation order against the wife or children under 18 of a person ordered to be deported on any of the grounds mentioned in paragraphs 141-144 unless more than 8 weeks have elapsed since that person left the country following the making of an order against him. Where the Secretary of State decides that it would be appropriate to deport a member of a family as such the decision, and the right of appeal, will be notified and it will at the same time be explained that it is open to the member of the family to leave the country voluntarily if he does not wish to appeal or if he appeals and his appeal is dismissed.

146. In considering whether to require a wife and children to leave woth the head of the family the Secretary of State will take account of all relevant factors known to him including:

length of residence in the United Kingdom;
any ties with the wife or children have with the United Kingdom otherwise than as dependants of the principal deportee;
the ability of the wife to maintain herself and the children in the United Kingdom, or to be maintained by relatives or friends without charge to public funds, not merely for a short period but for the forseeable future;
any compassionate or other special circumstances,
any representations received from or on behalf of the wife and children

147. Where the wife has qualified for settlement in the United Kingdom in her own right, for example following four years in approved employment, she has a valid claim to remain notwithstanding the expulsion of her husband and her deportation will not normally be contemplated. Where the wife has been living apart from the principal deportee it will not normally be right to include her, or any children living with her, in the deportation order.

148. Children cease to be members of the family, as defined in the Act, at 18, and their deportation will not normally be contemplated if they have spent some years in the United Kingdom and are near that age. Nor will deportation normally be appropriate if the child left the family home on taking employment and has established himself on an independent basis, or if he married before

deportation came into prospect. In the case of children of school age it will be right to take into account, on the one hand, the disruptive effect of removal on their education and, on the other, whether plans, for their care and maintenance in this country if one or both parents were deported are realistic and likely to be effective.

149. In some cases it may be relevant to take into account the possibility of the eventual return of members of the family to the United Kingdom after deportation. When a child reaches 18 he will cease to be subject to the deportation order and it will be open to him to qualify for re-admission under the Immigration Rules. The wife would cease to be subject to the order if the marriage came to an end, and could similarly qualify for re-admission; but her return would otherwise be dependent on revocation of the order made against her or her husband.

Asylum

150. In accordance with the provisions of the Convention and Protocol relating to the Status of Refugees, a deportation order will not be made against a person if the only country to which he can be removed is one to which he is unwilling to go owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular group or political opinion.

Procedure

151. When a decision to make a deportation order has been taken (otherwise than on the recommendation of a court) a notice will be given to the person concerned, in accordance with the Immigration Appeals (Notices) Regulations 1972, informing him of the decision of his right of appeal or facility to make representations in the case of the security and political cases subject to the advisory procedure. There is power for the Secretary of State to make a detention order, or an order restricting a person as to residence and requiring him to report to the police, pending any appeal. Where a person is detained pending an appeal, he may apply to an adjudicator for release on bail. If a notice of appeal is given within the period allowed a summary of the facts of the case on the basis of which the decision was taken will be sent to the appellate authorities, who will notify the appellant of the arrangements for the appeal to be heard.

F.K.

Submission of deportation order for signature

152. If no appeal is lodged within the prescribed time limit, or if the appeal is dismissed, the order for deportation will be submitted to the Secretary of State for his signature. The submission will include a summary of the facts of the case, written confirmation (where appropriate) that the appellate authorities have dismissed the appeal and a note of any other relevant information, whether or not it was available to the courts or the appellate authorities. In a case of deportation on security or political grounds the opinions of the advisers (see paragraph 135) will be submitted to the Secretary of State for his consideration.

Returned deportees

153. Where a person returns to this country notwithstanding that a deportation order is in force against him, he may lawfully be deported under the original order and it will normally be right to deport him. But every such case is to be considered in the light of all the relevant circumstances before the intention to enforce the order is notified to the person. He has a right of appeal against removal but solely on the ground that on the facts of the case there is in law no power to remove him from the United Kingdom.

Arrangements for removal

154. Provision is made in the Act for removal from the United Kingdom of a person against whom a deportation order has been made. The power should be exercised so as to secure the person's return to the country of which he is a national, or which has most recently provided him with a travel document, unless he can show that another country will receive him notwithstanding his deportation from the United Kingdom, but in considering any departure from the normal arrangements, regard should be had to the public interest generally, and to any additional expense that may fall on public funds. The person is to be notified of his right to appeal against the removal directions on the ground that he ought to be removed (if at all) not to the country named in the directions but to a different country or territory specified by him.

Revocation of deportation orders

155. Revocation of a deportation order does not entitle the person concerned to re-enter the United Kingdom: it renders him eligible to qualify for admission under the Immigration Rules. Application for revocation of the

order may be made to the entry clearance officer or direct to the Home Office. Where the application for revocation is refused there is a right of appeal in the first instance to an adjudicator unless the order was made against a person as belonging to the family of another person, in which case it lies to the Tribunal. But no appeal lies where the Secretary of State personally decides that continued exclusion from the United Kingdom is conducive to the public good, nor so long as the person is in the United Kingdom. Where an appeal does lie the right of appeal will be notified at the same time as the decision to refuse to revoke the order.

156. Applications for the revocation of a deportation order will be carefully considered in the light of the grounds on which the order was made and of the case made in support of the application. The interests of the community, including the maintenance of an effective immigration control, are to be balanced against the interests of the applicant, including any circumstances of a compassionate nature. In the case of an applicant with a serious criminal record continued exclusion, for a long term of years, will normally be the proper course. In other cases revocation of the order will not normally be authorised unless the situation has been materially altered either by a change of circumstances since the order was made or by fresh information coming to light which was not before the court that made the recommendation or the appellate authorities or the Secretary of State. The passage of time since the person was deported may also, in itself, amount to such a change of circumstances as to warrant revocation of the order. Since so much depends on other relevant circumstances, it is not practicable to specify periods as appropriate in relation to particular grounds of deportation. All applications for revocation will be carefully considered when made but save in the most exceptional circumstances the Secretary of State will not revoke a deportation order which has been in force for less than 3 years.

3

Department of Education and Science

Office of Arts and Libraries
From the Minister for the Arts

Elizabeth House York Road
London SE1 7PH

Telegrams Aristides London SE1
Tel: 01-928 9222

28 July 1982

CONFIDENTIAL

Barnaby Shaw Esq
Private Secretary to
The Secretary of State for Employment
Caxton Hosue
Tothill Street
LONDON SW1J 9NF

Dear Barnaby

RAYNER PROPOSALS TO INTRODUCE WORK PERMITS

Mr Channon, who is at present attending a conference abroad, has seen your Secretary of State's letter of 22nd July. His particular interest, you will recall, is in the proposal to introduce charges for work permits without providing for any exemption in the case of artists visiting this country.

Mr Channon has some doubts as to the wisdom of this course. He thinks it may provoke a strong adverse reaction. But, since the Government will not be able to legislate to introduce the proposed changes during the life of this Parliament, there will be plenty of time for the matter to be looked at again if necessary.

I am copying this letter to the Private Secretaries to all members of H Committee, to the Secretaries of State for Foreign and Commonwealth Affairs, Industry, Trade and to Sir Robert Armstrong.

Yours sincerely

Ros Turp

Mrs R Turp
Assistant Private Secretary

CONFIDENTIAL

FCS/82/109

SECRETARY OF STATE FOR EMPLOYMENT

Rayner Scrutiny of the Work Permit System

1. Thank you for copying to me your letter of 22 July to Willie Whitelaw.

2. I welcome your decision on working holiday-makers and the wives of students and work permit holders. I see no objection to the way you suggest the question of charging should be handled. This last should keep us within our international obligations.

3. I can, therefore, confirm that I am content for you to go ahead with the action document on the basis outlined in your letter. On the question of publication, I understand that Willie Whitelaw still inclines to the view that it would be preferable for this to coincide with publication of his White Paper on the revision of the Immigration Rules so that public debate on these related issues should come at the same time. I see merit in this argument, too, from the point of view of reaction overseas.

4. I am copying this letter to the recipients of yours.

(FRANCIS PYM)

Foreign and Commonwealth Office

28 July, 1982

CONFIDENTIAL

MC

SECRETARY OF STATE FOR EMPLOYMENT

Caxton House Tothill Street London SW1H 9NF

Telephone Direct Line 01-213 6400

Switchboard 01-213 3000

The Rt Hon William Whitelaw CH MC MP
Secretary of State for the Home Department
Home Office
50 Queen Anne's Gate
LONDON SW1H 9AT

22 July 1982

Dear Willie,

RAYNER SCRUTINY OF THE WORK PERMIT SYSTEM

At the meeting of H Committee on 14 June I was invited to consult with various colleagues particularly concerned on three recommendations in my paper on the Rayner Scrutiny of the Work Permit System and to report further to the Committee in due course.

In the light of discussions my officials have had with officials of the other Departments most concerned, I have looked again at these issues and am writing to you, and other colleagues concerned, in the hope we can resolve these matters by correspondence before the recess, as I am anxious not to hold up the final stages of this scrutiny any longer than we can help.

On working holidaymakers and the wives of students and work permit holders I am now prepared, in the light of all the arguments put to me, to accept that the recommendations in the scrutiny report should not be accepted.

On charging I was asked to look in particular at possible exemptions and their effects. I attach a note produced by my officials following their inter-departmental discussions. In my view it demonstrates pretty conclusively that if we are to have charging then we cannot contemplate going down the exemption road (other than for nationals from countries where we are constrained by our obligations under the European Social Charter and/or EC transitional arrangements, where we really have no option but to exempt). However, given that there is no prospect of finding time in the lifetime of this Parliament for the necessary legislation, it is hardly necessary for us to agree finally on any specific scheme at this stage. What I would very much like to be able to do is to say, in my response to the report's recommendations, that the Government accept the principle of charging and that it will come forward with detailed proposals in due course when there is a suitable legislative opportunity but that, in view of other priorities, this is not likely to be within the remaining life of the present Parliament. When the opportunity of an appropriate legislative vehicle is found then

Ministers concerned, if they so wish, can of course always return to this question of exemptions. We will also have by then the advantage of knowledge of any public reactions to our broadly stated intentions.

May I take it that, in the absence of any dissent by 30 July that you and colleagues are content that I now proceed with the completion of the action document on this scrutiny on the above basis? So far as publication of the report is concerned I propose, unless any colleagues have any reasons for suggesting otherwise, to follow the normal practice and publish the report in full (including, of course, our decisions on the recommendations and, where appropriate, our reasons for taking the line we do). Your officials have suggested that you might prefer this report not to be published until the publication of the proposals on the revisions of the Immigration Rules, which I understand is likely to be sometime in October. I do not know whether you will still feel the necessity of this given that it now looks as if none of our responses to this scrutiny require any amendments to the Immigration Rules but perhaps you would let me know what you now feel on this. Naturally I would want to meet your wishes on this if you felt that there were important considerations here but I would not wish to delay publication of this report needlessly.

I am copying this letter to all members of H Committee and to Francis Pym, Patrick Jenkin, Arthur Cockfield, Paul Channon and Robert Armstrong.

Yours ever

Norman

POSSIBLE EXEMPTIONS FROM WORK PERMIT CHARGES

1 The current total costs which stand to be passed on in any charging arrangements are of the order of £1.2m pa.

2 The cost for issuing work permits for nationals of European countries in regard to whom we would be constrained by our international obligations from charging (because of our commitments under the European Social Charter and/or EC transitional arrangements) is a little under £100,000. In addition we have bilateral Cultural Agreements with about 50 or 60 countries under which we undertake to facilitate or encourage cultural and educational etc exchanges, although only in the case of East Europe are there any formal and specific exchange programmes. There is no legal bar to charging in relation to movements undee these arrangements but our partners in the Agreements might well argue that charging goes against the spirit of the Agreement by having the effect of discouraging exchanges. It is not clear how many movements in total, for which we issue work permits, might be held to come under all these agreements and therefore a total cost figure cannot easily be put on this broad category.

3 The public sector accounts for about £150,000, of which about half is accounted for by the NHS and the bulk of the remainder by the education sector.

4 The entertainments sector accounts for about £200,000 of which roughly £80,000 is accounted for by what might be categorised as the 'fine arts' and £120,000 by the 'commercial' sector.

5 Apart from the question of sums of money involved, there are some policy issues raised by exemptions. For the European countries covered by the European Social Charter and/or EC transitional arrangements we have little

practical option but to exempt (though if that was the full extent of the exemptions we could consider spreading the cost over those permits for which we do charge); what we do in respect of countries covered by Cultural Agreements is more debatable but exemptions for these cases do not seem compelling nor easy to distinguish from other cases in practice. For the public sector, although we would to some extend be involved in transfer payments only, if we are to have a system of charging then there seems no good reason to depart from the general principle of these applying in the public sector as well as the private and thus letting the costs fall where the demand for the service arises - which could be a useful discipline insofar as it causes those requesting work permits to think harder about whether they really need them. On the entertainments side there would be difficulties in drawing - and holding - the line between artistic and commercial (if that were the distinction for exemption and charging) and more generally exemptions there would open up the way for continual arguments about exemptions elsewhere (other non-commercial activities; small firms etc). There would also be problems in justifying charges to the industrial and commercial sector if exemptions to the fine arts included some profit-making organisations (eg theatres). We could certainly not contemplate making the cost of extensive exemptions fall on industrial and commercial applications.

