

## CHAPTER 2 – VISITORS

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## 2. INTRODUCTION

Visitors to the United Kingdom constitute by far the largest single category of passenger passing through the Immigration control. The majority of visitors leave the United Kingdom within the period of their leave to enter.

In June 2008 the Government published its response to the [public consultation](#) on visitors that set out proposals for making changes to the policy for short term visitors to the United Kingdom.

On 4 November 2008 the [Immigration Rules](#) were amended to create a distinct category for business and special visitors and introduce new routes for visiting sportspeople and entertainers, based on previous concessions.

Visitors under the new Business, Sport, Entertainer and Special Visitor route will need to meet the main general visitor criteria. For those that are included under ‘Special Visitors’ please refer to the respective paragraph of the Immigration Rules.

### **Multi-Entry Visit Visas issued before 27 November**

Those who at the date of the Rules changes hold valid long term multi entry visit visas will be able to continue to travel on them providing that they continue to meet the requirements of paragraph 41, and in the case of business visitors, paragraph 46G.

## **Multi-Entry Visit Visa issued on or after 27 November**

A business person issued a long-term multi-entry business visitor visa from 27 November will be able to use that visa to return to the UK as a general visitor, e.g. for tourism or to visit family as well as for further business visits. The principle here is that any visitor who was required to meet the requirements of paragraph 41 in their application can carry out general visitor activities whilst in the UK.

### **Business Visitor**

A Business Visitor is a person granted leave to enter or leave to remain in the UK under paragraphs [46G-46L](#), [75A-F](#) or [75G-M](#) of the Immigration Rules.

### **Sports Visitor**

The criteria for Sports Visitors are set out in paragraph [46M – 46R](#) of the Immigration Rules. A Sports Visitor is defined as a person granted leave for a short time (for a period up to six months) to take part in certain events

### **Entertainer Visitor**

The criteria for Entertainer Visitors is set out in paragraph [46S-46X](#) of the Immigration Rules. An Entertainer Visitor is defined as a person granted leave for a short time (for a period up to six months) to take part in certain major arts festivals, music competitions and charity events.

### **Special Visitor**

A Special Visitor is defined as a person granted leave for a short-term visit (for a period up to six months) in specific circumstances and includes –

- Visitor for private medical treatment (paragraphs [51-56](#) of the Immigration Rules)
- Visitors coming to get married or form a civil partnership (paragraphs [56D-56F](#) of the Immigration Rules)
- Parent of a child at school (paragraphs [56A-56C](#) of the Immigration Rules)
- Child Visitor (paragraphs [46A-46F](#) of the Immigration Rules)
- Student Visitor (paragraphs [56K-56M](#) of the Immigration Rules)
- Prospective Student (paragraphs [82-87](#) of the Immigration Rules)
- Visitor in transit (paragraphs [47-50](#) of the Immigration Rules)

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## **2.1 VISITORS - GENERAL**

The requirements to be met by a person seeking leave to enter as a general visitor are set out in [Paragraph 41-46](#) of the Immigration Rules

Although all the requirements of Paragraph [41](#) must be met, the main points on which the immigration officer needs to be satisfied are:

- that the person is giving a true account of [what he intends to do](#) during his stay in the United Kingdom and the length of time he will stay here; and
- that, during his stay, he does not intend undertaking any activity which is not allowed by the Rules relating to visitors (e.g. setting up in business) ; and
- that there are sufficient funds available to finance the stay (and that of any dependants) and the onward or return journey.

The examination of general visitors should be aimed at identifying promptly, with a minimum of questioning, those passengers who clearly meet the requirements of the Rules. If it immediately becomes apparent that a passenger qualifies for leave to enter as a general visitor, the examination should be concluded and the passenger given leave to enter.

### **2.1.1 Leave to enter**

Passengers granted leave to enter as general visitors should normally be admitted on either Code 5N or on Code 3 for 6 months. If, for any reason, less than six months leave is granted, the reasons should be noted on the reverse of the landing card and/or a report submitted.

**Use of Code 5N** Code 5N should be used only when the immigration officer is fully satisfied as to the passenger's intentions.

**Use of Code 3** Code 3 should be used whenever there remain doubts about the passenger but there are insufficient grounds to justify refusal.

### **CID Codes**

V General Visitor

### **2.1.2 Refusal of leave to enter**

Where no entry clearance is held (where one is required) and/or the requirements of Paragraph [41](#) are not met, the passenger should be refused leave to enter under Paragraph [43](#). A visa national seeking entry without a valid United Kingdom visa falls to be refused under Paragraph [320\(5\)](#). Where a child arrives without the accompanying adult specified on his visa, the visa will not be valid. Where a passenger seeking entry as a general visitor holds an entry clearance for this purpose, refusal may only be considered under [Paragraph 321](#) (See [Chapter 9, Section 3](#) to these instructions).

### **On entry refusal codes**

A1 Insufficient funds for proposed visit

A2 Not satisfied genuine visitor

### **Right of appeal and corresponding refusal form**

For guidance on whether or not the refusal attracts a right of appeal see [Chapter 12 of the IDI](#).

Note: Those seeking entry as a doctor undertaking the Professional and Linguistic Assessment Board test; as a doctor or dentist to undertake a clinical attachment

or dental observation post; or as a prospective student retain the appeal rights relevant to those categories even though they are included in the business and special visitor group.

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### **2.1.3 Leave to Remain**

The requirements to be met by a person seeking to remain in the United Kingdom as a general visitor are set out in [Paragraph 44 of HC 395](#) as amended by [HC1113](#). In particular, Caseworkers must satisfy themselves that:

- he has sufficient funds and is not working to support himself; and
- where less than 6 months leave to enter was granted, the reason for doing so does not still apply.

### **Granting leave to remain**

If the applicant satisfies all the requirements of the Rules, he may be granted leave to remain on Code 3 to complete a maximum period of 6 months.

### **CID Codes**

V1 Extension – General Visit

### **2.1.4 Refusal of leave to remain**

[Chapter 9, Section 1 "Adverse decisions](#) - General Guidance" provides important advice about the decision making process and should be consulted whenever an application falls to be refused.

### **CID Codes**

V5 Refusal - 6 months completed

V6 Refusal - Lack of funds

V7 Refusal - Intention to leave

V9 Refusal - Other reasons, including general grounds for refusal

### **2.1.5 Multi-Entry Visas**

Visit visas are normally valid for 6 months, 12 months, 2 years, 5 and 10 years. The visas are valid for unlimited journeys within the validity period of the visa. However, holders of visit visas may only remain in the UK for a maximum of six months on any one visit, **or until the visa expires if less than six months**. This restriction is indicated on the visa by the entry "180" days after the "Duration of stay" section. The holder may not remain (without further permission) in the UK after the "valid until" date on the visit visa, even if this is less than six months.

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### **2.1.6 Credibility**

The fact that a passenger claiming to be a visitor may be able to produce a return ticket (and other supporting evidence) does not guarantee that he intends to abide by his conditions of stay or that his intention to leave at the end of his visit is

genuine. All documents produced by a passenger should be assessed in conjunction with any other evidence, however circumstantial, which may be relevant to the case.

If there are any doubts as to a passenger's intentions, it is essential to obtain and record not only his statements as to his intentions but also full details of his background.

A visitor's proposed purpose in coming to the United Kingdom must bear some reasonable relationship to his financial means and his family, social and economic background. Previous immigration history and evidence of a pattern of family migration, both here and abroad, are also matters to be taken into account.

If a passenger or his sponsor is shown to have attempted to deceive the immigration officer or some other person in some material respect or where there are material discrepancies between what the passenger and his sponsor say, when the sponsor can reasonably have been expected to know the facts, these are again grounds for doubting the passenger's credibility and not therefore being satisfied as to his intentions.

### **2.1.7 Discretion outside the rules or leave to remain beyond six months**

Leave to remain beyond the six month maximum period should only be granted in the most exceptional compassionate circumstances such as the illness of a close relative (see the instruction relating to [Chapter 17 Section 2 - Carers](#)). Applications for leave to remain for a period beyond six months, where no such compassionate circumstances exist, should be refused (but see guidance on [academic visitors](#), [archaeological excavations](#), [doctors taking PLAB test](#), [parent of child at school](#) and [visitors for private medical treatment](#)).

Where, however, an applicant seeks to remain for no more than a few weeks because he was unable to obtain an earlier flight, leave may be granted provided the application was "in time" (within the original period of leave) and the ticket with a confirmed flight is produced.

### **2.1.8 Enquires to be made when less than 6 months leave to enter was granted.**

Where a person admitted for less than 6 months seeks an extension of stay, the landing card and, if applicable, the immigration officer's report should be obtained to establish why the lesser period was given. Consideration should then be given as to whether the reason for the grant of the lesser period still applies. Unless there are strong grounds for refusal (including any of the general grounds for refusal of leave set out in [Part 9](#) of the Rules), leave to remain should be granted on Code 3 to bring the applicant's total stay here to six months. He should be warned that this is the maximum period for which a visitor may remain. See also [`credibility`](#).

### **2.1.9 Frequency and Duration of Visits**

There is no restriction on the number of visits a person may make to the United Kingdom nor any requirement that a specified time must elapse between successive visits. The fact that a person has made a series of visits with only brief

intervals between them would not, in the absence of any other relevant factors, constitute sufficient ground for refusal.

It is reasonable, however, for the immigration officer to consider the stated purpose of the visit in the light of the length of time that has elapsed since previous visits. A visitor should not, for example, normally spend more than 6 out of any 12 months in this country (but see guidance relating to [visitors for private medical treatment](#)).

Occasionally, a business visitor may be required to stay for a period of weeks or even months (for example where machinery is being installed or faults being diagnosed and corrected). The immigration officer should be satisfied, however, that a person's presence here on business for more than 6 out of any 12 months does not mean that he is basing himself here and holding down a specific post which constitutes employment and would therefore require the individual to seek entry under the Points Based System.

### **2.1.10 Funds**

There should be evidence that adequate funds exist to support and accommodate the applicant. The source of the funds should be identified to ensure that the applicant is not working to support himself. The applicant should, if he is dependent upon funds from abroad, be asked to prove that the funds are transferable as certain countries operate strict exchange controls.

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### **2.1.11 Undertakings and Guarantees**

There is a clear requirement in Paragraph [41](#) of the Rules for a visitor to satisfy the immigration officer that he genuinely intends to stay for a specific period and will leave at the end of it. Paragraph [322\(7\)](#) specifically provides that an application for leave to remain should normally be refused if a person has failed to honour any undertakings as to the duration and purpose of his stay.

Where a visitor's intentions are in doubt but there is insufficient evidence to justify refusal of leave to enter, it is important that full details of the passenger's stated intentions (and in particular any undertakings given orally) should be recorded on the landing card or any other written account of the interview.

Applications for leave to enter are sometimes supported by undertakings or guarantees from sponsors, Members of Parliament, community leaders or other persons of standing.

It may be appropriate and acceptable to take into account promises of maintenance and accommodation made by a sponsor. There is a provision under the Rules [Paragraph [35](#)] for a sponsor to be asked to sign an undertaking in writing that he will be responsible for the passenger's maintenance and accommodation for the duration of his stay. There is also provision [Paragraph [320\(14\)](#)] for a person to be refused entry on the grounds that his sponsor has refused to give such an undertaking when requested to do so.

At this time it is not possible to enforce guarantees by third parties that a passenger will abide by his conditions of stay or leave the United Kingdom at the

end of a specific period. No such written guarantee or undertaking should therefore be either sought or accepted.