DE
JULY 1982

PRIME MINISTER : 2

I attach minutes of H Committee covering the following:

1. Changes in the Immigration Rules.
As you know, under the 1980 Immigration Rules, women who are not citizens or whose citizenship has been acquired through nationalisation or registration, could not bring their husbands here. This rule is now under challenge before the ECHR and the Commission of the European Communities and it is likely we will be found in breach of both. The Rules require amendment in any event, following the Nationality Act, which creates a single British citizenship. The Home Secretary proposed therefore to alter the Rules to allow British citizens (however their citizenship was acquired) to bring in husbands and fiances. H Committee recognised the sensitivity of such a change and asked the Home Secretary and Lord Privy Seal to give particular consideration to the timing of any such announcement.

2. Rayner's Scrutiny of the Work Permit System.
H Committee discussed at some length the effects of the implementation of the Rayner proposals on work permits, most of which have already been accepted by the Department of Employment. The major proposals under discussion were:

a) the abolition of the so-called "working holiday-maker scheme", which enables mostly Australians, New Zealanders and Canadians to take extended working holidays in the UK;

b) requiring the wives of student and work permit holders to obtain work permits in their own rights, should they wish to work; and

c) the introduction of charges for work permits.

The net effect of the discussion was to invite Mr. Tebbit to return to the Committee with more detailed proposals

on these points.

3. European Parliament: Uniform Electoral Procedure

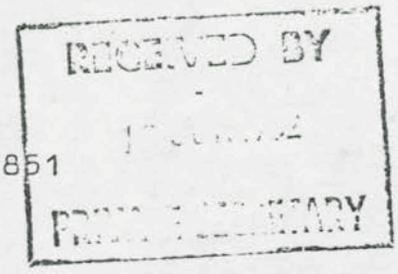
You have already seen the paper. The Committee, agreed with you that we should reject any proposals for a uniform electoral procedure for the European Parliament based on proportional representation. The Home Secretary will be minuting you with the results of the discussion.

Other conclusions are set out on Page 11 of the minutes.

TF.

TIM FLESHER
16 June, 1982

JFF851



Secretary of State for Industry

DEPARTMENT OF INDUSTRY
ASHDOWN HOUSE
123 VICTORIA STREET
LONDON SW1E 6RB
TELEPHONE DIRECT LINE 01-212 3301
SWITCHBOARD 01-212 7676

9 June 1982

The Rt Hon Norman Tebbit MP
Secretary of State for Employment
Department of Employment
Caxton House
Tothill Street
LONDON
SW1

Dear Norman,

RAYNER SCRUTINY OF THE WORK PERMIT SYSTEM

I have seen a copy of your paper for H Committee.

2 As there is no question of our accepting the more radical of the recommendations in the report for the tightening up of the system for industrial and commercial vacancies there is no need for me to attend the Committee's discussion of your paper. It is of course fallacious to assume that we can reserve jobs in this way for UK nationals (or more accurately for nationals in the European Community) regardless of the effect on economic performance; placing undue hindrances on the ability of management to recruit people from abroad would risk causing a net reduction in employment especially if by doing so we scare away inward investment.

3 I see that you propose that wives of permit holders should be required to obtain a permit in their own right to work here. I am content to leave this to your judgement but it may be worthwhile, before we finally commit ourselves, for your Department to take some informal soundings of the CBI and selected multinationals to check that it would not make it more difficult for them to attract key skilled people from abroad in view of the increasing tendency for both marriage partners to pursue a career.

4 I have no objections to charging fees for work permits as long as the details, when we come to consider them, are accepted as equitable by industry.

5 I am sending copies of this letter to the other members of H Committee.

Yours ever

Patrick

M CDAO
CO

jfh

Immigration

23 March 1981

The Prime Minister has seen your letter of 19 March with which you enclosed the draft of a consultation document on the immigration appeals system.

Subject to any comments by colleagues, the Prime Minister is content that the document should be published on 11 April, unless the Home Secretary wishes to revise the date in the light of progress on the Nationality Bill.

I am sending copies of this letter to David Heyhoe (Chancellor of the Duchy of Lancaster's Office), and David Wright (Cabinet Office).

M A PATTISON

Stephen Boys Smith, Esq.,
Home Office.

Weekend 2

10 DOWNING STREET

PRIME MINISTER

The Home Secretary proposes to put out a consultation document (not formally a Green Paper) about the possible changes in the immigration appeals system. It may be published on 11 April, subject to the position on the Nationality Bill at that stage.

The paper is likely to generate mixed publicity. Most of the ideas seem designed to limit the number of avenues of appeal available to would-be immigrants/ visitors, although the net result should be a simplified system thereby speeding the clearing of appeals which are still eligible.

19 March 1981

From: THE PRIVATE SECRETARY

cc Press

HOME OFFICE
QUEEN ANNE'S GATE LONDON SW1H 9AT

19 March 1981

Dear Mike,

An internal Home Office review of the immigration appeals system has now been completed. The review was undertaken primarily to try to find ways of enabling the appellate authorities to dispose of cases more quickly. It was linked with paragraph 10 of Chapter 11 of the Report on Non Departmental Bodies (Cmnd.7797) which said that the Immigration Appellate Authorities would be retained, but that their activities would be reviewed. The Home Secretary proposes to distribute the report, a copy of which is ..... enclosed, in the form of a discussion document.

The document considers ways in which the present structure could be made to operate more efficiently, while at the same time preserving a fair and reasonable system. It points out that the appeals system is under strain. During 1979 there were nearly 18,000 new appeals, and over 16,000 appeals were waiting to be heard. These delays benefit appellants in this country, but are disadvantageous to dependants appealing from abroad. The document aims to find ways in which these delays might be reduced.

Mr. Raison will be addressing the annual conference of the United Kingdom Immigrants Advisory Service (UKIAS) on 11 April. His speech would provide a good opportunity to announce the conclusions of the review, but publication of the document then may have implications for the Nationality Bill, which is being criticised for not providing for a system of appeals against refusal of applications for citizenship. The Home Secretary proposes to decide on 30 March whether to publish the document on 11 April.

The Home Secretary intends that the document should be published in the form of a booklet, although not as a Green Paper. Publication will be announced in an arranged Question and a press release will also be issued. Copies will be sent to the Council on Tribunals, the Immigration Appellate Authorities, UKIAS, the Joint Council for the Welfare of Immigrants, the Law Society, the Bar Council and the Commission for Racial Equality with a covering letter inviting comments. Other interested parties will be able to obtain copies on application to the Home Office.

I should be grateful if you are able to let me know by Friday, 27 March whether the Prime Minister is content that the document should be published as proposed on 11 April, subject to further consideration of the actual date by the Home Secretary in the light of progress on the Nationality Bill.

I am sending copies of this letter to the Private Secretaries to the members of the Home Affairs Committee, the Foreign and Commonwealth Secretary, the Law Officers, and Sir Robert Armstrong.

Yours,
Stephen

S. W. BOYS SMITH

M. A. Pattison, Esq.

HOME OFFICE

REVIEW OF APPEALS UNDER THE IMMIGRATION ACT 1971

A DISCUSSION DOCUMENT

Comments on the proposals in this discussion document whould be addressed to:-

B2 Division
Home Office
Lunar House
(Room 929)
40 Wellesley Road
Croydon
CR9 2BY

Copies of this booklet may be obtained from the same address.

Review of Appeals Under the Immigration Act 1971

A Discussion Document Prepared by the Home Office

Contents

/contd....

ER.

REVIEW OF APPEALS UNDER THE IMMIGRATION ACT 1971

A. INTRODUCTION

The relevant legislation

1. The present system of immigration appeals largely stems from the provisions of the Immigration Appeals Act 1969, which was re-enacted, with some changes, as Part II of the Immigration Act 1971. This sets out the current rights of appeal. These provisions were based in the main on the recommendations of the Committee on Immigration Appeals (Chairman: Sir Roy Wilson QC) whose Report (Cmnd. 3387) was published in August 1967.

2. Section 22 of the 1971 Act enables the Secretary of State to make rules of procedure for regulating the exercise of the rights of appeal conferred by the Act; for prescribing the practice and procedure to be followed (including the mode and burden of proof and the admissibility of evidence); and for other matters preliminary to or incidental to appeals. The current rules are laid down in the Immigration Appeals (Procedure) Rules 1972 (1972 No 1684). Also relevant are the regulations made under section 18 of the 1971 Act providing for notice to be given of matters in respect of which there are rights of appeal. The regulations currently in force are the Immigration Appeals (Notices) Regulations 1972 (1972 No 1683).

3. The powers to make rules of procedure and notices regulations are exercisable by statutory instrument subject to annulment by resolution of either House of Parliament.

Aims of the Government's review

4. The appeals system is under great strain. During 1979 appeals by nearly 18,000 individuals were referred to the appellate authorities and arrears rose from 11,700 to 16,350. The first 5 months of 1980 has seen a further 7,550 appellants whose cases were referred to the appellate authorities, with arrears reaching 17,800. At some hearing centres there is an average delay of up to 14 months before an appeal is heard. Such delays work to the advantage of appellants already in the country who may thereby achieve substantial extensions of stay, whatever the merits of their case, simply by appealing. But they adversely affect people overseas appealing against refusal of entry clearance for settlement as dependants. It is estimated that in 1979, out of

E.R.

a total of about 11,000 cases referred to adjudicators (where one case may involve several individual appellants), about 3,000 cases, involving some 9,500 appellants, related to applications by dependants overseas seeking settlement in the United Kingdom. It is thought that about half of the time of adjudicators is spent on such cases. If the time spent at present in dealing with appeals by persons in the United Kingdom could be reduced this would help to speed up the hearing of appeals by people overseas, particularly those seeking settlement.

5. The current overall cost of the immigration appeals system is estimated to be at least £4.5 million per annum; it employs some 320 full-time and about 100 fee paid staff. By comparison, the total estimated expendire on the administrative divisions of the Immigration and Nationality Department of the Home Office, which have a staff of 1,400, is about £13.9 million; and the cost of the Immigration Service, which has a complement of 1,550, is slightly in excess of £31 million. The prospects of more resources being made available are, and are likely to remain, remote. The main purpose of the Government's review has therefore been to consider ways in which delays might be reduced and resources used more efficiently. This might be achieved in two ways. The first is to rationalise the substantive rights of appeal set out in Part II of the Act. This would require legislation but it may be useful to set out the more realistic options which might be available should a suitable legislative opportunity arise. The second is to revise the procedure rules so as to ensure that scare resources of manpower and accommodation are devoted to the most serious issues which arise and that time is not wasted on less important matters.

6. Although implementation of the measures put forward for discussion in this paper might produce in due course a net saving in expenditure and manpower, the main aim at this stage is to make maximum use of the existing resources in order to speed up the hearing of appeals and thus to reduce the number of outstanding cases. It is not possible to give a precise estimate of the gains which would result, but if the proposals for amendments to the procedure rules in paragraphs 22-40 of the paper were put into effect they should enable the appeals system to handle a substantially increased number of cases with no increase in resources. Amendment of the Immigration Act 1971 on the lines indicated in paragraphs 7-14 could lead to further savings. On the other hand, if rights of appeal were given to illegal entrants before removal there would be a substantial increase in the number of appeals by such persons.

E.R.

B. RIGHTS OF APPEAL

Introduction

7. The Government believe that the existing rights of appeal set out in Part II of the 1971 Act form a broadly acceptable basis for the future. There could, however, be some modifications made which, without leaving anyone without a right of appeal at all, would lead to a fairer and more reasonable system. These modifications are discussed below.

Appeals against refusal to vary stay and against deportation

8. Under section 14 there is a right of appeal against a refusal to vary stay; and section 15 confers a right of appeal against a decision by the Secretary of State to deport. This effectively gives two opportunities to appeal where a person is admitted temporarily and is subsequently refused an extension of stay for which he has applied within his original time limit. That is to say, he may appeal against the decision not to extend his stay and, if he loses that appeal, may appeal again if he does not leave and a decision is taken to deport him.

9. The Government believe that this is wasteful of resources and far in excess of what a person aggrieved about an immigration decision could reasonably expect. They therefore propose that the two rights of appeal - that against refusal to vary stay and that against a decision by the Secretary of State to deport - should be combined. There would consequently be one right of appeal, in the course of which an appellant would be able to argue that he should have been granted an extension of stay under the immigration law and rules but that, if this claim is not accepted, he should in any case not be deported. Alternatively he would be able to argue that, despite any admitted absence of any claim to remain under the rules, he should nevertheless not be deported.

10. It is emphasised that it would remain open to an appellant to advance all the arguments that are available under the rules at present, particularly as to any relevant factors needing to be taken into account before a decision on deportation is reached. These are set out in paragraphs 141-149 of the Statement of Changes in Immigration Rules laid before Parliament on 20 February 1980 (HC 394).

E.R.

Rights of appeal of short-term visitors

11. It should be noted that section 14 of the Act confers a right of appeal exercisable in the United Kingdom on anyone who has a valid leave to enter or remain. This includes people who may have been admitted for a matter of weeks or even days as tourists. Visitors account for a large proportion of those admitted to this country. In 1979, out of a total of 6,900,000 persons admitted from all countries excluding the EEC, over 5,000,000 were visitors admitted for less than 12 months. The majority of these would have been admitted for six months or less. If a visitor applies for an extension within the time for which he is admitted and is refused he has a right of appeal. In some cases, because of the pressure on the appeals system, a person admitted for only a short visit may be able to prolong his stay for a quite disproportionate period by lodging an appeal. The system is open to abuse by appellants who lodge unmeritorious appeals and then withdraw them. In 1979 over half of all appeals against refusal to extend stay were subsequently withdrawn.

12. The Government would be reluctant to remove appeal rights altogether from short stay visitors, but at the same time they are concerned about the extra burden which these appeals place on the appellate authorities and the way in which the present system is abused. One way of meeting these concerns, without removing the right of appeal, would be to give a short stay visitor a right of appeal exercisable from abroad. However, this would clearly offer the appellant little advantage in practical terms. An alternative would be to remove altogether the right of appeal to an adjudicator. It would of course still be open to a visitor to make representations (through his MP) for his case to be re-examined administratively. It could be said that if a person has been admitted to this country for only a short visit, and he is refused an extension of stay, it is not unreasonable to require him to leave without a right of appeal. There is also an argument that if the right of appeal in these cases were removed it might be possible to take a somewhat more relaxed attitude about admission if the persons concerned could be removed more rapidly than is now the case. The Government will weigh up the conflicting arguments with care before reaching a final decision but would meanwhile welcome views on this matter.

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Appeals against refusal of leave to enter: double right of appeal of entry clearance holders, etc

13. The Government believe that there should continue to be a right of appeal against refusal of leave to enter, including refusal of an entry clearance, whether for settlement or for some temporary purpose. The success rate in appeals against refusal of entry clearance is comparatively high, being about 18% for persons seeking entry for temporary purposes other than employment and 24% in settlement appeals. Section 13(3), however, enables the holder of a current entry clearance or a person named in a current work permit to exercise his right of appeal, if refused leave to enter, before removal. And section 22(5) requires the rules of procedure to provide that leave to appeal to the Tribunal from a decision by an adjudicator dismissing an appeal by the holder of an entry clearance shall, if sought, always be granted. This has led to delays in deciding these cases since even in the most straightforward of them the passenger has every incentive to delay his departure by appealing to the Tribunal from an adjudicator's decision. People may be detained pending the outcome of their appeals and any provision which has the effect of unnecessarily prolonging detention is to be deplored.

14. The Government, therefore, while agreeing that holders of entry clearance or work permits should be able to exercise their right of appeal before removal, doubt whether if an appeal by the holder of an entry clearance is dismissed by an adjudicator, a further right of appeal to the Tribunal should be automatic. If there were no longer an automatic right, the passenger would, as in other types of case, have to apply to the adjudicator or the Tribunal for leave to appeal against the adjudicator's decision.

Appeals against revocation of a deportation order

15. The Government would question the need to preserve the right of appeal against a refusal to revoke a deportation order. A person who has been deported will have had the opportunity to appeal before removal and it seems over generous to permit him subsequently to apply for revocation of the deportation order, with yet further rights of appeal each time he does so. This particular right of appeal would appear to have been included for completeness alone. That no substantial injustice would result if it were absent is indicated by the fact that there were only 22 appeals under this provision in 1979, all of which were dismissed. Nevertheless, explanatory

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statements have to be written and time devoted by the appellate authorities, often at oral hearings, to reaching a determination. Given the present scarcity of resources, there is much to be said for removing any unnecessary extra burden, however small, from the appeals system.

Additional rights of appeal

16. There are certain directions in which it is from time to time suggested that rights of appeal should be increased. The most common suggestions are that:

(a) there should be a right of appeal to the courts from the Immigration Appeals Tribunal on a point of law and

(b) persons whom it is proposed to remove as illegal entrants should have a right of appeal before removal.

17. If a right of appeal were given as at (a), the appeal would probably lie to the Divisional Court of the Queens Bench Division, with a further right of appeal with leave to the Court of Appeal and the House of Lords. The case for such a right of appeal needs to be examined against the background of the remedies which are already available. An aggrieved person may at present appeal to an adjudicator, and, with leave, to the Tribunal. Where there is a point of law at issue he may further apply to the High Court for judicial review. This involves an aggrieved party making application to the High Court for one of the prerogative orders (those most commonly sought in immigration cases are certiorari by which the court quashes a decision; and mandamus by which the court requires something to be done).

18. The addition of a further right of appeal would inevitably add to the delays already experienced in the system. Immigration appeals are unusual in that delays work in favour of the appellant if he is already in the United Kingdom, and there is no doubt that a further right of appeal would be used by a number of appellants solely to delay their departure; as things are the appeal system is already abused in this way by hopeless appeals being lodged and withdrawn shortly before the hearing. There are already substantial safeguards in the existing appeals system, and in the absence of any prima facie evidence of injustice the Government are not disposed to accept that rights of appeal should be extended on these lines.

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19. The Government have considerable sympathy with the arguments of principle in favour of a right of appeal before removal of illegal entrants who have lived here for many years. Their cases often bear similarities to those of people on whom are served notices of intention to deport. It might also be hoped that the existence of a right of appeal before removal of illegal entrants would reduce the number of applications to the High Court for review of decisions in this area. There are nevertheless substantial difficulties in extending rights of appeal before removal. These are set out briefly below.

20. To confer a right of appeal before removal on an illegal entrant would place him in a more favourable position than people who seek to enter lawfully but who are refused entry and can only exercise their right of appeal after removal. Where the illegal entrant was apprehended in the act of seeking to enter, or even shortly afterwards, such a result would be manifestly unfair. It would not be practicable to extend rights of appeal before removal to everyone without quite unacceptable extra demands on resources. Such a situation would in any case be exploited by those who had no claim to enter but would seek entry nevertheless in the knowledge that by appealing they could at least stay in the country until their appeal was determined. Detention would ensue in those cases where the passenger could not be relied on not to disappear.

21. One way of avoiding these difficulties might be to confer a right of appeal before removal only on those illegal entrants who had resided in this country for a specified minimum period of time. The arbitrary selection of a period of time, however, could be said to be unfair to those who were on the wrong side (although they would still be able to appeal after removal). Also the setting of a period of time would benefit those who had been more successful in evading detection than those who had not. A major practical difficulty is that there is frequently no documentary evidence to establish precisely when an illegal entrant arrived. Thus even recently arrived illegal entrants might have to be given the opportunity to argue before the appellate authorities as a preliminary issue the question whether they fell within the time limits. This result (which would defeat the objective of distinguishing between one category of illegal entrant and another) could be avoided if illegal entrants were given a right of appeal before removal only if they first satisfied the Home Office that they had been here for a certain period. But this would leave the Home Office to some extent as judge in its own cause.

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22. The Government would welcome views on these matters but would wish to emphasise their determination to continue to deal firmly with illegal entry and other breaches of the immigration laws. Cateful consideration will have to be given to the substantial problems identified in paragraphs 18-20 above.

23. There is a related point on bail. If illegal entrants were given a right of appeal in this country against the decision to remove them it would follow that they should also be given the right to apply for bail while that appeal was pending. This would be in accordance with the existing provisions for other categories of appellant. If no new right of appeal were given to illegal entrants it is for consideration whether they should nevertheless be given a right to apply for bail. The Government's provisional conclusion is that illegal entrants should be given such a right, although it would be necessary to ensure that they were not put in a more favourable position in this respect than those here lawfully.

C. RULES OF PROCEDURE

Disposal of some appeals without oral hearing

24. As already stated, the main purpose of the Government's review of the rules of procedure has been to identify ways of speeding up the disposal of appeals. There are at present substantial delays (see paragraph 4 above). Given that there is little or no scope for increasing the resources available to the appellate authorities, it seems that the main way of reducing these delays and hearing cases more expeditiously is to consider whether some appeals could not be disposed of without an oral hearing. This would release scarce hearing room time for the cases where an oral hearing was indispensable.

25. The Government accept entirely that it would be possible for an appellant's case to be put orally to an adjudicator in all cases where there is significant room for argument on the law or facts of the case. The Government remain of the view that there are overwhelming practical difficulties over permitting appellants against the refusal of entry clearance to enter the country to put their cases in person. But it is right, for example, that where a woman and children are claiming a relationship to a man settled here, the case should be put orally, if that is desired, through the appellant's sponsor (i.e. the person claiming to be the head of the family), with specialist representation. Similarly, where deportation is in issue, the appellant should always have the opportunity to present orally any compassionate aspects of his case. And there are other areas where, under the Rules, there could be scope for argument about what view should be taken of the appellant's case.

26. There are, however, several areas where, given the requirements of

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the Immigration Rules, the issues in the case should normally be entirely straightforward. The provisions of the Immigration Rules which appear to meet this criterion are set out in Annex 1. In general these paragraphs lay down requirements which are so clear-cut that it should normally be readily apparent whether or not they are met. For example, there are requirements which cannot be met unless certain specific documents (e.g. work permits or entry clearances) are held, or permission to work is obtained from the Department of Employment, or the applicant comes from a particular part of the world, or falls within certain age or time limits. These are matters of fact which either apply or do not apply as the case may be. If they do apply, the applicant will readily be able to establish this without the necessity of putting his case orally. Indeed, in the nature of things it is the documentary evidence which will generally be crucial.

27. The paragraphs of the rules listed in Annex 1 all apply to situations of this sort and, where those paragraphs apply, it would normally be possible without any unfairness to determine any appeals on the basis of the case papers. It is therefore proposed that the procedure rules should provide for the respondent at first instance to suggest in his explanatory statement that the matter was one to which one or more of the provisions listed in Annex 1 related and so was capable of being determined without a hearing. Where the adjudicator agreed, he would be required by the rules to afford the appellant the opportunity to contest this proposition in writing within 14 days. After that time the adjudicator would consider whether there were any compelling reasons for hearing oral argument and, if there were none, would determine the appeal without more ado. He would have in the normal way to give a written determination with reasons and there would remain available to the unsuccessful appellant the existing remedy of application for leave to appeal to the Tribunal. In this way much hearing room time would be released for appeals where the need for oral argument of the issues was more pressing.

Provision for late appeals

28. The 1972 rules permit two procedures whereby an appeal may be brought after the time limits (prescribed in rule 4) have expired. Rule 5 enables a written petition to be served on the appropriate officer, who must refer it to the appellate authority. That authority may then grant a further opportunity to appeal if it is of the opinion that, by reason of special circumstances it is just and right so to do. Alternatively, notice of appeal may simply be lodged in the normal way and the respondent may then allege under rule 8(3)(b) that the notice was not given within the period permitted. Under rule 11 the appellate authority determines the validity

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of such an allegation as a preliminary issue but, under rule 11(4), it may allow the appeal to proceed, although out of time, if it is of the opinion that, by reason of special circumstances, it is just and right so to do.

29. In practice the existence of these two alternative avenues has caused confusion and the procedure for petitioning under rule 5 is now rarely if ever used. This is because, where an adjudicator dismisses an appeal on determination of a preliminary issue under rule 11, there is a right to apply for leave to appeal against his decision to the Tribunal. There is no such right where a petition is unsuccessful under rule 5. Given that the prcedure by way of late appeal has in practice proved to be one which is of most benefit to the appellant, there seems no reason for the retention of rule 5 and it might therefore be deleted from future procedure rules.

30. Circumstances sometimes arise where, although an appeal is received late, it seems to the respondent very likely that the appellate authorities will accept that the appeal should proceed on the grounds that, by reason of special circumstances, it is just and right so to do. It is already the practice in such cases for the respondent to forward the notice of appeal to the appellate authorities with a full explanatory statement. This avoids the need, should the adjudicator allow the appeal to proceed, for the case to go back to the respondent for the full explanatory statement to be written.

31. Further savings of time would be achieved in these cases if the respondent were empowered to take the decision that an out of time appeal should proceed. The entry clearance officer has such a power in the current rules as regards petitions brought under rule 5 and, with the proposal to delete rule 5, it seems appropriate in any case to introduce an equivalent provision into the procedure for dealing with late appeals. But there seems no good reason for confining the ability to permit appeals to proceed to entry clearance officers.

32. It is therefore proposed that in any case where an appeal is received late from someone who has a right of appeal and there appear to be special circumstances making it just and right for it to proceed, the respondent should be able, after preparing a full explanatory statement, to refer the appeal to the appellate authorities for determination. In any other case the respondent would be required to refer the matter to the appellate authorities with an allegation that the appeal had been received out of time. The appellate authorities would then, as under Rule 11 now, determine the

validity of the preliminary issue and decide whether or not it was nevertheless right to let the appeal proceed. They would therefore be the final arbiters on any case where the respondent did not agree that the appeal, although late, should proceed.