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## 2.2 BUSINESS VISITORS

A Business Visitor is a person granted leave to enter or leave to remain in the UK under paragraphs [46G-46L](#), [75A-F](#) or [75G-M](#) of the Immigration Rules.

For the purpose of the Immigration Rules a business visitor is someone who works abroad but who intends to visit the UK for short periods of time in order to transact business on their own or their employer's behalf. As well as meeting all the normal requirements for leave to enter as a visitor the immigration officer must be satisfied that the applicant

- is based abroad and has no intention of transferring his base to the United Kingdom even temporarily.
- will not receive his salary from a UK source, although we would allow a business visitor to receive reasonable expenses to cover the cost of his travel and subsistence.<sup>1</sup>
- is not involved in selling goods or services direct to members of the public.

Those included as Business Visitors are:

- [Academic Visitors](#) .
- [Doctors](#) taking the Professional and Linguistic Assessment Board (PLAB).
- Those seeking entry for [Clinical Attachment/Dental Observation](#).
- [Visiting professors](#) accompanying students undertaking study abroad programmes.
- Film crews (including Actors, Producers, Directors, and Technicians) on location shoots only, provided they are employed or paid by an overseas company.
- Representatives of overseas news media provided they are employed or paid by an overseas company and are gathering information for an overseas publication or programme.
- Seconded from overseas companies.(see paragraph [2.2.1](#))
- [Religious workers](#) undertaking some preaching or pastoral work during a business visit (e.g. to attend a conference), provided their base is abroad and they are not taking up an office, post or appointment.
- Advisers, consultants, trainers or trouble shooters (see paragraph [2.2.2](#)).
- To undertake specific, one-off training in techniques and work practices used in the UK provided this is not on-the-job training. (see paragraph [2.2.3](#) below).
- Those who intend to carry out one or more of the [`Permissible Activities` outlined in paragraph 2.2.4 below](#).

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<sup>1</sup> Some multinational companies will be administered from the UK, including the payment of worldwide salaries. In these circumstances entry as a business visitor may still be appropriate, provided the person is based abroad and intends to continue to be so.

### **2.2.1 Secondees**

[Rule 46G \(iii\)](#) (f) provides for persons to be seconded from overseas companies to UK companies as business visitors. This provision relates specifically and only to the situation where a UK company is to provide goods or services to an overseas company on a direct contractual basis, not vice versa; and where there is no corporate relationship between the two companies (i.e. they are not part of the same group of companies). The individual will be seconded, in a supernumerary capacity for the purpose of assisting the UK Company to deliver the contract, for example to clarify his company's specifications. The secondee must remain employed and paid by the overseas company throughout his visit.

Where a person is employed by an overseas company and is being seconded to a UK company which is related to the overseas employer, he must qualify to do so under the Intra-Company Transfer (ICT) arrangements of Tier 2 of the Points Based System. Therefore those who meet the ICT rules should not be granted leave under these arrangements for secondees. Persons coming to work in the UK in any other circumstances must qualify to do so under the relevant Tier of the Points Based System.

Secondees coming to the UK for the specific purpose provided by [Rule 46G \(iii\)](#) (f) should be granted leave to enter for a maximum of six months at any one time. In some cases such secondment arrangements can continue legitimately for longer than 6 months. Some are likely therefore to return to the UK for further periods. Provided the Immigration Officer is satisfied that they are returning for the same purpose for which they were originally granted leave to enter and that they meet general visitor requirements, multiple entry should be permitted.

### **2.2.2 Advisors, Consultants, Trainers and Trouble Shooters.**

Rule 46G (iii) (h) provides for advisors, consultants, trainers and trouble-shooters to come to the UK as business visitors. The provision relates only to persons who are employed by an overseas company and who are coming to provide advice, consultancy, training or troubleshooting services to its UK branch. They cannot conduct work, paid or unpaid, for or on behalf of the UK branch, including, but not limited to, providing services for the UK branch to other companies, working in a supernumerary capacity (e.g. internship, project managing or by way of short term temporary cover for the UK branch), or having direct involvement in producing goods for the UK company's clients. The person must remain employed and paid by the overseas company throughout the visit and typically their visit would be of a one-off short-term nature.

Where a person is employed by an overseas company and is being transferred to fill a skilled post in a UK entity that is related to the overseas company, he must qualify to do so under the Intra Company Transfer (ICT) arrangements of Tier 2 of the PBS. Persons coming to work in the UK in any other circumstances must qualify to do so under the relevant Tier of the Points Based System.

### **2.2.3 One-off Training in Techniques and Work practices**

Rule 46G(iii)(i) provides for persons to come to the UK as business visitors for specific, one-off training in techniques and work practices used in the UK. The

training could typically be classroom based and/or involve familiarisation or observation. The provision applies in the following circumstances:

- Where the visitor is an employee from the same group of companies overseas as the UK company and the training is to be provided in - house. (Example: where an overseas branch sends an employee to find out about the UK branch's marketing systems); or
- where it relates to a product or service that has been sold by a UK company under contract to the overseas company and the latter is to receive training on its use. In this instance the two companies do not need to be related corporately. (Example: training on how to use a piece of computer software that has been purchased); or
- where a company has contracted to provide training facilities only and no tuition, to an overseas company, the trainees and the trainers from the overseas company will be business visitors.  
Example: Provision of a classroom or piece of equipment; or
- where the visitor is an employee from the same group of companies overseas as the UK company and participating in a corporate training exercise provided to the UK company by an outside provider.

Those coming for training other than in the above circumstances e.g English language training must qualify to do so under the student or student visitor rules.

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#### **2.2.4 Permissible Activities**

- Those attending meetings, including interviews that have been arranged before coming to the UK or conferences.
- Those attending Trade Fairs provided this is restricted to promotional work and does not involve selling direct.
- Those arranging deals or negotiating or signing trade agreements or contracts, undertaking fact finding missions
- Those conducting site visits
- Those delivering goods and passengers from abroad such as lorry drivers and coach drivers provided they are genuinely working an international route;
- Tour group couriers who are contracted to a firm whose Headquarters is outside the United Kingdom who are seeking entry to accompany a tour group and who intend to leave with that tour group, or another tour organised by the same company;
- Speaking at a conference where this is not run as a commercial concern (organisers not making a profit) and the conference is a "one off".
- Representing computer software companies by coming to install, debug or enhance their products. Representatives of such companies may also be admitted as business visitors in order to be briefed as to the requirements of a United Kingdom customer but if they are to provide a service involving the use of their expertise to make a detailed assessment of a potential customer's requirements this should be regarded as consultancy work for which entry under the Points Based System would be required;  
Representing foreign manufacturers by coming to service or repair their company's products within their initial period of guarantee;

- Representing foreign machine manufacturers by coming to erect and install machinery too heavy to be delivered in one piece, as part of the contract of purchase and supply.
- Interpreting or translating for visiting business persons provided the interpreter/translator is employed by the overseas company and is coming solely to provide this service for the visiting company member.
- Monteurs (e.g. mechanics or serviceperson) - workers coming for up to six months to erect, dismantle, install, service, repair or advise on the development of foreign-made machinery.
- Board-level Directors attending board meetings in the United Kingdom provided they are not employed by a UK company, although they may be paid a fee for attending the meeting.

It is reasonable to expect those coming to the UK as Business Visitors (to attend meetings etc) to want to make use of their laptop/Blackberry whilst here. Provided this is solely to enable the Business Visitor to keep up to date with their own workload abroad, or to liaise with contacts in the UK, UKBA would not consider this as 'work' for the purposes of the Immigration Rules.

NB Once in the UK, Business Visitors may also carry out those activities outlined under paragraphs [46M and 46S](#) as a Entertainer/Sports Visitor.

### **2.2.5 Multi Entry Visas**

Visit visas are normally valid for 6 months, 12 months, 2 years, 5 and 10 years. The visas are valid for unlimited journeys within the validity period of the visa.

### **2.2.6 Dependants of Business Visitors**

Dependants of business visitors should be treated as general visitors under paragraphs [41 – 46](#) of the Immigration Rules or if under the age of 18 as child visitors under paragraphs [46A – 46F](#) and granted a maximum of 6 months leave to enter with a prohibition on employment.

NB: See paragraph [2.3.6](#) if dependants are accompanying Academic Visitors.

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## **2.3. ACADEMIC VISITORS**

Those seeking entry or leave to remain under this route must meet the requirements set out in paragraphs [46G-L](#). The following information sets out who is an academic visitor.

This route allows well qualified academics to visit the UK for a maximum of 12 months to undertake certain activities. They should be able to produce evidence that they have been working as an academic in an institution of higher education overseas, or in the field of their academic expertise immediately prior to seeking entry or entry clearance for entry in this category.

### **2.3.1 Who is an Academic Visitor?**

Academic visitors must be either:

- A person on sabbatical leave from an overseas academic institution who wishes to make use of their leave to carry out research here (to do research for a book for example); or
- Academics (including doctors) taking part in formal exchange arrangements with United Kingdom counterparts; or
- Eminent senior doctors and dentists coming to take part in research, teaching or clinical practice.

### **Academic visitors must:**

- Not receive funding for their work from any United Kingdom source (payments of expenses or honoraria to cover their needs whilst in the UK may be disregarded, as may payments on an exchange basis)
- Not intend to take employment or engage in any work other than the academic activity for which they are being admitted
- Not be filling a normal post or a genuine vacancy
- Not stay in the UK for more than 12 months
- Intend to leave the UK at the end of their visit
- Be able to maintain themselves and any dependants without having recourse to public funds (or be adequately maintained and accommodated by relatives or friends)
- Be able to meet the cost of the return or onward journey from the UK.

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### **2.3.2 Those who are unlikely to qualify**

- **Recent graduates:** Graduates, who have recently gained their degrees, either in the United Kingdom or overseas, would not normally qualify as it is unlikely they would have reached the level of expertise within their field that is expected of someone seeking entry under this category.
- **Postgraduate researchers** entering the United Kingdom to study for an accredited United Kingdom academic qualification (rather than for the purpose of academic research work that does not lead to a UK academic qualification) should enter as students if they meet the relevant requirements of the Immigration Rules. If they do not meet the student rules but they are a named researcher undertaking research for which a grant has been made to a university or research institution for instance then they will need to meet the requirements of Tier 2 of the Points Based System.
- **Lecturers:** A person who wishes to come to the United Kingdom solely to undertake a series of lectures for which they will receive a fee will normally be required to seek entry under Tier 2 of the Points Based System. Academics may, however, be eligible to enter as a mainstream business visitor for a maximum of 6 months if they are coming to participate in a conference or seminar where it is a single event, and the event is not a commercial venture (organisers are not making a profit).
- Those who are on sabbatical leave from private research companies are not eligible for leave under the academic visitor provisions.

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### **2.3.3 Sponsored researchers**

A sponsored researcher is a person who wishes to come to the UK to lead or to take part in any formal research project. Formal research projects are those hosted but not necessarily funded by a UK research institution including universities, non-commercial research organisations, charitable organisations and national research councils (such as the Medical Research Council). The sponsored researcher fills a research post and works under the full or partial control of the institution, which will itself benefit from the research. Sponsored researchers can be funded from sources in the UK or overseas.

Sponsored Researchers should enter the UK under the Tier 5 – Government Authorised Exchange of the Points Based System. However those academics who want to come to the UK simply to share knowledge or experience or to hold informal discussions with their UK counterparts may qualify as an academic under the Business Visitor route. The business visitor category may also be suitable for those who intend to conduct research for their own private purposes - such as to do research for a book - and are funded from a UK source (some fellowships exist to facilitate such research).