Time limit for provision of grounds of appeal

33. Rule 6 provides for notice of appeal to be given by completing a prescribed form which must contain, among other things, the grounds of the appeal. Frequently, however, notices of appeal are received without any grounds of appeal being given and it is necessary in such cases to request the appellant to furnish his grounds of appeal. This can be a time consuming process and it is thought that it could be much speeded up if the appellate authorities were enabled under the rules of procedure to set a date by which the grounds of appeal should be provided, with the sanction of moving straight to the determination of the appeal without a hearing in the event of failure to supply the grounds of appeal by the given date. There will, however, continue to be cases where the applicant is detained pending the outcome of his appeal and it is desirable to hold an oral hearing of the appeal even though no grounds of appeal have been received. This would remain permissible.

Leave to appeal

34. Rule 14 covers the circumstances in which appeal to the Tribunal lies only if leave is obtained either from the adjudicator or from the Tribunal. In other circumstances an appeal may be made to the Tribunal without leave. Paragraph (1) would appear to exempt appellants against the imposition of a leave to remain under section 14(2) of the Immigration Act 1971 from the need to obtain leave to appeal. These are people such as diplomats or members of visiting forces, who may cease to be exempt from immigration control on leaving their country's diplomatic service or armed forces and so have conditions imposed on any further stay. It is not clear why they should have more favourable treatment as regards the right to appeal to the Tribunal than categories of appellant in whose cases more might well be at stake.

35. Another curious effect of rule 14(1)(c) as at present drafted is that appeal to the Tribunal lies only with leave where an application for variation of leave is refused, but as of right if leave is curtailed or varied in a manner contrary to the wishes of the applicant but falling short

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of outright refusal. Both these anomalies could with advantage be removed from the Rules.

Provision of explanatory statement by specified date

36 Paragraph 11(2) requires the respondent, in any case where a preliminary issue has been decided in favour of the appellant, to submit a written statement by such time as the appellate authority directs. The provision sometimes has anomalous consequences: it may, for example, require the respondent to give priority to cases stemming from preliminary issues over more urgent cases (for example ones where people are detained) and occasionally it has not been possible for the respondent (because, for example, he was an entry clearance officer based overseas) to meet the appellate authority's deadlines. It would seem sufficient for the respondent to be obliged to forward the full statement as soon as practicable.

Appeals to the Tribunal by passengers holding entry clearance

37 As already mentioned in paragraph 12 above, the holder of an entry clearance or a person named in a current work permit must, if he seeks it, be granted leave to appeal to the Tribunal against any dismissal by an adjudicator of an appeal against refusal of leave to enter. It is quite clear that this avenue of further appeal is regularly being exploited simply for the purpose of achieving delay in removal. For example, in 1979, of 60 such appeals to the Tribunal from passengers refused leave to enter whose appeals were dismissed by adjudicators sitting at Harmondsworth, 40 were in the event withdrawn before the hearing by the Tribunal. In 1978, of 85 such appeals, 51 were withdrawn before hearing.

38 The substantive right of appeal cannot of course be amended without legislation but there are two ways in which the procedure rules might be changed with advantage. The first is to reduce the time limit for appealing in such cases from fourteen days to seven. This would have the advantage of reducing the time spent in detention by some appellants. It should cause no great difficulty since the case will have already been prepared for argument before the adjudicator. The second is to empower the Tribunal to determine such appeals, if they think fit, without an oral hearing, on the basis of the adjudicator's determination and of the grounds of appeal.

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Performance of functions of Tribunal by Chairman sitting alone

39. Section 22(2)(b) of the 1971 Act envisages that the rules of procedure should enable any functions of the Tribunal which relate to matters preliminary or incidental to an appeal to be performed by a single member of the Tribunal. Such matters which could with advantage be covered by amended rules of procedure are:

(a) the determination of a preliminary issue; and

(b) the issue of written determinations on behalf of the Tribunal.

Preliminary Issues

40. The existing rules of procedure enable the respondent to allege as a preliminary issue in any purported appeal either that the would-be appellant is not under the Act entitled to appeal or that a travel document, certificate of patriality, entry clearance or work permit on which he relies to give him a right of appeal exercisable in this country is a forgery; or that the appeal is out of time.

41. There has been some confusion between appeals proper and appeals which are misconceived and it is thought that this could be remedied. On the forgery provision, it sometimes happens that the documents relied upon are not forged but do not relate to the person holding them. The provision could therefore be extended to cover such circumstances. Finally, it sometimes happens that a notice of appeal has not been signed by the appellant or by a person authorised by him (as required by paragraph 6(4) of the Rules) and it seems appropriate that this too should be a matter which could be raised as a preliminary issue.

Miscellaneous

42. Certain other matters of a minor drafting or technical nature have been noted since the present rules came into operation in 1973. They are not mentioned here but would be dealt with in any amending rules which the Government introduced after considering the comments on this paper.

D. THE IMMIGRATION APPEALS (NOTICES) REGULATIONS 1972

43. Certain minor drafting and technical amendments have been identified as desirable since the Regulations came into operation in 1973. One change

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relates to the notification of rights of appeal in cases where the applicant has been granted what he has applied for (this may happen when a person who has been exempt from control applies to remain for a limited period on ceasing to be exempt). This and other minor drafting changes would be made at the same time as any amendments to the procedure rules.

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PROVISIONS OF THE IMMIGRATION RULES

REFERRED TO IN PARAGRAPH 26

ANNEX 1

Paragraph 10	(refusal of leave to enter of passenger who is a visa national but has not obtained a visa);
" 26	(refusal of leave to enter of passenger seeking entry as an au pair but is the national of a country outside Western Europe, or is aged under 17 or over 27):
" 27	(refusal of leave to enter of passenger who is seeking work without work permit);
" 30	(refusal of leave to enter of passenger who is seeking entry as a working holidaymaker but is not a Commonwealth citizen or is under 17 or over 27);
Paragraphs 31 & 32	(refusal of leave to enter of passenger seeking entry for permit free employment where prior entry clearance required but has not obtained that clearance);
Paragraph 35	(refusal of leave to enter of passenger arriving to join or set up in business without holding a prior entry clearance);
" 38	(refusal of leave to enter of passenger seeking entry as a person of independent means without holding a prior entry clearance);
" 39	(refusal of leave to enter of a passenger seeking entry as a writer or artist without holding an entry clearance);
" 41	(refusal of leave to enter of a United Kingdom passport holder without a special voucher or entry clearance);
" 43	(refusal of leave to enter of passenger seeking entry as a dependant without entry clearance);
" 50	(refusal of leave to enter of a passenger seeking entry as a husband without entry clearance);
" 52	(refusal of leave to enter of a passenger seeking entry as a fiance without entry clearance);
" 75	(refusal of leave to enter of a passenger who is the subject of a deportation order);
" 90	(refusal of leave to remain because the application is to remain for a purpose for which entry clearance is required;

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Paragraph 91 (refusal of leave to remain for employment where person is subject to an employment restriction or from persons not so subject where the Department of Employment does not approve the proposed employment);

" 94 (refusal of leave to remain as a visitor where the passenger's visit exceeds or (if the application were granted) would exceed 12 months);

" 96 (refusal of leave to remain as a working holidaymaker whose stay as such exceeds or (if the application were granted) would exceed 2 years);

" 103 (refusal of leave to remain for training or work experience where Department of Employment do not approve proposed extensions);

" 106 (refusal of leave to remain as an au pair where applicant is from outside Western Europe or where period in au pair capacity exceeds or would exceed 2 years if the application were granted or if the applicant is under 17 or over 26 years of age);

" 107 (refusal of leave to remain in employment where the work permit is of less than 12 months validity and where the Department of Employment refuse to approve continued employment);

" 108 (refusal of leave to remain in permit free employment where person is here in some other capacity - because prior entry clearance required);

" 109 (refusal of leave to remain in business where person is here in some other capacity - because prior entry clearance required);

" 112 (refusal of leave to remain as a writer or artist where person is here in some other capacity - because prior entry clearance required);

" 113 (refusal of leave to remain as a person of independent means where person is here in some other capacity - because prior entry clearance required);

" 118 (refusal of leave to remain where people applying to stay beyond authorised absence from own countries).

spoke Home Office. Immigration
PM agrees that Mr Raison may write, but would like a cosy letter. MAP 25/VII

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SWIH 9AT

24.7.80

Dear Mike

We spoke about Hugo Young's article in last week's Sunday Times about Mr. Raison's handling of certain immigration cases.

I attach, for ease of reference a copy of the article. Mr. Raison wrote to Hugo Young and Harold Evans to complain about certain parts of the article and in response to these the Sunday Times have said that they will print a letter from Mr. Raison in answer. Mr. Raison has therefore prepared the enclosed draft which the Home Secretary has approved.*

In accordance with the normal practice I am writing to seek the Prime Minister's authority for Mr. Raison to write as proposed. Since I am afraid the letter has to be with the Sunday Times by 10.00 a.m. tomorrow morning if it is to appear this week, I should be grateful if you could let me know the answer over the phone.

Yours sincerely
William Fittall

W. R. FITTALL
Private Secretary

* Because of other urgent business the Home Secretary is in fact seeing the draft in tonight's box.

M. A. Pattison, Esq.

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SWIH 9AT

MINISTER OF STATE

I was surprised that Hugo Young in his personalised attack on me last Sunday under the heading "The Perversity of Commissar Raison's Law" should have got things so wrong.

Mr. Young was writing about the Filipino women who were determined by the High Court decision in the Claveria case to be illegal entrants on the grounds that they obtained entry by deception. (The case, incidentally, was about a decision to declare an entrant illegal taken under the previous Government.) The principle that those who obtained entry by deception are illegals has been strongly endorsed by the House of Lords in the recent Zamir case - again based on a decision taken under the last Government.

Mr. Young's article made no effort to explain that each Filipino woman had to get both a work permit as a resident domestic and a visa. To qualify they had to be single and childless. The work permit application form, which the agents usually completed, required declarations to that effect; and the visa application form which the woman signed, asked about marital status, although between 1973-76 it did not ask about children unless they were to accompany the applicant. Visa officers who interviewed applicants were under instructions to ascertain whether any children existed.

So while it is true that the agencies played a large part in providing false information, the only women who might in theory not have been party to the deception are the unmarried ones with children who applied between 1973 and 1976 and who were not interviewed thoroughly at our Embassy in Manila.

In the article Mr. Young totally failed to refer to the fact that the Home Secretary and I have made it clear that we will look with the greatest care at the circumstances of all the cases that come before us; and in particular that I have indicated that the cases of single women in this 1973-1976 category will be considered particularly sympathetically to see whether they were ignorant of the deception which was practised. Indeed I said this in the television programme to which Mr. Young referred. I am also looking carefully at other factors, for example whether, where women were given settlement, it was done in the knowledge by our officials that they had children. Where this was the case, I regard that as grounds for allowing them to remain.

It is quite clear, then, that we are exercising the ministerial discretion to which Mr. Young refers - though I accept that I have said that I do not think it right, in the light of the judicial

/decisions

The Editor,
Sunday Times.

decisions, to grant a blanket amnesty to all the Filipinos.

Mr. Young himself accepts that deception can properly be regarded as grounds for illegality when it applies to racketeers, "especially from Pakistan." What he does not face is the question why an amnesty should be given to this particular group in toto - the majority of whom do not claim to us that they did not know of their deception - while being withheld from all the other people whom the courts have found illegal on grounds of deception. /Moreover, Mr. Young's statement that "least of all did any of the women imagine that the existence of children had any bearing on their right to be in Britain" is quite unsubstantiated./

/Perhaps for the record the following point should also be made. The figure of 141 cases is not unfortunately finite, and of course if all those concerned were given settlement their children would naturally be entitled to come as well./

Obviously the problems thrown up by these cases are very difficult, as are many others in the exercise of ministerial discretion in the field of immigration. In these particular cases, the women who are told they have to leave are being sent back to their own country and their own children, having had the advantage of several years' earnings which would not have been possible if deception had not taken place. Against this, they have generally worked hard, often in unpopular jobs, over the years, and their own country is very poor (although this is also true of Bangladeshis and Pakistanis) and I cannot see that it is wrong to say that the decisions about these cases should be made in the light of the specific circumstances of each case, rather than on a blanket basis. And I cannot see that Mr. Young set out the position fairly.

(TIMOTHY RAISON)

Inside politics

The perversity of Commissar Raison's law

by HUGO YOUNG, Political Editor

MR WILLIAM WHITELAW made an admirable speech last weekend urging fair treatment for black, brown and immigrant people in Britain. It was all the more noteworthy for being so unusual, and also because it drew the sting from another poisonous piece of fantasy-building by Mr Enoch Powell: a man, incidentally, who having removed himself to Ireland should surely stop posing as an authority on communal tranquillity.

Mr Whitelaw, however, is the ample embodiment of a political truism: that while it is quite easy to be liberal, humane and statesmanlike in general (even as a Conservative Home Secretary), these virtues are harder to display in particular.

Behind the well-meant rhetoric stand the unpleasant facts of one particular set of cases, which invite from the Home Secretary roughly the same measure of fairness as he urges upon the world at large towards immigrants in general — and which have signally failed to receive it.