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### **2.3.4 Leave to enter**

Except for visa nationals, there is no mandatory entry clearance requirement attached to this category if they are seeking entry for six months or less. All visa nationals and anyone coming to the UK under this route for longer than 6 months will need to obtain entry clearance before travelling.

A person who applies for an "Academic Visitor" entry clearance may have the entry clearance issued for up to 12 months on Code 3 but they should be advised that 12 months is the maximum length of stay permitted under this category.

A person, not in possession of a visa or entry clearance, who wishes to enter for the purpose of an academic visit for a maximum of up to six months may be granted leave to enter under the rules for business visitors for a maximum of six months at the port of entry provided that he is not a visa national.

If the person concerned is a relevant foreign national (see [appendix 2](#) to the Immigration Rules), or a stateless person, or they hold a non-national travel document, they should be required to register with the police if they are admitted for longer than 6 months.

### **2.3.5 Endorsements**

Visas issued in this category should be endorsed:

'D: ACADEMIC VISITOR'. LTE UP TO 12 MONTHS. CODE 3; or

'D: TO JOIN/ACCOMPANY HUSBAND/WIFE/PARENT(S)'.LTE UP TO 12 MONTHS.CODE 3.

### **2.3.6 Dependants**

Where dependants of academic visitors are visa nationals they may be admitted, provided they hold the necessary entry clearance, on Code 3 as a General Visitor, in line with the academic visitor. Extensions of stay, where granted, should also be in line with the academic visitor. ([paragraph 41\(i\) & 42](#) of the Immigration Rules refers).

Dependants who are not visa nationals may be admitted *without entry clearance* for a period of up to 6 months as a general visitor, or if they hold entry clearance for a period not exceeding 12 months provided that all the requirements of [Paragraph 41](#) are met. ([Paragraph 44 \(ii\)](#) refers)

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### **2.3.7 Leave to remain as an academic visitor**

Applications for further leave to remain in the United Kingdom must meet the requirements of paragraph [46J-K](#) of the Immigration Rules and the criteria set out above. The maximum permitted stay for an Academic Visitor is 12 months.

### **2.3.8 Refusal of leave to remain as an Academic Visitor**

Where the requirements of the Immigration Rules are not met leave to remain should be refused under paragraph [46L](#) of the Immigration Rules.

### **2.3.9 Switching into employment under the Points Based System.**

A person who obtains leave to enter or remain as an academic visitor is *not* permitted to switch into employment under the Points Based System.

### **2.3.10 Schooling for dependants**

The requirement of the Rules that requires that a visitor must not intend to study at a State maintained school may be waived in respect of a dependant of a person who has entered the United Kingdom for the purpose of an Academic Visit, regardless of the period of leave for which they are admitted.

**N.B.** Admission to maintained schools is not an immigration matter. The Department of Innovation, Universities & Skills has policy responsibility in respect of admissions to schools in England. Admissions policy elsewhere in the United Kingdom is a matter for the devolved administrations of Scotland, Wales and Northern Ireland. Responsibility for deciding whether to admit a child to an individual maintained school rests with the school's admission authority, which is the local authority in the case of a community or voluntary controlled school, and is the school's governing body in the case of voluntary aided or foundation school. Where the length of stay is so short that it would not be practicable to admit the child to school it may be reasonable for an application for a school place to be refused.

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## **2.4 DOCTORS COMING FOR PROFESSIONAL AND LINGUISTIC ASSESSMENT BOARD TEST (PLAB TEST)**

The relevant provisions for those seeking entry or leave to remain for the purposes of sitting the PLAB Test are set out in paragraphs [75A to 75F](#) of the Immigration Rules. Doctors sitting the PLAB test are included in the definition of business visitor, but the provisions of paragraphs [75A to 75F](#) as well as their appeal rights are retained. Reference to those seeking entry under this category may also be found in [Chapter 3](#) of the IDI's.

Any doctor who wishes to practice medicine in the UK must register with the General Medical Council (GMC). Doctors who qualify overseas and wish to register must normally pass the Professional and Linguistic Assessment Board (PLAB) to demonstrate their knowledge of English and their medical expertise.

**Note:** Doctors applying to take any other test or examination, such as those required to enter one of the Royal Colleges, will also be treated as General Visitors and must demonstrate that they meet all the requirements of the General Visitor Rules. This means that they should not be granted more than six months of leave as a General Visitor and they will be subject to the normal restrictions on General Visitors switching into other categories of leave.

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### **2.4.1 PLAB Process**

**(Only doctors are required to undertake the PLAB Test, not dentists).**

Doctors who qualified overseas and hold a qualification which is not recognised by the UK must pass the PLAB Test in order to register with the General Medical Council (GMC). Before coming to the UK they must pass a pre-assessment test the "International English Language Testing System" (IELTS) assessment test.

(i) The IELTS is designed to ascertain whether the doctor has a reasonable command of the English Language in order to sit the PLAB Test.

(ii) The IELTS tests are held both overseas in various countries and in the United Kingdom.

(iii) If the doctor passes the different stages of the test he will be allowed to sit the PLAB Test in the United Kingdom.

(iv) Doctors are required to take the PLAB test to demonstrate their knowledge of medical English and their medical skills and knowledge.

(v) The PLAB test is divided into two separate assessments, Part 1 and Part 2.

(vi) The GMC stipulates that doctors must pass Part 1 before they can be admitted to Part 2 of the test.

(vii) Where a candidate fails Part 1 by a wide margin, the GMC will not allow him to re-sit Part 1 until a period of at least four months has elapsed from the date of the failed test.

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### **2.4.2 Leave to enter for the PLAB**

Entry clearance is only mandatory for Visa Nationals seeking to enter the UK to take the PLAB test

All the requirements of paragraph [75a](#) **must** be met and in particular the immigration officer must be satisfied that the person:

- is a graduate from a bona fide medical school and intends to sit the PLAB Test; and
- can provide documentary proof of a confirmed test date or of their eligibility to apply to sit the test; and
- meets the relevant Rules relating to visitors (paragraph [41](#)) including:
  - they will be able to maintain and accommodate himself and any dependants adequately without recourse to public funds; and
  - they will not take employment during their leave under this category (clinical attachments do not count as employment for these purposes).

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### **2.4.3 Documents required**

A candidate who applies for leave to enter in the United Kingdom to sit the PLAB Test should produce evidence from the GMC, which may take the form of:

- A GMC letter;
- Test admission card; or
- Email.

Conferred / Leave to enter on this basis may be granted for 6 months at a time, Code 3.

The maximum period allowed in order to complete both Parts 1 and 2 of the PLAB Test is 18 months.

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### **Entry clearance endorsement**

Entry clearance should be endorsed:  
D: PLAB test. LTE 6 months. Code 4

#### **2.4.4 Refusal of Leave to Enter**

Leave to enter should be refused if all the requirements of paragraph [75A](#) are not met.

A visa national seeking entry without a valid United Kingdom visa falls to be refused under Paragraph [320\(5\)](#). See [Chapter 9 Section 2](#) to these instructions.

Where a passenger seeking entry in this capacity holds an entry clearance for this purpose, refusal may only be considered under paragraph [321](#). See [Chapter 9 Section 3](#) for these instructions.

In the case of a person returning to the United Kingdom from a temporary absence abroad, within a period for which he was previously given leave, reference *must* be made, before refusal, to [Chapter 1, Section 9](#), "**Persons returning to resume previous leave**".

#### **2.4.5 On Entry Refusal Codes**

- A4 Unsatisfactory or unacceptable arrangements for proposed study
- A5 Not a genuine student
- E4 Lack of required visa or entry clearance
- S5 Not enrolled on course

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#### **2.4.6 Leave to Remain**

The criteria for those seeking leave to remain to take the PLAB test are set out in paragraphs [75D](#) of the Immigration Rules and should be read in conjunction with the advice set out above.

#### **2.4.7 Granting Leave to Remain**

If the requirements of paragraph [75D](#) are met, the applicant should normally be granted six months leave to remain at a time **on Code 3**.

NB Under current practices Entry Clearance Endorsements are given for 6 months, Code 4. As we are unable to implement technical changes to Proviso at this stage this will remain the case until the next set of Proviso changes are made in the spring.

#### **CID Code**

- VB Visitor Extension (Other)

#### **2.4.8 Refusal of Leave to Remain**

Leave to remain should be refused if any of the requirements of paragraph [75D](#) are not met.

[Chapter 9, Section 1](#) “**Adverse decisions – General Guidance**” provides important advice about the decision making process and should be consulted whenever an application falls to be refused.

## **CID Code**

V9 Refusal other reasons

### **2.4.9 Switching**

Doctors who pass the PLAB Test are not permitted to switch into any skilled employment route within the Points Based System.

Those Doctors in the UK to take the PLAB test are not permitted to switch into the category for Postgraduate doctors, dentists and trainee practitioners (paragraph [75A](#) of the Immigration Rules).

Doctors who come to the UK to take the PLAB test may undertake periods of clinical attachment during their leave. There is no need to apply separately to undertake a clinical attachment, **unless** the period of the attachment goes on beyond the expiry of the doctor’s leave in the UK to take the PLAB test.

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## **2.5 DOCTORS UNDERTAKING CLINICAL ATTACHMENTS, DENTISTS UNDERTAKING CLINICAL OBSERVER POSTS**

The relevant provisions for those seeking entry or leave to remain for the purposes of undertaking a period of clinical attachment or a dental observer post are set out in paragraphs [75G to 75M](#) of the Immigration Rules. Doctors on clinical attachment and dental observers are included in the definition of business visitor, but the provisions of paragraphs [75G to 75M](#) as well as their appeal rights are retained.

Overseas doctors or dentists who wish to work in the UK may undertake periods of clinical attachments or dental observation posts in order to familiarise themselves with UK working practices. These clinical attachments and dental observation posts are unpaid and involve observation only and not treatment of patients.

Overseas doctors and dentists can apply for leave to enter to undertake clinical attachment or dental observation posts. However, doctors who are already in the UK on leave to take the PLAB test, or on leave as postgraduate doctors, dentists and trainee general practitioners, can undertake clinical attachments or dental observation posts under their existing leave. They will only have to apply separately under the specific rules on clinical attachments or dental observation posts where their period of existing leave (to take the PLAB Test or as a postgraduate doctor/dentist/trainee general practitioner) is due to expire before the end of the clinical attachment or dental observation post.

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### **2.5.1 Entry Clearance**

Entry clearance is not mandatory for individuals seeking to enter the UK to undertake a clinical attachment or dental observer post except for visa nationals.

### **2.5.2 Leave to Enter**

The requirements to be met by a person seeking leave to enter the UK to undertake a clinical attachment or dental observer post are set out in paragraph [75G](#) of the Immigration Rules. All the requirements of paragraph [75G](#) **must** be met and in particular the immigration officer must be satisfied that the person:

- Is a graduate from a genuine medical or dental school; and
- Can provide documentary evidence of a clinical attachment or dental observer post which:
  - (a) Will involve observation only and not treatment of patients
  - (b) Will be unpaid; and

meets the relevant requirements of the Rules relating to visitors (paragraph [41](#)) of the Rules), including:

- That they will be able to maintain and accommodate himself and any dependants adequately without recourse to public funds; and
- That they do not intend to take up employment during the period of their stay

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### **2.5.3 Granting Leave to Enter**

Leave to enter should be granted as a person coming to undertake a clinical attachment or dental observer post on Code 4 for up to six weeks duration.

#### **Entry clearance endorsement**

Entry clearance should be endorsed:

D: Clinical Attachment. LTE 6 weeks. Code 4

D: Dental Observer. LTE 6 weeks. Code 4.

#### **What is the maximum stay in this category?**

Extensions of stay will normally be granted for six week periods up to a maximum stay of 6 months in total.

#### **CID Code**

STS Short term student

### **2.5.4 Refusal of Leave to Enter**

Leave to enter should be refused if all the requirements of paragraph [75G](#) are not met.

Where a **non-visa national** seeks entry in this capacity without a valid UK entry clearance issued for this purpose and does not meet the requirements of Paragraph [75G](#), he should be refused entry under Paragraph [75J](#) of HC 395.

A visa national seeking entry without a valid United Kingdom visa falls to be refused under Paragraph [320\(5\)](#). See [Chapter 9 Section 2](#) to these instructions.

Where a passenger seeking entry in this capacity holds an entry clearance for this purpose, refusal may only be considered under paragraph [321](#). See [Chapter 9 Section 3](#) to these instructions.

In the case of a person who returns from a short absence abroad within a period for which he was previously given leave, refusal can only be considered under Paragraph [321A](#) but reference should also be made to the section on continuing leave. See [Chapter 1 Section 9 Continuing leave and entry clearance as leave to enter](#).

### **On Entry Refusal Codes**

- A4 Unsatisfactory or unacceptable arrangements for proposed study
- A5 Not a genuine student
- E4 Lack of required visa or entry clearance
- S5 Not enrolled on course

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### **2.5.5 Leave to Remain**

The requirements to be met by a person seeking entry clearance to undertake a clinical attachment or dental observer post are set out in paragraph [75K](#) of the Immigration Rules. All these requirements **must** be met and **must** be referred to when following the advice set out in this guidance.

### **2.5.6 Granting Leave to Remain**

If the requirements of paragraph [75K](#) are met, the applicant should normally be granted leave to remain for a six week period at any one time up to a maximum limit of 6 months in total.

### **2.5.7 Switching**

Clinical attachments and dental observation posts help familiarise overseas doctors and dentists with UK medical or dental practice. They can be undertaken at any stage of the doctor or dentist's career and so applicants can switch into this category from leave to take the PLAB Test or leave as a postgraduate doctor, dentist or trainee general practitioner.

Those in the UK on Clinical Attachment or Dental Observer post are not permitted to switch into any skilled employment route under the Points Based System.

### **CID Code**

VA

### **2.5.8 Refusal of Leave to Remain**

Leave to remain should be refused if any of the requirements of paragraph [75K](#) are not met.

[Chapter 9, Section 1](#) “**Adverse decisions – General Guidance**” provides important advice about the decision making process and should be consulted whenever an application falls to be refused.

### **CID Code**

As per General Visitors

### **Statistical code**

STS - Short terms student

### **Rights of appeal and corresponding refusal forms**

Guidance regarding appeals (and the 1<sup>st</sup> and 2<sup>nd</sup> stage refusal process) can be found in ([Chapter 12](#)).

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## **2.6. VISITING PROFESSORS ACCOMPANYING STUDENTS UNDERTAKING STUDY ABROAD PROGRAMMES**

Paragraph [46G](#) of the Immigration Rules makes provision for visiting professors<sup>2</sup> who accompany students on study abroad programmes to be included in the definition of business visitor.

Students from overseas academic institutions come to the UK on Study Abroad programmes and can be accompanied by professors who oversee their study. Such professors may undertake teaching, limited to the institution hosting the students that they are supervising. Teaching should not be the visiting professor’s main purpose for coming to the UK. These visiting professors are to be regarded as business visitors provided they are employed and paid by an overseas institution and do not intend to base themselves here or seek employment in the United Kingdom.

### **2.6.1 Entry Clearance**

Except for visa nationals Entry Clearance is not mandatory for individuals seeking to enter the UK as a visiting professor.

### **2.6.2 Leave to Enter**

A person seeking leave to enter as a visiting professor must meet the requirements of paragraph [46G](#) of the Immigration Rules. Provided these requirements are met a maximum of 6 months leave to enter may be granted.

### **2.6.3 Refusal of leave to Enter**

A person who does not meet the requirements of paragraph [46G](#) should be refused entry.

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<sup>2</sup> This term includes both Visiting Professors and Teachers

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#### **2.6.4 Granting Leave to remain**

Provided that all the requirements of paragraphs [46G](#) are met leave to remain may be granted to complete a maximum of 6 months.

#### **CID Code**

V3: Business Visit

#### **2.6.5 Refusing leave to remain**

Leave to remain should be refused under paragraph [46L](#).

#### **CID Code**

As per Visitors: General.

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### **2.7 VISITING RELIGIOUS WORKERS**

Paragraph [46G](#) of the Immigration Rules makes a new provision for visiting religious workers who are coming here for a business visit (for example to attend a conference) and undertake some preaching or pastoral work during the visit to be included in the definition of business visitor. They must meet the requirements of paragraph [46G](#).

Visiting religious workers, who come to the UK for a particular event, such as a conference or other similar event, may be asked to give a sermon or otherwise preach or give some pastoral care during the course of their visit. This is permissible under the definition of a business visitor provided the individual is based abroad and does not intend to take up an office, post or appointment here.

**Note:** People coming to the United Kingdom to fill a vacancy as a religious worker for a recognised religion, who will be undertaking preaching and pastoral work will need to qualify under Tier 2 – Ministers of Religion – of the Points Based System.

People coming to the UK to work temporarily as a religious worker for a recognised religion will need to qualify under Tier 5 – Religious Workers – of the Points Based System.

#### **2.7.1 Entry Clearance**

Entry clearance is not mandatory for individuals seeking to enter the UK as a visiting religious worker except for visa nationals.

#### **2.7.2 Leave to enter**

A person seeking leave to enter as a visiting religious worker must meet the requirements of paragraph [46G](#) of the Immigration Rules.

### **2.7.3 Granting Leave to Enter**

Provided that all the requirements of the Immigration Rules are met leave to enter may be granted up to a maximum of 6 months.

### **2.7.4 Refusal of Leave to Enter**

If the requirements of the Immigration Rules are not met leave should be refused under paragraph [46I](#) of the Immigration Rules with no right of appeal.

### **2.7.5 Leave to Remain**

Leave to remain may be granted to complete a maximum of six months provided that the requirements of paragraph [46J](#) are met.

### **2.7.6 Refusal of Leave to Remain**

Leave to remain should be refused if the requirements of paragraph 46J are not met, with no right of appeal.

### **2.7.7 Switching**

A person who has entered the UK under the Business Visitor Rules as a visiting religious worker may not switch to another category.

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## **2.8 SPORTS VISITORS**

Paragraph [46M-46R](#) of the Immigration Rules replaces the previous concessions for 'sportspersons coming for specific events' 'persons coming for charity events', exhibition matches etc, amateurs joining amateur teams and 'polo grooms', personal coaches etc. The intention is to enable sportspersons coming to the United Kingdom for one of these purposes to do so outside the Points Based System. Sportspersons coming to base themselves here to work will need to qualify to do so under either Tier 2 or Tier 5<sup>3</sup>.

Sportspersons include:

- Amateurs and professionals coming to the UK to take part either as an individual or as a team in a specific event, tournament – e.g. Wimbledon or series of events see 2.8.1), or
- Members of the technical or support staff of amateurs or professionals, who are attending for the same event. Examples of such staff include team managers, personal coaches, doctors, physiotherapists, dieticians, bodyguards and press officers.
- Polo grooms, providing they are not intending to base themselves at the stables for the season;

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<sup>3</sup> Tier 2 – sports is for elite sportspeople and coaches who are internationally established at the highest level, or whose employment will make a significant contribution to the development of their sport in the UK. Tier 5 is for individuals in the sporting sector who are coming temporarily for up to 12 months.

- Officials, including those officials coming on a voluntary basis, attending the same event as the sportsperson. Examples include linespersons and umpires;
- Amateurs and professionals coming for a specific one-off charity sporting event or exhibition match, as either an individual or member of an overseas team provided the organisers are not making a profit and the sportsperson is not receiving a fee, for example the London Marathon.
- Those seeking entry for personal appearances and promotions such as book signings, television interviews, negotiating contracts or to discuss sponsorship deals.
- Sportspeople seeking entry for `trials' provided that the trial is not in front of an audience, either paying or non-paying.
- Those coming for training for short periods (whether as an individual or as part of team) provided that they are not basing themselves here, not being paid by a UK sporting body or joining a UK team and any matches they are involved in are of the friendly/exhibition type.

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### **2.8.1 Participation in an event not considered to be a sports competition**

Those coming to take part in competitions that do not fall within the definition of `sports' for the sports visitor provision, (for example Chess Tournaments) may be regarded as general visitors provided they meet the requirements of paragraph 41. They should not receive any fee or sponsorship for their participation but may receive cash prizes, board, lodging and living expenses.

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### **2.8.2 Definitions**

#### **Series of Events**

A series of events is defined as two or more linked events, such as a tour or rounds of a competition, which do not add up to a league or a season; for example, football teams coming to the United Kingdom to participate in pre-season friendly matches against English clubs, in competitions. This would also include those coming for a series of events that, although not part of the same competition, are being held in the UK at the same time. For example the AEGON Tennis Championship is held immediately before Wimbledon and we would not expect players to return home and seek fresh entry clearance.

#### **Amateur**

In the Immigration Rules an `amateur' is defined for the purpose of distinguishing him from a professional who is paid a salary for participation in sport (e.g. someone contracted to play for a sport or club) as a person who engages in a sport solely for personal enjoyment and who is not intending to derive a living, either wholly or in part, from the sport. For practical purposes though both amateur and professional sportspeople may enter as sports visitors in the circumstances set out in [paragraph 2.8](#) above. Amateurs may not receive fees

and sponsorship but may receive cash prizes as well as board, lodging and living expenses.

Sportspersons, who are amateurs not paid for playing at home, will be able to join a club in the UK as a sports visitor provided that the team is made up of wholly, or predominately amateur players and they are not being paid by the club other than board, lodgings and living expenses. 'Predominantly amateur' would normally be considered to be that the club has only one or two professional players. The club must be regarded within their sport as an amateur one (i.e. one where the players are not normally paid or contracted to play for the club) and would not normally be in a league regarded as professional within the sport.

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### **2.8.3 Leave to Enter**

A person seeking entry as a sports visitor must meet the requirements of paragraph [46M](#) of the Immigration Rules. He may be granted a maximum of 6 months leave to enter.

Prior entry clearance will only be required in the case of visa nationals. Sports Visitors may apply for a [multi entry visa valid for 1, 2, 5 or 10 years](#)

### **2.8.4 Dependants**

Dependants of sports visitors should be treated as visitors under paragraph [41 – 46](#) and granted leave to enter for 6 months with a prohibition on engaging in employment

### **2.8.5 Leave to Remain**

An application for an extension of stay beyond 6 months as a sports visitor should be refused under paragraph [46R](#).

### **CID Codes**

Business Visitor LTR: V3

### **2.8.6 Switching**

Sports visitors may undertake permissible activities of business visitors – see paragraph [46G \(iii\)](#) of the Immigration Rules and the list of [permissible](#) activities) contained in this guidance. They may also undertake Entertainer visitor activities – see paragraph [46S](#).

Switching to a purpose covered in the Points Based System after entry to the United Kingdom as a sports visitor is not permissible. However if a person has been issued with a Certificate of Sponsorship for Tier 5 – Creative and Sporting before they come to the UK, they may use this to apply for leave to remain to continue with the Tier 5 work without leaving the UK.