THE CASES are small in number, which means that they rarely appear in the headlines, but which also makes them a test of Tory decency rather than Tory pragmatism. They are not a swamp: they threaten no one: they add up to about 150 women, many of whom have been here seven years and more, and most of whom, from tomorrow, face the threat of accelerated "removal" from this country.

The women are mostly from the Philippines. They came here to work as domestic servants in hotels and private houses, often for low wages, most of which they remitted home.

This may seem a strange way of life for these Filipino women to adopt. But it was a measure of conditions at home that they should have done so: also of the state of the British labour market, in which vacancies for domestic work far outnumbered domestic domestics willing to fill them. Accordingly this remained for many years one of the few categories of unskilled job obtainable by a quota of foreign workers.

As early as 1972, women began coming to fill the quota, quite legally. After four years here, they could acquire "resident" status, and thenceforth work without a permit and bring their children over here. This, however, is where their troubles began.

A good many of the women had not stated when applying to come that they had children. They were often quite unaware that they were meant to do so, nor was this made clear on the forms they had to sign. In many cases, moreover, they were recruited by employment agencies with British links, who took responsibility for form-filling. Least of all did any of the women imagine that the existence of children had any bearing on their right to be in Britain, as distinct from their attraction to employers.

For several years, they were fortified in this by the British authorities. "Illegal" immigration, which is what they are now accused of, was for the first five years' operation of the 1971 Immigration Act a term confined to those who turned up on remote beaches at dead of night, and the like. Only from about 1976 has a line of court cases been developed which says that "deception" may also render an immigrant "illegal."

While sensible enough as a precaution against increasingly sophisticated immigration rackets, especially from Pakistan, this is the weapon which has now been wheeled out with retrospective effect against the Filipino women, most of whom committed no conscious deception and many of whom have worked hard here for seven years.

A judgment on Thursday by the Law Lords has finally sealed their fate. Put very simply, it ruled that even the accidental omission of information can amount to illegal deception, and invalidate an entry certificate. According to the Home Office there are now 141 women awaiting consideration of their cases. After the Lords judgment, they are thrown entirely on the compassion and good sense of the junior Home Office minister, Mr Timothy Raison—who has so far behaved rather more like a bureaucratic commissar than the founding editor of New Society.

About the politics of this affair, three things seem worth saying. The first is that it is not a traditional immigration issue. Behind the remaining 141 women there is no tide to be staunched; the quota for domestics was ended altogether three years ago. Yet the response of the Home Office is as unimaginative as that of a soviet politburo.

Secondly, the justification for refusing in almost all cases to exercise the minister's discretion and let these women stay plumbs some pretty advanced depths of intellectual dishonesty. Asked on LWT's London Programme why he could not be more compassionate, Mr Raison contended that it would be "totally wrong" for the Home Office to "overturn" what the courts had decided. This remained the official Home Office line last week.

THIS REASONING presents a picture of a minister struggling against his humane instincts, virtuously to obey a law set down by higher men than he. Yet the truth is rather different. Far from being a passive servant of the law, it is the Home Office which has mobilised the courts against these women and argued in case after case for the strictest interpretation of "deception." They did not need to bring these cases. They chose to do so, in an attempt to get the law they want.

But thirdly, having got this law, Home Office ministers have not lost their discretion. It is still their decision to take in spite of the court cases, and it cannot be shuffled off on to the judges, perhaps as if to prove that the Tories, unlike the Labour Party, "respect the law."

There is no social, legal or economic reason why Mr Raison should not let all the remaining 141 stay. Such a decision would restore his fading reputation for social concern—and Mr Whitelaw's claim to be acting as well as speaking the language of social justice.

Ougmali G/R

CF to note

Immigration RH

cc: I Gow
H.O.
constd

13 March 1980

Dear Mr Cocks

Thank you for your letter of 26 February enclosing a further one from the Reverend Ivan Selman about the new Immigration Rules.

I am sorry that Mr Selman was unhappy about my first letter to you. As I am sure he will acknowledge, we set out in our Manifesto last year what we intended to do about immigration, and how we related it to race relations. The British people endorsed our approach. I think there is wide acceptance - not least among the ethnic minorities - that fears about continuing large scale immigration are directly inimical to good race relations in this country. This is why in accordance with our mandate we have reinforced immigration control by the new Rules, which were laid in final form on 20 February and came into force on 1 March.

There is nothing racialist about them. You do not need my assurance - although I am quite ready to give it - that the Rules will not be applied in a racially discriminatory way: they contain explicit injunctions that they are to be applied without regard to race, colour or religion.

On the two particular points which Mr Selman raises, you will know that we have modified our original proposals in relation to the entry of elderly parents and grandparents, to remove the test that to qualify for entry they should be faced with a standard of living substantially below that of their own country, which we accepted

/could

could in some circumstances have been difficult for them to meet in conjunction with the other requirement - preserved from the previous Rules - that they should be wholly or mainly dependent on children in this country.

Our changes in relation to husbands and fiances do two things. They strengthen the tests to ensure that a man is not able to come here by virtue of a marriage which he has contracted primarily for this purpose; and they confine the right to bring in a man to those women who have the strongest connection with this country, and who would therefore have to sacrifice most in going abroad to live with their husband in his country. The man's motives in marrying will be relevant. His racial origin will not.

Yours sincerely

MT

The Right Honourable Michael Cocks, MP

From: THE PRIVATE SECRETARY

Immigration

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SWIH 9AT

19 February 1980

2

PRIME MINISTER

Dear Nick

To glance ngs

STATEMENT OF CHANGES IN IMMIGRATION RULES

I enclose, for information, an advance copy of the new Immigration Rules which are to be published at 2.30 p.m. on Wednesday, 20 February. — on l.h.s. A file

I am sending copies of this letter, and the new Rules, to the Private Secretaries to other Members of the Cabinet including the Minister of Transport, and to David Wright.

Yours sincerely
Tony Butler

A. J. BUTLER

N. J. Sanders, Esq.

Original = GR
CF to HO

cc HO Immigration BK

10 DOWNING STREET

THE PRIME MINISTER

21 January 1980

Dear Richard,

Thank you for your letter of 18 December enclosing one from the Reverend Ivan Selman, Chairman of the Race Relations Working Party of the Bristol Council of Christian Churches about the Government's proposals for revision of the Immigration Rules.

The proposals contained in the White Paper which we published on 14 November and which have now been approved by both Houses of Parliament are in no sense an attack on the arranged marriage or on the culture and traditions of minority groups. It is no part of our function as a Government to interfere with people's marriage customs, and of course we respect the right of the Asian Community here to adhere to their traditional practices and customs. All we have said is that we cannot be expected to admit men for marriages which are arranged with the husband's immigration in view. The new Rules will not discriminate on grounds of race or religion, and they embody different treatment of the sexes only to the extent which is necessary to curb the abuse of the existing rules and inevitable because of the primary legislation. Increasingly women from the Asian community who contract marriages with men from overseas will themselves have been born here and will thus satisfy the new requirements in this respect.

/We consider

We consider that public confidence in the effectiveness of our immigration control is an important factor in promoting good community relations in this country. The current influx of husbands and fiances is a clear contradiction of our efforts to assure people that primary immigration is a thing of the past. Our intention is to provide an unassailable base from which to resist racialism. In this way we shall ultimately attain our objective of ending any polarisation between the minorities and the rest of the population.

Although the particular figure is not relevant to the argument, the Council will no doubt have noted the most recent information from the Office of Population Censuses and Surveys which shows a net inflow of migrants from mid 1978 to mid 1979.

Yours sincerely

Margaret Thatcher

The Rt. Hon. Michael Cocks, M.P.

Original on:- PM: October 1979
Immigration

RECORD OF A MEETING WITH A DELEGATION OF THE BOARD OF DEPUTIES OF BRITISH JEWS HELD AT 10 DOWNING STREET AT 1000 HOURS ON TUESDAY 27 NOVEMBER 1979

Present:

Prime Minister
Mr. David Wolfson
Mr. Charles Anson
Mr. Mike Pattison

The Hon. Greville Janner (President)
Dr. Lionel Kopelowitz (Senior Vice President)
Mr. Martin Savitt (Junior Vice President)
Mr. Victor Lucas (Treasurer)
Mr. Stuart Young (Appeals Treasurer)
Mr. Hayim Pinner (Secretary General)

* * * * * * * * * * * *

In thanking the Prime Minister for her courtesy in receiving the delegation, Mr. Janner emphasised that the Board of Deputies were a non-party apolitical body representing the British Jewish community. The most difficult of the issues they wished to raise with the Prime Minister was immigration. The British Jews were an immigrant community. They accepted the responsibility of Government to control immigration, but viewed with anxiety the proposed different treatment of people not born in the United Kingdom. The Prime Minister said that she could go no further than recent statements by the Home Secretary. She had spoken on this issue in the election campaign. There was a major problem over fiances, who had no previous links with the country. The problem extended to their dependants. Her own constituency experience, where she had a substantial community of Asians from East Africa and the sub-continent, showed that the existing Asian community provided little opposition to the Government's proposals. There would always be compassionate exceptions to the new regulations and the problem of refugees from tyranny would also require different

/ solutions.

solutions. The Government had said how it proposed to handle immigration matters, and she would stand by that absolutely. There could be no perfect solutions in this difficult field. There would, of course, be a debate in the House of Commons to confirm the regulations before these were brought into force. Mr. Pinner said that Jews who had arrived in Britain in the mid-30s could be affected by these proposals. The Board of Deputies recognised what the Government was trying to do. Mr. Savitt asked the Prime Minister to bear in mind their representations whilst the Government finalised its intentions. The Prime Minister said that she could offer no hope of changing the Government's approach, although the views expressed would of course be considered.

Mr. Janner thanked the Prime Minister for the Government's agreement to the site for the Holocaust Memorial. The Prime Minister said that she had had no direct part in the decision, but was happy to accept the credit for her colleagues.

Mr. Janner expressed thanks for the Government's quiet assistance on the problems of Soviet Jews. In addition, Mr. Blaker's public comments in the House had been more forthright than those of his predecessor. The Prime Minister said that the Government would continue to do what it could, whilst endeavouring to avoid making life more complicated for East European Jews.

Mr. Janner said that the Jewish community were disappointed that the Government was not prepared to do better than their predecessors over the authentication of documentation required under the Arab boycott. Lord Byers had started movements to change the position in the House of Lords, but had withdrawn under commercial pressure. The Board of Deputies had asked the Government to disassociate itself from the authentication process and leave this to others, but last week the Government had announced that it would continue previous policy. The Prime Minister said that she could not promise movement, but she recognised the delegation's wish to register their strong views on the subject. Mr. Pinner said that discrimination under the boycott now applied to Egypt as well as Israel. The Prime Minister said that, as in

/ the case of

the case of Rhodesia, the sooner a settlement was achieved in the Middle East, the better for all parties concerned.

Mr. Janner asked whether there might be some quiet Government move on oil supplies for Israel. Her difficulties were much greater now that the last fields had been handed back to Egypt. The Prime Minister doubted whether there could be any developments here. Britain had responsibilities both as part of the EEC and as a member of the International Energy Agency. The 5% shortage created by the Iranian situation had been bad enough. If the 7% shortage were to be reached, triggering the IEA sharing arrangements, there would be an entirely new situation. Politics had taught her never to extrapolate from trends. In respect of oil supplies there had been few predictions of the Yom Kippur war and recent Iranian events, both of which had had a dramatic impact. Those monitoring developments had been alarmed by the Mecca Mosque attack whose ultimate meaning was not yet clear. It was still proving impossible to get the consumer countries and OPEC countries together. In Western countries faced by the alternative of massive unemployment, Governments were getting their oil where they could. This created a volatile spot market. The Prime Minister could not blame Governments who took this action. The UK was not yet up to self-sufficiency. If future developments did create shortages above the 7%, i.e. the trigger point, there would be major international activity because of the crippling economic effect: the long-term implications could not be properly assessed. It was not in the Arab interest to create such a disturbance. Mr. Janner said that Saudi Arabia, Kuwait and some other producers had an interest in stability, but it was not true of all. The Prime Minister said that it was in the interest of some major Arab states to keep the Western economies functioning.
Dr. Kopelowitz said that the delegation were asking whether the Israeli oil companies could obtain commercial supplies from the North Sea companies. The Prime Minister said that North Sea production was committed for some time ahead. About half our exports were already going to Europe. Mr. Janner said that the Board of Deputies understood that there had been approaches to the

/ British Government

TO BE CHECKED AGAINST DELIVERY

2

PRIME MINISTER
Mr Whitelaw's statemet for tomorrow
MJS
13/11

HOME SECRETARY'S STATEMENT ON THE NEW IMMIGRATION RULES

With permission, Mr. Speaker, I shall make a statement about immigration.

I am today publishing a White Paper setting out the Government's proposals for revising the Immigration Rules. The Immigration Act 1971 requires the Home Secretary to lay before Parliament a statement of any changes in the Immigration Rules, and the statement may be disapproved by a Resolution of either House. My purpose in publishing our proposals as a White Paper is to enable them to be debated before I lay that statement of the new Rules.

The White Paper is the result of a comprehensive review. The new Rules will be clearer, easier to operate and firmer in a number of critical areas.