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## 2.9 ENTERTAINER VISITORS

Paragraph [46S-46X](#) of the Immigration Rules replaces the previous concessions for entertainers, which allowed them to come here for a short time without a work permit to take part in certain major arts festivals, music competitions and charity events. The intention is to enable entertainers and their entourage coming to the United Kingdom for one of these purposes to do so outside the Points Based System. Entertainers coming here to base themselves here to work will need to qualify to do so under either Tier 2 or Tier 5<sup>4</sup>.

Entertainer visitor includes:

- Professional entertainers coming to take part in music competitions
- Internationally famous people coming to the UK to take part in broadcasts or public appearances provided they are not performing or not being paid.
- Those undertaking an audition provided this is not performed in front of an audience (either paying or non-paying).
- Amateur entertainers seeking entry as an individual performer for a specific engagement;
- Amateur entertainers seeking entry as part of a group, such as a choir or youth orchestra coming for a specific engagement; This may include conductors, choreographers, stage managers and other non-performing staff supporting the group
- Professional entertainers taking part in a charity concert or show where the organisers are not making a profit and no fee is to be paid to the entertainer;
- Amateur or professional entertainer taking part in a cultural event sponsored by a government or recognised international organisation or a major arts festival included in the [Permit Free Festival](#) list.
- Members of the technical or support staff of amateurs or professionals who are attending the same event. Examples of such staff include make-up artists, personal bodyguards and press officers;
- Officials attending the same event as the entertainer. Examples include choreographers, and stage managers.

### **2.9.1 Permit Free Festivals**

The government intends to review the arrangements and criteria for festivals and cultural events that do not require participants to qualify to come to the UK under the Points Based System. The Permit Free Festival List remains in place for 2009 -2010 and details of those Festivals included on the 2009/2010 list are attached at [Annex A](#).

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<sup>4</sup> Tier 5 – Creative and Sporting is for people in those sectors coming to the UK temporarily for up to 12 months. Tier 2 – General is for entertainers who are coming for more than 12 months.

### **2.9.2 Leave to Enter**

A person seeking entry as an Entertainer Visitor must meet the requirements of paragraphs [46S-46X](#) of the Immigration Rules. He may be granted a maximum of 6 months leave to enter. Prior entry clearance will only be required in the case of visa nationals. (Those seeking entry in this capacity will not qualify if they intend to base themselves here).

**Note** Sikh religious entertainers (Kirtani players) are not covered by the entertainer visitor category, but need to seek entry to the UK under the religious worker sub-category of [Tier 5 of the Points Based System](#).

### **2.9.3 Definitions**

#### **Amateur**

In the Immigration Rules an `amateur' is defined, for the purpose of distinguishing him from a professional who is paid a salary for participation in a creative activity, as a person who engages in a creative activity solely for personal enjoyment and who is not intending to derive a living, either wholly or in part, from it.

NB For practical purposes both amateur and professional entertainers may enter as entertainer visitors in the circumstances set out above. Amateurs may not receive fees and sponsorship but may receive cash prizes as well as board, lodging and living expenses.

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### **2.9.4 Dependants**

Dependants of entertainer visitors should be treated as General visitors under paragraph [41 – 46](#) and granted leave to enter for 6 months with a prohibition on engaging in employment.

### **2.9.5 Leave to Remain**

An application for an extension of stay beyond 6 months as an entertainer visitor should be refused under paragraph [46X](#) with no right of appeal.

### **2.9.6 Switching**

Entertainer visitors may undertake permissible activities of business visitors – see paragraph [46G \(iii\)](#) of the Immigration Rules and relevant list of [permissible activities](#) of this guidance. They may also undertake sports visitor activities – see paragraph [46M](#).

Switching to a purpose covered in the Points Based System after entry to the United Kingdom as an entertainer visitor is not permissible. However if a person has been issued with a Certificate of Sponsorship for Tier 5 – Creative and Sporting before they come to the UK, they may use this to apply for leave to remain to continue with the Tier 5 work without leaving the UK.

### **2.9.7 Dual Purpose Visits**

Following the introduction of the Points Based System (PBS) in November 2008, performers coming to the UK to appear at a festival or festivals included on the **UKBA Permit Free Festival List** who also intend to undertake employment under the Tier 5: Temporary Workers Creative and Sporting sub-category of the PBS will require a Certificate of Sponsorship (COS) from a licensed sponsor, and will need to have this COS issued to them before seeking entry to the UK.

There are several options for performers coming to the UK in these circumstances:

If the Tier 5 sponsor for the employment covered by the COS is willing to extend the COS to cover the period(s) the performer will be appearing at Permit Free Festival(s), leave to enter may be granted ***on entry*** to non-visa nationals who are coming

- for three months or less. If the performer(s) is expecting to stay in the UK for longer than three months he will need to obtain prior entry clearance regardless of whether he is a non-visa national or not. As now, all visa nationals would need prior Entry Clearance to cover the whole period, regardless of the duration of their stay.
- If the Tier 5 sponsor does not wish to do this and the Permit Free Festival(s) is first, the performer may enter the UK as an entertainer visitor, undertake the Permit Free Festival appearance(s) and then apply to UKBA to switch into Tier 5 of PBS. The performer will then need to submit an application to vary his leave, paying the appropriate fee, (using the COS issued by his Tier 5 sponsor before the performer's arrival in the UK). Provided the performer meets the requirements of Tier 5, he will be granted leave to remain for the duration of the period specified by the sponsor when the COS was issued, plus 14 days (up to a maximum of 12 months). If the performer intends to then do further Permit Free Festival appearances during the period for which he has been granted leave to remain under Tier 5, he may do these appearances as supplementary employment.
- Alternatively, the performer can enter the UK under Tier 5, having first obtained entry clearance, if necessary. He will be granted leave to enter for 14 days before the beginning of his Tier 5 employment, and 14 days after the end of that period of engagement, up to a maximum of 12 months, and may undertake festival appearances as supplementary employment during his period of Tier 5 leave.
- Switching is only allowed from the visitor categories into Tier 5 in the circumstances described above. There is no other switching from visitor categories to the points based system. If the festival appearances are to take place beyond the period for which the performer has been granted leave to enter or remain under Tier 5, the performer would need to leave the UK and seek entry as an entertainer visitor to return to undertake further festival work.

Whatever route performers opt to take they will need to have evidence of both types of work to show the Entry Clearance Officer/Immigration Officer.

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## **2.10 PRIVATE MEDICAL TREATMENT**

Those seeking entry to the United Kingdom for the sole purpose of receiving private medical treatment must meet the requirements set out paragraphs [41 -46](#) of the Immigration Rules for visitors as well as meeting the specific requirements for Special Visitors – Private Medical Treatment set out in paragraphs [51-56](#) of the Rules. These rules must be read in conjunction with the following guidance.

Although all the requirements of Paragraph [41](#) must be met, the main points on which the immigration officer needs to be satisfied are that

- the passenger is genuinely seeking entry for the purpose of receiving private medical treatment;
- that the passenger does not intend to seek free treatment under the NHS;
- that the passenger does not represent a danger to public health (as set out in [2.10.4](#)); that the treatment is of finite duration;
- and that sufficient funds are available to pay for the cost of treatment and all other expenses until the treatment ends.

**N.B** Where a bona fide passenger returns to the United Kingdom to continue private medical treatment after a previous stay here for the same purpose, no account need be taken of the normal 6 month time limit for visitors as set out in paragraph [54 and 55](#) and in the guidance for Visitors –[General](#)

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### **2.10.1 Leave to Enter**

Passengers granted leave to enter in this capacity should normally be given either Code 5N or Code 3 for 6 months, as appropriate.

### **2.10.2 Refusal of leave to enter**

Where no entry clearance is held and the requirements of Paragraph [51](#) are not met, the passenger should be refused leave to enter under Paragraph [53](#) of the Immigration Rules.

A visa national seeking entry without a valid United Kingdom visa falls to be refused under [Paragraph 320\(5\)](#).

Where a passenger seeking entry in this capacity holds an entry clearance for this purpose, refusal may only be considered under [Paragraph 321](#)

Where no entry clearance is held, there is no substantive right of appeal against refusal of leave to enter as a visitor [Section 13(3A)(a) of the Immigration Act 1971 (as set out in Section 10 of the Asylum and Immigration Appeals Act 1993)].

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### **2.10. 3 Referrals to the Port Medical Inspector**

Under Paragraph [36](#) of HC 395, any person seeking entry who mentions health or medical treatment should be referred to the port medical inspector. [Chapter 1,](#)

[Section 8](#) "Medical" provides further guidance, including circumstances where the requirement to submit to medical examination may be waived.

In some cases, the immigration officer may need to establish the likely cost of any proposed treatment in order to assess whether or not a passenger has sufficient funds to cover both treatment and other expenses. The cost of in-patient treatment, particularly at the London hospitals, can be very high and will include treatment, accommodation charges and fees of doctors and surgeons.

#### **2.10.4 Refusal of admission on the advice of the port medical inspector**

- Under Paragraph [51\(ii\)](#) of HC 395, a person suffering from a communicable disease may be given leave to enter if he satisfies the Medical Inspector that there is no danger to public health. Where the port medical inspector decides that a person does represent a danger to public health, that person will fall for refusal under Paragraph [53](#), on the grounds that he has not satisfied the requirements of Paragraph [51\(ii\)](#).
- Even where a person seeking entry for private medical treatment meets all the requirements of Paragraph [51](#), however, he may fall to be refused entry under Paragraph [320\(7\)](#), i.e. that the medical inspector confirms that a person's admission is undesirable for medical reasons;
- Therefore, where the PMI has issued a certificate recording an illness other than a communicable disease, e.g. mental disorder, the passenger falls to be refused entry under Paragraph [320\(7\)](#).

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#### **2.10.5 Leave to Remain**

The requirements to be met by a person seeking leave to remain in the United Kingdom as a Special Visitor – private medical treatment are set out in paragraph [54](#) of HC 395.

All these requirements must be met. Additionally Caseworkers must be satisfied that:

- the arrangements for consultation and/or treatment are satisfactory;
- the treatment will be of finite duration;
- the applicant has sufficient funds to meet the cost of the treatment and all other expenses; that he has paid for any treatment he has already received and intends to continue to pay.
- the treatment will not be NHS treatment, even if the applicant is prepared to pay for it;

#### **2.10.6 Documents to be produced by applicant**

A person seeking entry for medical treatment must be able to demonstrate, if required, that he meets the requirements of Paragraphs [51- 56](#).

A person seeking to remain for private medical treatment, or his representative, must produce specific evidence, in the form of a letter from a registered medical practitioner who holds an NHS consultant post or who appears in the Specialist Register of the General Medical Council, providing full details of the following: the nature of the illness; the proposed treatment; the frequency of the consultations

(i.e. weekly, monthly etc); the likely duration of the treatment; details of the cost of the treatment and confirmation that all expenses are being met and, where treatment amounts to private visits to a consultant for what appears to be a relatively minor ailment, details of the progress being made.

An original letter on headed notepaper giving a private practice or hospital address and describing the signatory as a consultant should normally be taken as sufficient evidence of that status. To check if a doctor is registered with the GMC a search can be made on the List of Registered Medical Practitioners at <http://www.gmc-uk.org/register/search/index.asp#>. This will also show if the doctor is on the Specialist Register although not which hospital he/she works at. Where there is doubt you may need to contact the hospital itself to confirm the doctor is a consultant there.

Evidence of the applicant's ability to pay for the treatment and to support and accommodate himself and any dependants without working or recourse to public funds will also need to be provided.

Where the applicant is, or appears to be, sponsored, fresh confirmation of the sponsors willingness and financial ability to meet the likely costs should be obtained.

The applicant should, if he is dependent upon funds from abroad, be asked to prove that the funds are transferable as certain countries operate strict exchange controls.

Where no evidence or insufficient evidence has been produced then leave to remain should be refused.

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### **2.10.7 Duration of Treatment**

Paragraph [51\(iii\)](#) requires that treatment is of a finite duration and ICD 0017 includes a question about likely duration of treatment.

A common-sense view should be taken of the meaning of "finite". A long period of treatment, although not precisely defined, may be acceptable, provided that there is a clear need for the patient to be here to receive that treatment and he has sufficient funds.

It is reasonable to scrutinise carefully the likely duration and success of, for example, fertility treatment which could have been going on for some years without success. It would be acceptable (with the applicant's consent) to approach the consultant direct to ask about the likelihood of eventual success of the treatment.

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### **2.10.8 Granting leave to remain**

Where the evidence appears to be satisfactory leave to remain on Code 3 may be given for up to six months from the date of decision.

## **CID Codes**

Private Medical Treatment LTR: V2  
Private Medical Treatment Refusal: V8

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### **2.10. 9 Dependants**

There is no provision in the Immigration Rules for the dependant of a person admitted for private medical treatment to be granted an extension of stay beyond the normal six months maximum as for a visitor

In some cases for example, where the person undergoing treatment is having fertility treatment, it may be appropriate to allow the dependant to remain longer than six months. Providing the dependant can be maintained and accommodated without working and without recourse to public funds, an extension in these circumstances is permitted.

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### **2.10.10 National Health Service Treatment**

The Immigration Rules do not provide for persons to be granted leave for the **sole purpose** of receiving free treatment under the NHS. Except in circumstances set out below, entry clearance or leave to enter for this purpose should be refused or cancelled under Paragraph [320\(1\)](#) or paragraph [321\(A\)](#) respectively and leave to remain under Paragraph [322\(1\)](#).

Applications for leave to remain to complete a course of NHS treatment which has already begun should also be refused unless it would clearly be unreasonable to require the applicant to leave the United Kingdom (e.g. because he was in hospital following an accident). A decision to allow him to remain for a limited period should not be made below Senior Caseworker level. Where refusal is appropriate, the refusal notice should be accompanied by a letter advising that, if the person was prepared to seek the treatment privately, it would be open to him to make a fresh application for leave to remain.

### **2.10.11 NHS treatment for persons in the United Kingdom for another purpose**

Eligibility for free NHS treatment is based on ordinary residence in the UK. Under Department of Health regulations non-residents are liable for charge for most hospital treatment although treatment given in an Accident or Emergency Department or for specified infectious diseases is free to all. Certain groups are exempt from charges, including people working for a UK-based employer and students on courses lasting over 6 months. Therefore an application for leave to remain which otherwise meets the requirements of some other section of the Rules should not be refused just because the applicant may have recourse to NHS treatment whilst here.

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### **2.10.12 Claim that treatment is unavailable in home country**

The fact that a person may claim that he is unable to return to his own country because it lacks the same medical facilities as the United Kingdom is not in itself grounds to consider allowing him to remain in order to receive National Health Service treatment. Unless, therefore, the applicant otherwise qualifies under the Rules, the application should be refused. See IDI [Chapter 1 Section 8](#) for guidance on human rights claims on medical grounds.

### **2.10.13 Special arrangements for NHS treatment Reciprocal health agreements**

The United Kingdom has entered into reciprocal agreements with certain countries which provide for NHS treatment of illnesses arising while visitors from these countries are here. These arrangements apply to the nationals and in some cases also to the residents of the countries concerned. See [Border Force Operations Manual – Medical Treatment](#).

These arrangements are intended only to give a person such treatment as is necessary to enable him to travel home. Where the individual wishes to remain in the United Kingdom for follow up treatment he should do so on a private basis. We would not normally grant leave to remain to such a person for the sole purpose of having NHS treatment except, perhaps, in the case of illness or accident occurring shortly before he was due to leave the United Kingdom. In such a case a short extension may be appropriate.

In addition, some agreements provide for a small quota of people each year to come to the United Kingdom for pre - arranged free NHS treatment. Normally they are referred to hospitals here only in circumstances where their own country does not have adequate facilities to provide the treatment needed. When the quotas are exhausted countries can still refer patients to the United Kingdom but they are charged for this under the NHS (Charges to Overseas Visitors) Regulations. In each case the individual should be asked to produce clear evidence that he/she has been accepted under these arrangements, such as a letter from a United Kingdom hospital or from the Department of Health confirming that the Department of Health has accepted him under the scheme.

Where a person admitted for free treatment under these special arrangements seeks further leave to remain, evidence should be seen that the arrangements are continuing.

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### **2.10.14 The procedure for obtaining a doctor's report**

Caseworkers who require a doctor's report should proceed as follows:

- The caseworker should, before any further action is taken, minute the file explaining why the medical report is necessary and refer the proposal to the Senior Caseworker for approval.
- The caseworker should send an ICD 0867 to the patient (or in the case of a child, the guardian) seeking their consent for a medical report to be prepared by their doctor.
- On receipt of the patient's consent, the caseworker should write to the

doctor requesting a full report, using either example letter A (where it is the applicant who is receiving treatment) enclosing ICD0868 or example letter B (where it is a member of the applicant's family who is receiving treatment).

#### **2.10.15 Fees charged by medical advisers – procedure**

When requesting advice as to the medical condition of the patient we should be aware that it is open to the doctor supplying the report, including the patient's own General Practitioner, to charge a fee. As a guideline, the British Medical Association advise that this could cost between £31.00 and £92.50 depending on how detailed the report is.

For this reason the decision to request a doctor's report must be approved at Senior Caseworker level.

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#### **2.10.16 Surrogacy**

There is no provision in the Immigration Rules for a woman to be admitted for the purpose of being a surrogate mother.

Admission as a visitor under the Immigration Rules to act as a surrogate mother is inappropriate given the six month limit, as is admission as a Special Visitor - private medical treatment since the applicant would not be suffering from any medical condition.

An application on this basis should be considered according to the applicant's individual circumstances which are likely by the nature of the application to involve particularly difficult compassionate factors. However, because of the complex legal and difficult ethical and practical problems which may arise the Government does not encourage the practice of surrogacy and consequently UKBA does not operate a concession outside the Rules to enable women to come to the UK for this purpose. Any application from a woman to enter or extend her stay in the UK to act as a surrogate should normally be refused on the grounds that there is no provision in the Rules.

[Chapter 9, Section 1](#) "Adverse decisions - General Guidance" provides important advice about the decision making process and should be consulted whenever an application falls to be refused.

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### **2.11 MARRIAGE VISITS**

Those seeking entry in this capacity must meet the requirements of paragraphs [41- 46](#) relating to Visitors and meet the specific criteria set out in paragraphs [56D – 56F](#) of the Immigration Rules.

- Entry Clearance is mandatory for all nationalities except for EEA and Swiss nationals.

- Visa issuing Posts have the discretion to issue a multiple entry visa, valid for up to one year, in cases where there will be a delay between giving notice and the marriage or civil partnership taking place.
- The couple must plan to enter into a marriage or civil partnership during the period for which they are granted leave (which will be for six months).
- Couples may get married or register a civil partnership in any location licensed for the purpose of marriage or civil partnerships.
- Once both partners are in the UK they will need to give official notice of their marriage or civil partnership at a designated register office. Those who are non-EEA or Swiss nationals will have to show their entry clearance or certificate of approval to do this.
- In the case of those wishing to marry in an Anglican Church, where there are religious preliminaries, there is no requirement for a marriage visitor to show their entry clearance to a member of the clergy. However, both non-visa and visa nationals still require a marriage or civil partnership visit entry clearance before travelling to the UK.
- For those applying to marry in Scotland and Northern Ireland, where it is possible to give notice of marriage or civil partnership by post, the visit visa must be valid at the time of giving notice.

### **2.11.1 Entry Clearance**

Entry clearance issued in this category should be endorsed 'C: VISIT - MARRIAGE/CP'. LTE 6 MONTHS CODE 3. You need to enter the initial and surname of the intended partner on the entry clearance.

### **2.11.2 Leave to Enter**

Those passengers who satisfy the immigration officer that they meet the criteria should be given leave to enter for 6 months on Code 3.

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### **2.11.3 Leave to Remain**

Whilst there is no specific provision in the Immigration Rules, any application for leave to remain on the same basis, where the marriage has not taken place within the initial 6 months leave should be considered exceptionally, as a visitor seeking to remain beyond six months.

If good cause can be shown for the delay and provided there is satisfactory evidence that the marriage will take place at an early stage and that he/she continues to meet the requirements of the Rules, then further leave to remain in the same category for a similar period may be granted.

For those already in the UK, a Certificate of Approval must be obtained from the Home Office instead. Certificates will only be issued to those who were granted more than six months valid leave to enter/remain and who have three months or more of that leave remaining. This means that persons who hold a visit visa, illegal entrants, overstayers and failed asylum seekers will not usually be able to get married or undertake a civil partnership in the United Kingdom.

Holders of entry clearance granted expressly for the purpose of marriage or civil partnership will not be required to apply for the certificate of approval.

## **CID Code**

V1X

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### **2.12 PARENTS WITH CHILDREN AT SCHOOL HERE**

Those seeking entry in this capacity must meet the requirements of paragraphs [41 - 46](#) relating to Visitors and meet the specific criteria set out in paragraphs [56A -56C](#) of the Immigration Rules.

This category allows for a parent to stay with a young child at school here providing that:

- The child is under 12
- The child is attending a private day school
- The parent of the child is not working
- There is evidence of adequate and reliable funds for maintaining a second home in the UK
- There is no reason to believe that the family is seeking to make their principal home in the UK.

For information on maintenance requirements for child students accompanied by parents with whom they are living, see the attached link, pages 28-30 refer. <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier4>

#### **2.12.1 Entry Clearance**

Entry Clearance is mandatory for visa nationals or for all those seeking entry for up to the maximum of 12 months.

#### **2.12.2 Leave to Enter**

Leave to Enter may be granted for 6 months or for the maximum of 12 months if Entry Clearance is held.

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#### **2.12.3 Leave to Remain**

Leave to remain may be granted to complete a maximum of 12 months stay in the UK providing that the above criteria are met.

Those foreign nationals whose stay will exceed 6 months should be required to register with the police.

## **CID Code**

XA

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### **2.12.4 Children reaching the age of 12**

Where the child will reach the age of 12 before any leave being granted to their parent expires, it is important that the caseworker granting that leave includes in the letter the following: "You are advised that you will not qualify for further leave to remain in this capacity once your child has reached the age of 12 and that alternative arrangements for their care will thereafter have to be made if it is intended that they should continue their education in the United Kingdom."

Leave to remain should be refused if the requirements of paragraph [56A](#) of the Immigration Rules are not met.

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## **2.13 CHILD VISITORS**

In order to record the details of those persons responsible for the care of children, there are particular requirements to be met where children seek to travel to the United Kingdom as visitors.

These are set out at Paragraph [46A – 46F](#) of the Immigration Rules.

In addition to meeting the requirements of Paragraph [41](#), a child seeking to enter the United Kingdom as a visitor must be able to demonstrate that he:

- is under the age of 18,
- that suitable arrangements have been made for his reception and care in the United Kingdom and
- that he has a parent or guardian in his home country or country of habitual residence who is responsible for his care.

Those children who are Visa nationals must obtain an entry clearance which should state that they are either travelling to the United Kingdom unaccompanied, or that they are travelling in the company of a specified adult whose passport number, initial & surname will be shown on the child's visa vignette.