We shall end the automatic right of entry of the husband or fiancé of a woman settled in this country. But it is not my intention to keep out the husband or fiancé of a woman who was born in the United Kingdom and whose marriage is not contracted for immigration purposes. The object of the new Rules is to prevent the exploitation of marriage as an instrument of primary immigration. We cannot permit that to continue.

I have not overlooked the fact that some girls will have been born abroad because their parents happened to be out of the country (for example in Crown Service or business) at the time

of their birth. It is my intention to consider such cases sympathetically for favourable treatment outside the Rules.

We undertook to end the practice of allowing permanent settlement for those who come here for a temporary stay. The new Rules will provide that visitors and students will not be able to remain for another temporary purpose if this carries with it the prospect of eventual settlement. Visitors will be prohibited from taking employment. People who wish to set up in business or to stay here as self-employed persons or as persons of independent means will have to meet stricter requirements and will need first to obtain entry clearance.

We undertook to limit the entry of parents, grandparents and children over 18 to a small number of urgent compassionate cases. Children aged 18 or over will qualify for settlement only where the circumstances are of the most strongly compassionate nature, though special consideration will be given to daughters under 21 who formed part of the family unit overseas and have no other relative to whom they can turn. Parents and grandparents aged 65 or over and widowed mothers already have to show that they are wholly or mainly dependent on children in this country who can support and accommodate them. In future they will also have to show that they are without other relatives in their own country to whom they can turn and that they have a standard of living substantially below that of their own country. Parents and grandparents under 65 will not qualify for entry save in the most exceptional compassionate circumstances.

/We also.....

We also said we would severely restrict the issue of work permits. This is not a matter for the Immigration Rules, but my rt. hon. Friend the Secretary of State for Employment is today making a written statement on the subject.

The White Paper explains that the Government will consider on the basis of the present Rules all applications made before today.

The other changes in the White Paper are the result of the comprehensive review which I have mentioned. Obscurities have been cleared up, anomalies have been removed, and the scope for abuse and evasion of the control has been reduced.

The Government believes that firm immigration control is essential in order to achieve good community relations. The new Rules will not affect our commitment to certain United Kingdom passport holders being admitted under the special voucher scheme, nor to men lawfully settled here who wish to be joined by their wives and young children. We shall continue to welcome the genuine visitor and the genuine student. What we are determined to do is to deal strictly with those who seek to evade or manipulate the control.

Seen by MAP Immigration

E.R.

BACKGROUND NOTES

PROPOSALS FOR REVISION OF THE IMMIGRATION RULES

Home Secretary's statement and publication of White Paper

1. The Home Secretary made a statement (copy attached) on 14 November about the Government's proposals for revision of the Immigration Rules. These were contained in a White Paper published on the same day. The main proposals are summarised in the following paragraphs.

Husbands and fiances

2. The purpose and intention of the new Rules are set out in the Home Secretary's statement. The Conservative Manifesto said that the rights of all British citizens legally settled here are equal before the law whatever their race, colour or creed. The new Rules will operate without discrimination on grounds of race, colour or creed. All woman born here will be in the same position. !!

3. The Government recognise the claims of British women with strong ties here. Those ties are represented in the proposed new Rules by citizenship of this country by birth. Citizenship by itself is not enough since it would leave the way open to daughters born overseas of parents themselves born overseas to form the stepping stone to further primary immigration leading to the entry of yet more dependants.

4. The Immigration Rules are not covered by the Sex Discrimination Act 1975 and so cannot be in breach of it. Women settled in this country may be at a disadvantage in some cases in their ability to bring in their husbands. Equally, however, women overseas are better placed when it comes to being able to join their spouses in this country. It would not be possible to apply the same restrictions to men settled here because of the nationality and patriality legislation. Commonwealth wives of patrial citizens of the United Kingdom and Colonies are themselves patrial (i.e have the right of abode) and all wives of such citizens may become patrial citizens themselves by registration.

5. It is no part of the Government's intention to discourage the traditional practice of the arranged marriage. But the Government is not obliged to permit primary immigration through marriages arranged for this purpose (and this results in a reversal of the traditional pattern whereby the wife joins her husband in his home). There have also been all too many cases of girls in this country being forced by their families to marry a man they do not want to marry because the families see advantage in enabling that man to come to this country. Well over a hundred letters a year are received by entry clearance officers in the Indian sub-continent from girls asking that their fiance be refused entry because the marriage is being forced on them.

Dependants

6. The Government remains committed to allowing men settled here to be joined by their wives and young children. The United Kingdom's record has been extremely generous in this respect. This generosity cannot be extended indefinitely to other relatives (all of whom may then qualify to bring in further dependants of their own). The Rules have therefore been changed to ensure that the entry of further relatives is kept to the minimum that is reasonable..

International obligations

7. We believe that the new Rules will not infringe our obligations of respect for family life or avoidance of discrimination or any other provision of the European Convention on Human Rights. If individuals are aggrieved they have the right to petition the European Commission on Human Rights. We do not expect any such petition to be sustained.

Permanent settlement for those who come for a temporary stay.

8. The White Paper contains several proposals which will make it more difficult for people to remain here permanently after gaining admission for some purely temporary purpose. The most important measure is that which will prevent visitors or students from being allowed to remain here for purposes (such as work, business, or self-employment) which carry the prospect of settlement after four years. Moreover, people entering as visitors or students will find it harder to prolong their stay in those capacities as a preliminary to digging in permanently : time limits will be set on the lengths of stay of visitors and students on short courses. The criteria for entry to set up in business or self-employment or as a person of independent

means have been greatly tightened up and an entry clearance must be obtained first. In addition refusal would be the normal course with applications from overstayers.

Work permit holders

9. The Government are looking very carefully at the scope for tightening the criteria for issuing work permits. This is not a matter for the Rules. As far as the Rules are concerned, we are taking tougher action in two respects. The new Rules will not allow work-permit holders admitted for short periods of employment to obtain extensions of their stay for continued employment unless the Department of Employment give their consent. Second, the wives and children of work-permit holders will be prohibited from taking employment.

Businessmen, the self-employed and persons of independent means

10. In future it will not be possible for people to settle here simply because they are rich. Those wishing to set up in business or as self-employed persons must show that they will be making a significant contribution to the economy. Persons of independent means will similarly have to show something more than that they possess the required sum of money.

11. The self-employed (other than writers and artists) will have to meet the same criteria as businessmen, which will in future include the possession of at least £100,000 in capital and the prospect that the business will make profits large enough to generate employment in this country. Those seeking to enter will have to obtain an entry clearance before coming here. No claim to remain as a businessman, self-employed person or person of independent means will be accepted after entry.

12. Persons of independent means will in future have to demonstrate in advance their claim to admission by obtaining an entry clearance. They will require a capital sum of at least £100,000 or an income of not less than £10,000 a year. In addition, they will have to show close links with this country or that their admissions would be in this country's general interests.

13. Writers and artists would be treated under separate provisions allowing them to remain if they can support themselves out of the proceeds of their writing or art.

E.R.

Au Pairs

14. The provisions governing "au pair" girls will be tightened up. In future there will be lower and upper age limits of 17 and 25 and the scheme will be restricted to nationals of Western Europe (including Malta, Cyprus and Turkey). Au pairs will not be able to take employment nor to spend more than 2 years in an au pair capacity.

Transitional and provision for debate

15. It is not possible to be precise about the effect of these changes on the numbers accepted for settlement. The proposals may reduce total acceptances directly by some 3-4 thousand in a full year but, because of the transitional arrangements proposed, their full effect will not be felt until 1984 or 1985. About half of the 65-70 thousand people accepted for settlement annually are wives and children whose right of acceptance is not in doubt. A reduction of 3-4 thousand a year in the remainder is not insignificant. Moreover much of the reduction will be in an area (husbands and male fiances) where the present Rules are known to be exploited; the proposed changes in other areas will make it harder to extend temporary periods of stay with a view to evasion of the control or to eventual settlement; and some potential sources of future increases in numbers accepted for settlement (such as au pairs from outside Western Europe) will be removed.

16. The purpose of publishing the proposals for revision of the Immigration Rules in a White Paper is to enable Parliament to consider and debate them before they are laid in final form. It is hoped to have the debate and to lay new Rules before Christmas.

Paymaster General's Office
Privy Council Office
68 Whitehall
SW1

14 November 1979

DRAFT/8.11.79.

HOME SECRETARY'S STATEMENT ON THE NEW IMMIGRATION RULES

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I am today publishing a White Paper setting out the Government's proposals for revising the Immigration Rules. The Immigration Act 1971 requires the Home Secretary to lay before Parliament a statement of any changes in the Immigration Rules, and the statement may be disapproved by a Resolution of either House. My purpose in publishing our proposals as a White Paper is to enable them to be debated before I lay that statement of the new Rules.

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We shall end the automatic right of entry of the husband or fiancé of a woman settled in this country. But it is not my intention to keep out the husband or fiancé of a woman who was born in the United Kingdom and whose marriage is not contracted for immigration purposes. The object of the new Rules is to prevent the exploitation of marriage as an instrument of primary immigration. We cannot permit that to continue.

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From: THE PRIVATE SECRETARY

HOME OFFICE
QUEEN ANNE'S GATE
LONDON SWIH 9AT

CONFIDENTIAL

13 November 1979

Dear Nick MJS

WHITE PAPER: PROPOSALS FOR REVISION OF THE IMMIGRATION RULES

... I enclose, for information, an advance copy of this Command Paper which is to be published at 11.00 am on Wednesday 14 November.

I am sending copies of this letter, and the Command Paper, to the Private Secretaries to other members of the Cabinet including the Minister of Transport, and to Martin Vile.

Yours ever
Tony Butler

(A J BUTLER)

N J Sanders Esq

CONFIDENTIAL

Immigration

QUEEN ANNE'S GATE LONDON SWIH 9AT

8 November 1979

Dear Ian

Thank you for your letter of 1 November about the White Paper on the Immigration Rules. I agree with your understanding of the conclusions reached over the more important questions and note your views on medical examinations and working holidaymakers.

As you probably know, the Australian High Commissioner has also discussed the question of working holidaymakers with Tim Raison. As I indicated in my letter of 18 October to Richard Luce, this is a matter to which we can return if necessary after publication of the White Paper.

On your last point, I understand that steps have already been taken by your Department to minimise the possible adverse consequences of a flight of applicants to posts where there are no entry clearance queues. Posts have been warned to advise such people that the proper course is for them to apply in their own country, but that, if they insist on pursuing their application abroad, then reference to the relevant British post in the applicant's country of origin will be necessary with inevitable consequential delays.

I am sending copies of this letter to the recipients of yours and to Sir Robert Armstrong.

The Rt Hon Sir Ian Gilmour Bt MP

Immigration

PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

7 November 1979

John Chilcot Esq
Private Secretary to the
Home Secretary
Home Office
50 Queen Anne's Gate
London SW1H 9AT

V
MS

The Paymaster General has seen your letter to John Stevens of 1 November and is content with the arrangements which you propose for the publication of the White Paper.

I am copying this letter to Nick Sanders (No 10), John Stevens (Chancellor of the Duchy's Office), Murdo Maclean (Chief Whips Office) and the Press Secretary at No 10.

R E S PRESCOTT
Private Secretary

Immigration MAP

FCS/79/176

SECRETARY OF STATE FOR THE HOME DEPARTMENT

White Paper on Immigration Rules: Overseas Medicals

1. I have received a copy of Patrick Jenkin's letter of 22 October to you about the scope of overseas medicals for immigrants, and his wish to have a mention of this made in the debate on the White Paper on the Immigration Rules.

2. I have nothing against Patrick's proposals in principle, although as you and he concede they could, depending on their final form, much affect the work of our overseas posts. I agree with you therefore that before we make any announcement of our plans we should await the outcome of the Yellowlees' Review. Until we have seen his detailed recommendations we cannot say what shape our plans should finally take and cannot, therefore, assess their impact on FCO interests.

3. I am copying this minute to Cabinet colleagues and to Sir Robert Armstrong.

(CARRINGTON)

Foreign and Commonwealth Office

6 November 1979

12 DOWNING STREET,
S.W.1.

With

The Private Secretary's

Compliments

NJS to see
Ha
MAP

Government Chief Whip
12 Downing Street, London SW1

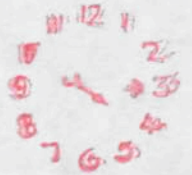
6 November 1979

The Chief Whip has seen your letter to John Stevens of 1 November and is content with the arrangements which you propose for the publication of the White Paper.

I am copying this to Nick Sanders (No.10), John Stevens (Leader of the House's Office), Richard Prescott (Paymaster General's office) and the Chief Press Secretary (No.10).

(M MACLEAN)

J Chilcot Esq
Private Secretary
Home Office
50 Queen Anne's Gate
SW1H 9AT



cc CDO
PSO

Immigration

HS

5 November 1979

The Prime Minister has seen your letter to John Stevens of 1 November. Subject to the views of colleagues she is well content with the arrangements proposed in that letter.

I am copying this letter to Murdo Maclean (Chief Whip's Office) and Richard Prescott (Paymaster General's Office).

N.J. SANDERS

John Chilcot, Esq.,
Home Office.

From: THE PRIVATE SECRETARY

CONFIDENTIAL

NJS to see MAP 2/XI.

HOME OFFICE
QUEEN ANNE'S GATE LONDON SW1H 9AT

1 November 1979

2

PRIME MINISTER

To note that the Immigration White Paper is due out on Wednesday 14 November

NJS

Dear John

WHITE PAPER ON THE IMMIGRATION RULES: HOME SECRETARY'S STATEMENT

I spoke to Petra Laidlaw (and recipients of copies of this letter) about the handling of publication of the White Paper on the Immigration Rules which the Cabinet has approved.

The Home Secretary proposes to publish the White Paper on Wednesday, 14 November, and to make an oral statement after Questions.

The Home Secretary hopes it will be possible for him, in the course of his statement, to indicate the Government's desire for a debate on the draft Rules in the White Paper, before the Rules themselves are made and come into effect. This implies a debate (I imagine for a full day) sufficiently before Christmas for the Rules themselves to be made before the House rises for the Christmas Recess. The Home Secretary would be glad to know that the Leader of the House is content, and on the assumption that he is, we might discuss the precise way in which this should be put in the statement.

As to timing of publication, the Home Secretary has it in mind to publish the White Paper in the morning, having told Parliament by way of a written answer the previous day that he would do so. This has two objects: first, to ensure that Members of Parliament have a full opportunity to consider the White Paper itself before the statement (avoiding the sort of charges that otherwise tend to be levelled at the Government); and second, to ensure that the provincial evening newspapers - one of the prime targets for news in this particular field - have time to assimilate and comment on the White Paper for that day's editions. The Home Secretary would propose to hold a press conference after his statement.

if this works, it will be a useful way to proceed in future (but not on Tuesdays or Thursdays!)

Copies of this letter go to Nick Sanders (No.10), Murdo MacLean (Chief Whip's Office), Richard Prescott (Paymaster General's Office) and the Chief Press Secretary (No.10).

Agreed

Yours ever, John

J. A. CHILCOT

John Stevens, Esq.

V/MP Immigration

Foreign and Commonwealth Office
London SW1

1 November 1979

Dear William,

WHITE PAPER ON THE IMMIGRATION RULES

On 16 October you circulated a memorandum with a draft White Paper on proposals for changing the Immigration Rules, and we agreed this in Cabinet on 25 October.

Most of the matters dealt with in the draft text which are of interest to the Foreign and Commonwealth Office have been considered in recent correspondence, resting with your letter of 18 October to Richard Luce. I think it would be useful, however, if I recorded our understanding of the conclusions we have reached over the more important questions.

Husbands and Fiancés of Women Born Abroad

We welcome your recognition of the need to say something at an appropriate time about the question of women who wish to bring in a husband or fiancé, and whose birth abroad was a result of their parents' temporary absence.

Presentation of the White Paper

We are agreed that there is a special need for careful explanation of our measures to the Governments of India, Bangladesh and Pakistan. We may be able to judge some of the reactions when

/we

The Rt Hon William Whitelaw MP
Secretary of State for the Home Department
Home Office
50 Queen Anne's Gate
London SW1

CONFIDENTIAL

we see how those three countries treat the disclosure of our intentions on husbands and fiancés. Our officials are already preparing comprehensive guidance for overseas posts.

Medical Examinations for Immigration Purposes

We appreciate your views that until Sir Henry Yellowlees' recommendations are known, no decision can be taken as to the feasibility and desirability of announcing them, in time for the debate on the White Paper. However, I should like to reiterate the point made by Richard Luce in his letter of 8 October that in our view there would be great advantage in arranging for both subjects to be debated together, if this proves at all possible.

Working Holiday-Makers

You know from Richard's letter that the Foreign and Commonwealth Office would have preferred to leave the present arrangements unchanged in deference to the representations made by Australia and New Zealand and in order to help to maintain our Old Commonwealth links. You may recall that when the Prime Minister visited Australia she gave assurances that the British Government would not introduce any changes in the immigration regulations that would adversely affect the existing rights of Australians to enter Britain and seek jobs here. The Australian High Commissioner has in the last few days made strong representations to Peter Blaker about this, and has now repeated Australian views in letters to Peter Carrington and yourself. I think we should look at this again when the White Paper is debated.

There is one further matter which has not been raised in correspondence but which I believe is of sufficient importance to be brought to your notice. Paragraph 13 of Part I of the draft White Paper deals with the transitional arrangements. We are grateful for your agreement that entry applications made before the date of the White Paper should be considered under the present Rules.

/This

This will ensure fair treatment for those applicants who have applied and are awaiting interview at Foreign and Commonwealth Office posts in the Indian sub-continent. However, there is also the question of how we are to deal with applications lodged between the date of the White Paper and the entry into force of the new Rules at posts (eg in Europe) where there are no waiting times. If such cases were to be considered under the present Rules there could well be a flight of applicants from the sub-continent to Europe. Officials of our departments are aware of this danger and I suggest they and our Legal Advisers should consider urgently how it can be prevented.

I am sending copies of this letter to our Cabinet colleagues.

Yours ever

Ian.

HOME SECRETARY

QUEEN ANNE'S GATE LONDON SW1H 9AT

30 October 1979

Dear Patrick

WHITE PAPER ON IMMIGRATION RULES (C(79)45)

Thank you for your letter of 22 October.

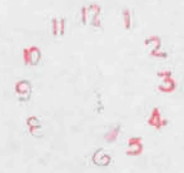
I am sure that it will be necessary to refer during the debate on the White Paper to the review of medical examinations in the context of immigration which is being undertaken in consultation with Sir Henry Yellowlees. Quite what we shall be able to say about the amount of medical screening overseas, and any changes which we propose to make, depends on what the Chief Medical Adviser recommends and how soon we are able to reach conclusions on his recommendations. I doubt whether this will be altogether a simple and straightforward matter, but I am very ready to approach it with an open mind.

I am sending copies of this letter to the Prime Minister, other Cabinet colleagues, including Norman Fowler, and to Richard Luce and Sir Robert Armstrong.

Yours

Willie

The Rt Hon Patrick Jenkin MP



PRIME MINISTER

In response to your request, the Home Secretary will mention his Immigration White Paper, under the Parliamentary Affairs item. In the box tonight you will see

(i) A note from the Chief Whip warning that there is anxiety on the backbenches about the proposed restrictions on foreign husbands and fiances; and

(ii) A note confirming that the Home Secretary has not completely ruled out a dependants register in the future.

24 October 1979

1.

CONFIDENTIAL

HOME OFFICE
QUEEN ANNE'S GATE LONDON SWiH 9AT

24 October 1979

PRIME MINISTER

Confirmation that Mr Whitelaw has not ruled out a register of dependents.

MAP 24/x

Dear Mike

IMMIGRATION RULES

Thank you for your letter of 23 October.

The Home Secretary will of course, as the Prime Minister asks, mention his plans for the Immigration Rules White Paper at Cabinet tomorrow, under the Parliamentary Affairs item.

So far as the register is concerned, I can confirm that the Home Secretary is not ruling this out, but for it to be enforceable it would, of course, require substantive and highly controversial legislation for which there is no room in this Session's legislative programme.

I am sending a copy of this letter to Martin Vile.

Yours sincerely

Tony Butler

(A J BUTLER)

M A Pattison Esq

CONFIDENTIAL

1.

10 DOWNING STREET

PRIME MINISTER

I attach a note from the Chief Whip, warning of problems within the Party on the immigration legislation.

As you requested, the Home Secretary intends to mention the proposed White Paper in Cabinet, and I have suggested that this be done tomorrow under the Parliamentary Affairs item.

MAD

24 October 1979

FROM: THE RT HON MICHAEL JOPLING MP

Government Chief Whip
12 Downing Street, London SW1

23 October 1979

Dear Prime Minister.

I had a discussion last week with the Home Secretary about the proposed Immigration White Paper. I have delayed writing to you, so that I could get some indication, after Parliament resumed, of the feelings in the House.

There is a strong feeling by certain Members against our proposals, both with regard to hardship caused by the restrictions on foreign husbands and fiancés of women in this country and from the Equal Opportunities lobby.

We may have considerable difficulty in selling out proposals to the Party; but the Home Secretary is meeting groups of members shortly to try to reduce the difficulties.

Yours Ever

Michael

The Rt Hon Margaret Thatcher MP
Prime Minister
10 Downing Street
SW1

CONFIDENTIAL

JB

CCCO

10 DOWNING STREET

From the Private Secretary

23 October 1979

The Prime Minister has seen the Home Secretary's minute of 20 October, and your letter to me of 18 October, about the White Paper on the Immigration Rules.

The Prime Minister is content with the arrangements which the Home Secretary has in mind for printing and publication. She would, however, like the Home Secretary to mention this subject in Cabinet, as it is a major part of the Government's Legislative Programme. This could most conveniently be done under the Parliamentary Affairs item on Thursday next, 25 October.

The Prime Minister has noted that there is some criticism from Government Backbenchers that the Government is not going ahead with a register. She has expressed the hope that the Home Secretary is not ruling this out altogether. Perhaps you could let me have a response on this point in the course of tomorrow.

I am sending a copy of this letter to Martin Vile in the Cabinet Office.

M. A. PATTISON

J.A. Chilcot, Esq.,
Home Office.

TCR

NBPM

MAP 27/4

DEPARTMENT OF HEALTH & SOCIAL SECURITY

Alexander Fleming House, Elephant & Castle, London SE1 6BY

Telephone 01-407 5522

From the Secretary of State for Social Services

The Rt Hon William Whitelaw CH MC MP
Secretary of State for the Home Department
Home Office
50 Queen Anne's Gate
London SW1

22 October 1979

Dear Willie,

WHITE PAPER ON IMMIGRATION RULES (C (79)45)

I understand the paper is being dealt with by correspondence. I am accordingly replying to your very helpful letter of 11 October pursuing only my main point of the review of medical checks on people coming for settlement.

My concern is with the burden immigrants may place on the health and social services both for their own treatment and care and for treating conditions they may communicate to others here. Our present dependence substantially on examination on arrival is not as effective as medical examination overseas. This could enable the departure for this country to be delayed and treatment to be given beforehand.

Clearly we cannot take this much further until we see the report on Sir Henry Yellowlees' review of medical examinations in the context of immigration. I see your difficulties about the possibilities of main legislation but I may well want to press that statutory backing is sought for compulsory medical examination overseas. I have not suggested, and I doubt whether I shall want to do so, that the rights of certain dependents to come here should be taken away on medical grounds.

If the White Paper is as you suggest silent on this subject then it seems to me essential that the debate on the White Paper should announce our intentions. I hope you can give a firm assurance on this.

I am copying this letter to Cabinet colleagues and to Sir John Hunt.

Yours ever

Patrick

PRIME MINISTER 1.

A note of on the most sensitive points is at "A". The Cabinet paper, with draft White Paper, is at "B". Agree that White Paper containing proposals for changes should now go to press, without Cabinet discussion - it was discussed in H?

MAD 22/X

PRIME MINISTER.

WHITE PAPER ON THE IMMIGRATION RULES.

On 15 October I circulated with my memorandum C(79)45 the draft White Paper containing my proposals for changing the Immigration Rules. That memorandum invited my colleagues to agree to the publication of the White Paper as soon as possible.

I have said publicly that I intend to publish the White Paper shortly after Parliament resumes and, with your agreement and that of our Cabinet colleagues, I propose to send the White Paper to the printers next Wednesday, 24 October, with a view to publication in mid-November.

Go ahead

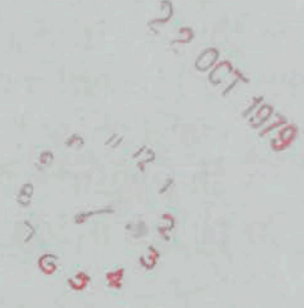
ans.

I am sending copies of this minute to other members of the Cabinet, the Minister of Transport and to Sir John Hunt.

Agreed but
- H- must be mentioned
at Cabinet because it is
so important. However I
understand there is some urgency
for - as
we are not going ahead until
a ruling is
which is not

HOW

20 October 1979


22 OCT 1979

From: THE PRIVATE SECRETARY

CONFIDENTIAL

HOME OFFICE
QUEEN ANNE'S GATE LONDON SW1H 9AT

18 October 1979

Dear Mike,

WHITE PAPER ON THE IMMIGRATION RULES.

The Home Secretary is minuting the Prime Minister and his Cabinet colleagues about the draft White Paper embodying a complete revision of the Immigration Rules which he has circulated as C(79)45.