NB. The Immigration Rules also allow those entering the UK as child visitors to undertake Business, Sport and Entertainer Visitor activities.

### **2.13.1 Suitable arrangements for reception and care in the United Kingdom.**

Paragraph [46A \(iii\)](#) of HC395, as amended, requires a child who seeks to enter the UK as a visitor to demonstrate that suitable travel, reception and care arrangements have been made for his stay here.

Where there are no other factors which give cause for concern this could simply involve the inclusion of the child in the travel and accommodation arrangements of

the parent(s), relative(s) or friend(s) accompanying him, or a letter from a relative or friend at the United Kingdom address, inviting the child to visit them.

To demonstrate that these requirements have been met, Entry Clearance Officers should record the name, address and landline telephone number of the parent or carer in the child's home country, the host in the U.K. and the person accompanying the child on the Central Reference System, (C.R.S.).

Where these details are missing or unclear or other factors raise concerns about the child's welfare, further enquiries should be undertaken to confirm the identity and residence of the host and that the child is expected.

If, despite these further enquiries, the Entry Clearance Officer remains concerned about the child's welfare in the UK, the application should be refused.

Where Immigration Officers at Ports of entry have concerns about the child's welfare, the social service departments, in both the host's area and those local to the port of entry (in instances where the enquiries will require overnight accommodation for the child), should be contacted so that enquiries can be made to ascertain the host's suitability, and the child properly cared for whilst this is carried out.

### **2.13.2 A parent in the child's home country who is responsible for his care.**

Paragraph [46A \(iv\)](#) of HC 395, as amended, requires that in order to gain entry, a child must demonstrate that he has a parent or guardian in his home country or country of habitual residence who is responsible for his care.

In the majority of cases where an application is being made for entry clearance abroad, the parent or guardian will be the person making the application on behalf of the child and this will present no difficulty.

Where the application is not being made by the parent or guardian, and there are no other factors which give cause for concern, a letter from the parent or guardian confirming their relationship to the child and consenting to the child's application would normally be sufficient to establish that this requirement has been met.

Where the parents are divorced, the consent must come from the parent who holds legal custody or sole responsibility.

Where there is nothing from the parent or guardian and no reasonable explanation as to why this is so, the application should be refused.

Instances, where, following the issue of an entry clearance as an accompanied child visitor, Immigration Officers at ports of entry have doubts about this requirement being met, are likely to be very rare. Where they occur, and initial enquiries, e.g. on the C.R.S. computer record, fail to resolve the issue, the process outlined [above](#) should be followed.

This will enable enquiries to be made at the Post which issued the visa, to ascertain the situation of the parent or guardian in the child's home country. Temporary admission may be appropriate whilst these enquiries are being carried out.

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### **2.13.3 Entry Clearance**

#### **A Child Visitor who is a Visa National.**

Paragraph [46A \(v\) \(a\)](#) of HC 395, as amended, requires that in order to gain entry as a visitor, a child who is a visa national must hold a visa which either states that he is travelling unaccompanied or in the company of an adult identified on his visa and being admitted at the same time.

#### **Accompanied Visa National Child Visitors**

Where a child is travelling in the company of an adult, he must hold a visa which identifies the adult with whom he seeks to enter the United Kingdom. The identification will be by way of the adult's passport number, initial and surname which will be included on the child's visa vignette.

Where the child intends to travel with two adults sequentially within the validity of the visa, e.g. the child may arrive with one parent and then travel for a day trip to France with the other, each of the adult's passport numbers will be entered on the vignette. (There is insufficient space on the vignette to allow for the names of two people as well as the passport numbers.)

The endorsement will read "only valid if acc. by [passport number of first adult], or [passport number of second adult]". **The child's visa will only be valid if (s)he is accompanied by this identified adult.**

A child who seeks to enter the United Kingdom in the company of an adult other than that identified on his visa should normally be refused.

Where there is a query as to the identity of the accompanying adult at the Port of entry to the United Kingdom, the C.R.S. computer record should be checked for the child's visa details which should contain the name and other details, as well as the passport number of the accompanying adult.

In instances where the accompanying adult has travelled with the child but remains airside i.e. does not accompany the child into the United Kingdom, the terms of the visa will have been broken and further enquiries should be made of the child and of the accompanying adult (where the latter can be found). In such cases it would be appropriate to refuse the child entry.

The passport number of the accompanying adult should be taken and checked with the C.R.S. computer record. The issuing Post should then be advised of this to ensure that their records are noted (in the event of subsequent application(s) from the same person).

In cases where the accompanying adult has legitimately obtained a replacement passport since the issue of the child's visa, the old cancelled passport should usually be accepted as evidence of identity to allow the child's entry.

Where the original passport has been retained by the issuing authority, the new passport would be acceptable so long as it bears an official endorsement that it has replaced the previous passport and gives the original passport number in full.

Photocopies of the original passport are not, on their own, reliable evidence of identity.

#### **2.13.4 Unaccompanied Visa National Child Visitors**

Where a child is travelling unaccompanied, his visa vignette will state that he is travelling “Unaccompanied”. Both Entry Clearance Officers abroad and Immigration Officers at ports of entry should pay particular attention to the applications and circumstances of a child who seeks to enter the United Kingdom unaccompanied. It should be noted that where a child obtains a multi-entry visa and they do not always intend to travel with the same adult, it may be better for them to be issued with an “unaccompanied” visa even though they may not be travelling alone.

A child with an “Unaccompanied” Child Visitor visa is able to travel with or without any other person. Having an ‘unaccompanied’ visa does not prevent them from travelling with an adult. There may be a variety of reasons for this, e.g. they may have obtained a multi-entry visa & be unable to tell months in advance with whom they will travel on subsequent trips to the U.K.

#### **2.13.5 Applications as a Child Visitor**

Entry Clearance Officers do not need to make detailed enquiries into the acceptability of adults who are to accompany a child so long as the application is being made by the parent or guardian, unless other factors suggest this to be necessary.

Where the application is made by someone other than a parent or guardian or a social worker holding parental rights who is caring for the child, enquiries should be made as to the identity of the accompanying adult.

In such cases, in addition to the names and passport number necessary for the child’s visa, full details of their address in the home country and any in the United Kingdom or abroad should be noted along with employment details and their claimed relationship to the child, its parent or guardian and the host in the United Kingdom.

#### **2.13.6 Child Visitors undertaking short programmes during their visit**

A child visitor, who has entry clearance for the purpose, may undertake a course of study here, as long as this is at an institution which is:

- the holder of a Sponsor Licence for Tier 4 of the Points Based System, or
- accredited by a UKBA approved accreditation body, or
- an independent fee paying school registered with the Department for Children, Schools and Families

However, where a child visitor is undertaking an activity based programme within the duration of their leave, the organisation will not be required to obtain accreditation. Activity based programmes may include some tuition e.g. English language. This tuition should clearly be an incidental part of the main, activity based programme. It must not form the larger part of the programme.

The following give an idea of the programmes that might be considered activity based and those which might not. This is not a comprehensive list and each programme will need to be considered in light of all the information provided.

Examples of programmes that are covered

- 8 week “on-the-pitch” football summer school, where football coaching/practice takes up the majority of the time, with some visits to places of interest and football matches and a few hours a week of informal English language training.
- 2 week folk dancing programme, in which practical dancing skills and attending folk dancing exhibitions and shows are the focus, with an hour or two a week learning about the history of folk dancing.
- 4 week mountaineering programme, camping on Snowdon. Time to be spent climbing and at social events. An hour or two a week of informal English language training.

Examples of programmes that are not covered:

- 12 week English language course where mornings are spent in the classroom and afternoons on cultural visits.
- 6 week archaeology course, where time is spent predominantly in the classroom, with visits to archaeological sites
- 2 week study programme on British history and culture, incorporating visits to places of interest, where the programme is predominantly in the classroom.

The organisation providing the programme will need to demonstrate that it has all measures in place to safeguard children and that they are appropriately regulated for the programme they deliver (where regulation applies). The organisation might do this by means for example of providing the child visitor with a letter that confirms the length and content of the course, the relevant regulations and confirmation from the regulatory body that the regulations have been met.

### **CID Codes**

Child Visitor: LTR

Child Visitor: V5 Refusal (6 months max)

Child Visitor: V7 Refusal (intention to leave)

Child Visitor: V6 Refusal (lack of funds)

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## **2.14 STUDENT VISITORS**

On 1 September 2007 the Immigration Rules were amended to provide the category of ***Student Visitor***

This category provides for those persons who wish to come to the United Kingdom as a visitor **and** undertake a short period of study which will be completed within the period of their leave. Short term students (i.e. those studying on courses of six months duration or less) who do **not** intend to take part-time employment or undertake a paid or unpaid work placement as part of their course can also benefit from these provisions.

In addition to meeting the requirements of the visitor rules the student visitor must be able to demonstrate that he has been accepted on a course of study at an institution which is:

- the holder of a Sponsor Licence for Tier 4 of the Points Based System, or
- accredited by a UKBA approved accreditation body, or
- an overseas Higher Education Institution offering only part of their programmes in the United Kingdom , holding their own national accreditation and offering programmes that are of an equivalent level to a United Kingdom degree“

The maximum period allowed in this category is six months. Where reference is made to a “course of study” in this instruction, this includes a period of study.

Those studying overseas for UK qualifications (distance learners who do not qualify as Students) who occasionally need to visit the UK for classes or revision sessions may be considered under the Student Visitor category (as although the course of study might be longer than 6 months in total, each period of study in the UK is less than six months)

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#### **2.14.1 Leave to enter as a Student Visitor**

The requirements to be met by a person seeking leave to enter as a student visitor are set out in paragraphs [56K -56M](#).

In addition an Immigration Officer also needs to be satisfied that:

- The student visitor has been accepted on a period of study which is to be provided by an institution which is:
  - i) the holder of a Sponsor Licence for Tier 4 of the Points Based System, or
  - ii) accredited by a UKBA approved accreditation body, or
  - iii) an overseas Higher Education Institution offering only part of their programmes in the United Kingdom , holding their own national accreditation and offering programmes that are of an equivalent level to a United Kingdom degree. .
- The course of study will be completed within the period of his student visitor leave;
- There are sufficient funds available to finance the student visitor’s stay, his course of study, and his onward or return journey; and
- A visa national must hold an entry clearance as a student visitor (see paragraph [24](#) of the Rules); non-visa nationals do not require an entry clearance in this category.

#### **2.14.2 Endorsements for leave to enter**

Passengers granted leave to enter as student visitors should normally be admitted on code 5N for six months. If, for any reason, less than six months leave is granted (in which case code 3 should be used), the reasons should be noted on the reverse of the landing card.

In all cases, including where the original grant of leave was for less than six months, the passenger should be advised that the rules do not make provision for an extension to be granted after entry.

### **2.14.3 Student Visitors under the age of 18**

There are no separate provisions for student visitors who are under the age of 18. The child visitor rules include the requirement that, if children under the age of 18 are to attend a course of study, the course must be provided by an organisation which is included on the Register of Education and Training Providers and the course provider must be outside the maintained sector. Children under the age of 18 should apply in this category or apply for a student entry clearance in accordance with paragraphs [57-62](#) of the rules if they have been accepted for a course of study in the United Kingdom and meet the requirements of those paragraphs.

### **2.14.4 Refusal of leave to Enter**

Where no entry clearance is held and the requirements of paragraph [56K](#) are not met, the passenger should be refused leave to enter under paragraph [56M](#).