It may be helpful to mention those points in the proposals which are most likely to prove controversial. It goes without saying that any restrictive measures in this field will encounter bitter criticism from certain interest groups, and likewise that any proposals short of total prohibition will attract calls from some quarters for yet more to be done. But there are some particularly sensitive points:

(i) Husbands and Fiances. (para. 4-5 of C(79)45) - the proposal is designed to meet the Government's basic objective, reflected in its Manifesto commitment, of preventing primary immigration through marriage, and it is designed at the same time by making provision for British-born women to marry someone from overseas, to accommodate the very strong wish (not least among the Government's own supporters) that women should be broadly on the same footing as men. The fact that they were not was one of the principal factors which led to genuine dissatisfaction with the pre-1974 arrangements. Many in the women's lobby will no doubt argue that even this proposal does not offer true equality. It is, however, a long step towards it. The proposal also has the merit of going a good way (in principle) to counter criticism that any restriction on foreign husbands must be racially discriminatory. The "British-born" criterion extends to people of all racial origins, though admittedly it discriminates between UK citizens depending whether they acquired that citizenship by birth here, or by registration or naturalisation having come here as immigrants. This aspect of the proposals will hardly silence the interest groups, but should make some appeal to moderate opinion and indeed to Commonwealth Governments. The risk of adverse findings under the European Convention on Human Rights, to which paragraph 6 of the Cabinet memorandum draws attention, cannot be eliminated if the Government's basic objective is to be met, but the form of the proposals at least enables the Government to mount a reasoned argument in proceedings under the Convention.

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The Home Secretary's judgment is that this proposal offers the best means of limiting really damaging criticism from a standpoint both of sex discrimination and racial discrimination, while meeting the Government's prime objective.

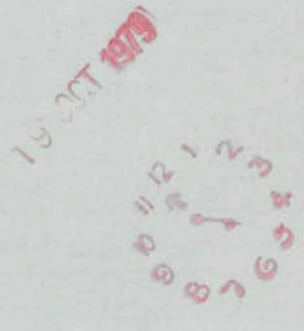
(ii) Students - the proposals in paragraph 21-25 and 97-100 of the draft White Paper contain some much needed tightening up, particularly in respect of employment by students' spouses and dependants, and of unsuccessful and fringe students who, for example, pursue for short periods successive courses over a long cumulative period while engaging in part-time and unauthorised employment. There is likely to be criticism from students' and other interest groups that these provisions will bite hard on genuine students particularly those from developing countries. There may be a little room here for some concession on points of detail when the Rules come to be made, but the educational institutions themselves, who encounter increasing problems with overseas students, may - privately at least - welcome some further tightening up. The proposals should contribute to the protection of the home labour market, and help to prevent de facto settlement by "perpetual students".

More generally, the proposals represent in several respects (e.g. work permits, dependants other than wives and minor children) a restrictive approach, and in many others (e.g. au pairs, working holidaymakers, and prospective businessmen) they will enable the control to operate more effectively against potential abuse. There will be many who will assert that the control is already so tight as to be oppressive and that under these proposals it will become still more so. But the Select Committee on Race Relations and Immigration drew attention to the need for further tightening of the after-entry control and these proposals go in the same direction as that unanimous all-Party Report.

Yours, John

J. A. CHILCOT

M. J. Pattison, Esq.



FILE

Immigration CPO

Original in C/R

cc: HO
Mrs. Watson
(UKF-BPW)

10 DOWNING STREET

THE PRIME MINISTER

3 October 1979

Dear Gerard,

Thank you for your letters of 18 and 27 September about the propriety of the Equal Opportunities Commission's opposition to our intended changes in the Immigration Rules on the entry of husbands and fiances.

As you will know, we are reviewing the Immigration Rules in the light of our election manifesto. In the last few months, Willie Whitelaw and his colleagues at the Home Office have attended meetings and received deputations from the ethnic minorities who have expressed the views of their communities on immigration issues. It was as a contribution to this public discussion that the Equal Opportunities Commission prepared a policy statement, setting out its views on how women might be affected by possible changes in the Immigration Rules and nationality law. This statement was issued to the press on 23 August and I understand copies were sent to all Members of Parliament. Copies were also sent to Women's organisations with a letter from the Chairman asking them to discuss and consider it.

The Equal Opportunities Commission is independent and it would be impossible to try to prevent it expressing views. I can understand the strength of your feelings, but the Government cannot intervene in the day-to-day activities of the Commission whether they raise questions about our policies or not.

Yours sincerely

Margaret Thatcher

W. G. O. Morgan, Esq., Q.C., M.P.

DPG

Immigration
file A

10 DOWNING STREET

From the Private Secretary

2 October 1979

Thank you for your letter of 1 October (to Nick Sanders) clarifying the effect of the new immigration rules in the case of women who may go overseas to marry and then attempt to return with their spouses. The Prime Minister has seen this, and has noted your view of the likely effect of the new rules.

M. A. PATTISON

J. A. Chilcot, Esq.,
Home Office.

TCR.

PRIME MINISTER. 2.

From: THE PRIVATE SECRETARY

CONFIDENTIAL

You commented that immigrants would return home to marry, as a way round the new immigration rules. Here is the Home Office response.

HOME OFFICE
QUEEN ANNE'S GATE LONDON SW1H 9AT

1 October 1979

MAP 1/X

Dear Nick

MO

IMMIGRATION RULES

Thank you for your letter of 20th September.

The new rules on husbands and male fiances would take away altogether the present right of men to join their wives or fiancees settled here.

The new rules in effect prohibit the issue of an entry clearance (a) if the primary purpose of the marriage or intended marriage is to obtain admission to the United Kingdom, (b) if there is no intention that the parties to the marriage should live together permanently as man and wife, or (c) if the parties to the proposed marriage have not met. While a couple can get over that particular hurdle by marrying overseas, they must also jump the other fence, and the new Rules go on to say that even when they can jump those hurdles, the man still has no claim to enter but that an entry clearance may be issued provided that the woman is a citizen of the United Kingdom and Colonies born in the United Kingdom. The basic requirement, that the woman shall have been born in the United Kingdom, will cut out a high proportion of the marriages contracted with the primary object of gaining settlement here; the other requirements are superimposed on that foundation.

Yours

Christine Stewart

for J. A. CHILCOT

N. Sanders, Esq.

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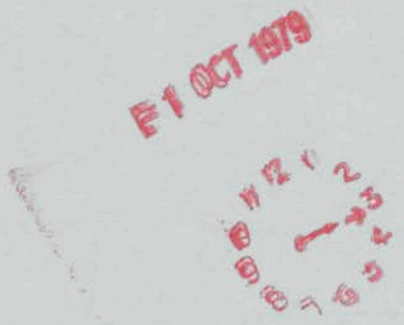
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VB

Immigration

20 September 1979

Immigration Rules

The Prime Minister was grateful to the Home Secretary for his personal minute of 19 September covering a copy of H(79)57. The Prime Minister has commented that she fears that families may get round the new provisions for marriages by sending daughters out to India, etc., for the marriage ceremony. You told me this morning that this was not likely to be an effect of much substance, if at all.

NJS

J.A. Chilcot, Esq.,
Home Office.

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2

PRIME MINISTER

To see. You will wish to read the attached paper, and we will let you know what comes of it at H next Wednesday.

MJS

PRIME MINISTER

... H(79)57

I enclose a copy of a paper which I am circulating to the Home Affairs Committee about changes in the Immigration Rules.

Paragraphs 4 to 6 refer to husbands and fiances. Because of the wide circulation of Home Affairs papers and the risk of a leak leading to misrepresentation these paragraphs have been particularly carefully drafted.

The effect will be to limit severely husbands and fiances being brought in from the Indian sub-continent under arranged marriages, which is the mischief we want to deal with; but a British born girl who marries, say, an American or a man from the old Commonwealth, will be able to live here with her husband if they choose.

This concession for marriages within the Western tradition will blunt some of the criticism of discrimination between the sexes. Although we shall be accused in some quarters of being racially discriminatory the charge can be in large part rebutted. It is not discriminatory to distinguish between a marriage freely entered into by two people making their own decisions and an arranged marriage where the partner is deliberately sought from abroad because of the financial and other advantages of gaining settlement in this country.

I doubt that this line can be sustained for long? MJS

I shall of course be explaining this to my colleagues in Home Affairs Committee and when we come to a debate in the House I shall set out quite clearly what we intend to do and why. But because of the political sensitivity of the subject it seemed to me that you would find a personal minute at this stage helpful.

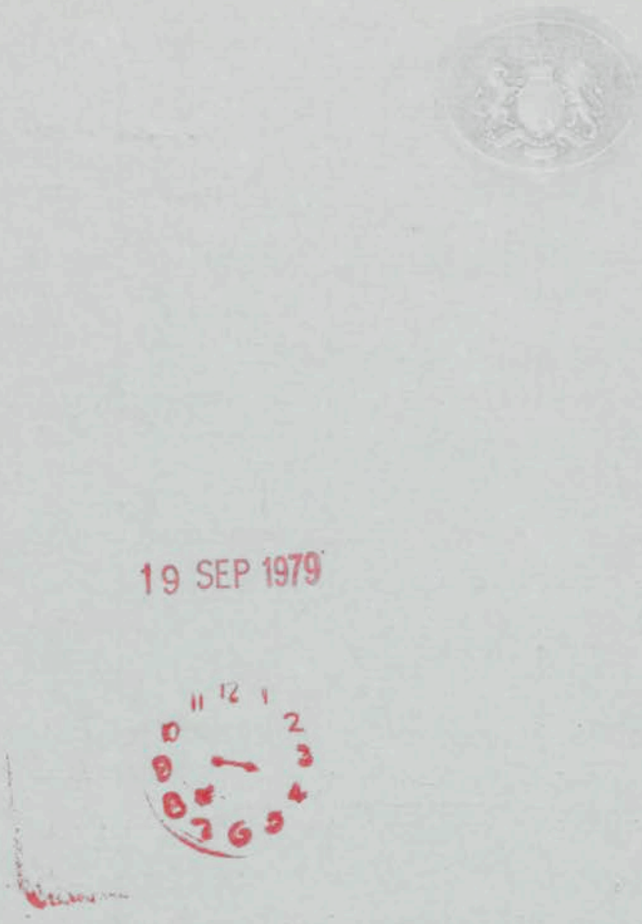
Thanks for letting me know about the White Paper. I hope that Jenkins will get round the "have not-not" provision by sending the draughtsman out to India etc for the married ceremony.

WW

19 September 1979

RT

PERSONAL AND CONFIDENTIAL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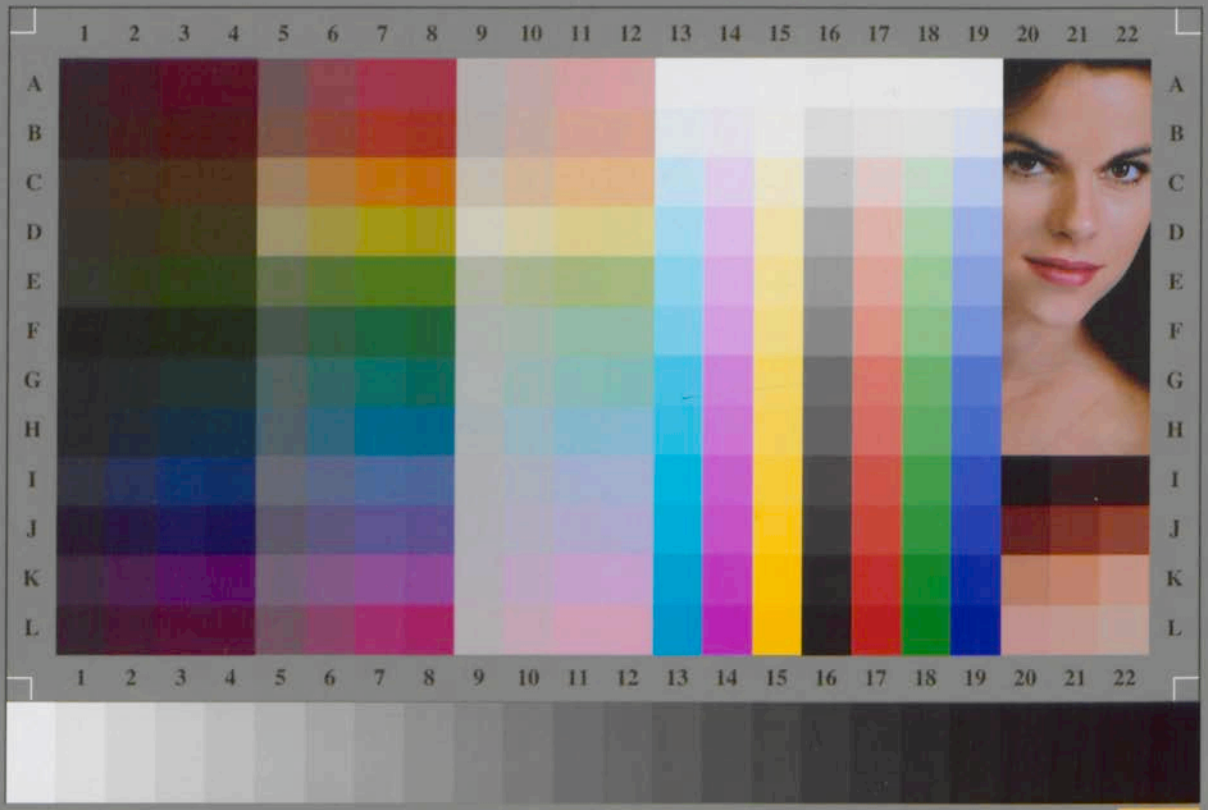

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