A visa national seeking entry without a valid United Kingdom visa falls to be refused under paragraph [320\(5\)](#) of the Immigration Rules (see [Chapter 9 Section 2](#) of these instructions).

Where a passenger seeking entry in this capacity holds an entry clearance for this purpose, refusal may only be considered under paragraph [321A](#) of the Immigration Rules (see [Chapter 9 Section 3](#) of the instructions).

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### **2.14.5 Granting leave to remain as a Student Visitor**

There are no provisions in paragraphs [56K – 56M](#) of the student visitor rules for an applicant to obtain an extension to the leave granted by an Entry Clearance Officer or an Immigration Officer. Any application for leave to remain in this category should normally be refused under paragraph [322\(1\)](#) of HC 395 (see [Chapter 9 Section 4 paragraph 2](#) of these instructions). In addition caseworkers should also note that any period spent as a student visitor is to be counted as a period spent as a visitor.

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## **2.15 PROSPECTIVE STUDENTS**

Those seeking entry as a prospective student must meet the requirements of paragraphs [82 - 87](#) of the immigration rules.

A prospective student is a person who intends to undertake studies in the United Kingdom but does not have complete arrangements for his course of study. This category includes:

- Prospective student **nurses** but **not** postgraduate doctors or dentists; or
- Overseas qualified nurses or midwives.

### **2.15.1 Entry Clearance**

Entry clearance is mandatory for all those coming to the United Kingdom in this category

### **2.15.2 Leave to enter**

The main points on which the Immigration Officer needs to be satisfied are that:

- The passenger holds a valid entry clearance as a prospective student which is endorsed with leave to enter for up to six months which is the maximum period of leave to enter that can be granted in this category; and
- There are no grounds for cancellation of leave under paragraph 2A of schedule 2 to the 1971 Act (refer to [Chapter 9 Section 3A](#) of these Instructions).

### **CID Code**

STS Short term student

### **2.15.3 REFUSAL OF LEAVE TO ENTER**

- A visa national seeking entry without a valid United Kingdom visa falls to be refused under paragraph [320\(5\)](#) (see [Chapter 9 Section 2](#) of these instructions);
- A non-visa national who is seeking entry without a valid United Kingdom entry clearance falls to be refused under paragraph [84](#) with reference to paragraph [82\(iv\)](#) of the Rules; and
- Where a passenger seeking entry in this capacity holds an entry clearance for this purpose, refusal may only be considered under paragraph [321A](#) (see [Chapter 9 Section 3A](#) of these instructions).

### **On entry refusal code**

PA4 Port Refusal - Unsatisfactory or unacceptable arrangements for proposed study

PA5 Port Refusal - Intention to study not genuine or realistic

PE4 Port Refusal - Lack of required non-settlement entry clearance

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#### **2.15.4 Leave to remain**

Most persons given leave to enter as prospective students will have been given the maximum permitted period of six months and will subsequently either make applications for leave to remain as students or depart from the United Kingdom;

Where the entry clearance acting as leave to enter was granted for less than six months, leave to remain may be granted on code 3 for a period which takes the duration of the applicant's stay up to a total of six months from the date of entry to the United Kingdom.

Following the rules change on 1<sup>st</sup> September 2007, all prospective students who intend to switch into the student category will require entry clearance as a prospective student.

#### **2.15.5 Checklist for caseworkers**

Caseworkers need to satisfy themselves:

- That he was admitted with a valid entry clearance as a prospective student;
- That an extension of stay would not take his total leave, ***in any capacity***, beyond the permitted six month period; and
- Where the Entry Clearance Officer granted leave to enter for less than six months, that his reasons for doing so no longer apply. ***(In order to establish what those reasons were, the landing card and a copy of the Visa Application Form should be obtained).***

#### **CID Code**

S4 Student extension - other than to end of course

#### **2.15.6 Dependants of prospective students**

Paragraphs [76 and 79](#) of the Rules allow leave to be granted to the spouse or civil partner and children of a person admitted to enter the UK as a prospective student. Dependants who qualify (should be granted leave on Code 3 conditions, in line with the prospective student, for up to a maximum of 6 months).

#### **2.16. VISITORS IN TRANSIT**

This relates to persons who come to the United Kingdom in transit to a country ***outside*** the common travel area. For guidance concerning persons in transit to places ***within*** the common travel area, see [Chapter 1 Section 2: The Common Travel Area](#).

A visitor in transit relates to:

- A passenger whose sole purpose is to transit the United Kingdom within 48 hours but who arrives at one port or airport and needs to transfer to another port or airport to continue his journey;

- A passenger whose sole purpose is to transit the United Kingdom within 48 hours and who wishes to spend the time between his arrival and embarkation outside the transit area; or
- Any through transit passenger who is presented to the immigration officer.

### **2.16.1 Leave to Enter**

Visitors in transit to another country must satisfy paragraph [47 - 50](#) of the Immigration Rules, in particular that:

- They are in transit to a country outside the common travel area;
- They are assured of entry to that country; and
- They intend and are able to leave the UK within 48 hours.

### **2.16.2 Granting leave to enter**

Non-Visa Nationals who are accepted by the Immigration Officer as being genuinely in transit may be given leave to enter as visitors on **Code 5N**.

Non-Visa Nationals without complete onward travel arrangements will fall to be refused entry. Where, however, the Immigration Officer is satisfied that the passenger has the intention to proceed and is assured of entry at his destination and it is decided to exceptionally grant leave to enter, **Code 3 for 48 hours** should be imposed.

In very doubtful cases where entry is granted only in the absence of sufficient evidence to refuse leave to enter, leave should be granted on **Code 3 for 48 hours**, and a report submitted.

### **2.16.3 Transit without Visa Concession**

Visa nationals in transit, who benefit from the transit without visa concession (**visa waiver**), should **always** be given leave to enter on **Code 3 for 24 hours**. Further guidance can be found at [Border Force Operations Manual – Visitors in transit Annex D](#).

### **2.16.4 Persons holding “in transit” visas**

Visa nationals holding valid “in transit” visas issued from 02/10/00 do not require leave to enter the United Kingdom.

### **2.16.5 Refusal of leave to enter**

Where no entry clearance is held and the requirements of Paragraph [47](#) are not met, the passenger should be refused leave to enter under Paragraph [49](#).

A national of one of the countries which may not benefit from the visa waiver concession, seeking entry without a valid United Kingdom visa, falls to be refused under Paragraph [320\(5\)](#). See [Chapter 9, Section 2](#) to these instructions.

#### **2.16.6 Cancellation of an “in transit” visa issued from 02/10/00**

Where a passenger seeking entry in this capacity holds an entry clearance for this purpose, cancellation may only be considered under Paragraph [321A](#) (See [Chapter 9, Section 3](#) to these instructions).

#### **2.16.7 Leave to remain as a visitor in transit**

The maximum leave which may be given to a visitor in transit is 48 hours.

It is technically possible for a person admitted for **less** than 48 hours to extend his stay as a visitor in transit up to, but not beyond, the maximum 48 hours permitted by the Rules.

Such an application should normally be granted to take the **total** stay up to 48 hours unless there is good reason to refuse. It should be borne in mind that refusal would attract a right of appeal, for an in-time application.

#### **2.16. 8 Refusal of leave to remain**

[Chapter 9, Section 1](#), "**Adverse decisions - General Guidance**" provides important advice about the decision making process and should be consulted whenever an application falls to be refused.

An application from a person admitted in transit for leave to remain beyond 48 hours would fall for mandatory refusal **with no right of appeal**.

#### **CID Codes**

Visitor in Transit LTR      V1  
Visitor in Transit Refusals V9

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### **2.17 VISITORS SEEKING ENTRY UNDER THE UK/CHINA APPROVED DESTINATION STATUS (ADS) MEMORANDUM OF UNDERSTANDING (MoU).**

The UK/China Approved Destination Status (ADS) Memorandum of Understanding (MoU) was signed on 21 January 2005. The aim of the MoU is to facilitate travel by groups of Chinese tourists to the UK. The category of "**ADS visitor**" is designed to reflect the terms of the MoU and cater for Chinese nationals wishing to travel to the UK as part of a tourist group of 5 or more people under the ADS arrangements. It does not replace the visitor category for Chinese nationals and caseworkers should therefore continue to treat ordinary visit applications from Chinese nationals in the normal way. The ADS scheme operates through a very limited number of designated tour operators accredited and trained by the British Embassy in China, who will submit visa applications to

the British Embassy for each member of a tour group. Those seeking entry under the ADS MoU will have to meet the same requirements as ordinary visitors but in addition, an applicant must be a Chinese national; must be genuinely seeking entry as a visitor for period not exceeding 30 days; and must intend to enter, travel and leave the UK as part of a group and must hold a valid ADS agreement visa. ADS tourists cannot be granted an extension of stay under the Rules.

### **2.17.1 Leave to enter as an ADS visitor**

The requirements to be met by a person seeking leave to enter the United Kingdom as a visitor under the UK/China ADS MoU are set out in paragraphs [56G - 56 J](#) of the Rules.

An applicant in this category must meet the requirements of the visitor Rules at paragraph [41\(ii\) - \(vii\)](#).

ADS applicants who qualify under these criteria should be granted entry clearance/visa as leave to enter endorsed with Code 3 conditions for a maximum period of 30 days. The landing category for ADS visitors is **ADV**. In most cases visas for ADS tourists will be valid for one entry to the UK during the period for which the visa is valid. However, in cases where the tour group's itinerary entails onward travel to Europe and then requires the group to re-enter the UK on their homeward journey, dual entry visas may be issued. The visa will be marked "single" or "dual" to indicate the number of entries to the UK for which it is valid.

### **2.17.2 Leave to remain as an ADS visitor**

There is no provision in the Rules for an ADS tourist to be granted an extension of stay. All applicants for ADS visas should be granted the maximum 30 days leave at the pre-entry stage and extensions of stay should not therefore be necessary. Paragraph [44](#) of the Rules ("requirement for extension of stay as a visitor") has been amended so that an ADS tourist cannot seek an extension of stay in the ordinary visitor category. ADS tourists are not permitted to switch into any other category of the Rules. Caseworkers should not therefore encounter applications for extensions of stay from ADS visitors. Should an application for an extension beyond the maximum 30 days be received, it should be refused on the basis that there is no provision in the Rules for an ADS visitor to seek an extension of stay and the person is seeking to be here for a period greater than that permitted by the Immigration Rules.

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## **2.18. APPELLANTS ARRIVING AT PORTS**

This guidance relates to a person seeking entry to the United Kingdom who has an outstanding appeal because he:

- Has appealed against refusal of entry clearance; or
- Has appealed from abroad against a previous refusal of leave to enter.

Such a person has no **right** to be granted leave to enter **for the sole purpose of attending the hearing**. If, however, he can satisfy the immigration officer that only a visit is intended, that he will leave the United Kingdom regardless of the outcome of his appeal and that he otherwise qualifies for entry under the Rules, he may be granted leave to enter as a visitor. When considering whether or not to

grant leave to enter, due account should be taken of the likely timescale for any appeal hearing. A person who has an outstanding appeal who seeks entry for some **other purpose** and who **satisfies the requirements of the Rules in that capacity** may be given leave to enter in the usual way. The immigration officer should establish whether or not he still wishes the appeal to proceed. In all cases the outcome of the application for leave to enter should be notified to the refusing port or appropriate appeals section.

**Note** that if an appellant was refused leave to **remain** in the United Kingdom but left the country before the appeal was heard then in accordance with Section 33(4) of the Immigration Act 1971 (as amended by paragraph 4(2) of Schedule 2 to the Asylum and Immigration Act 1996) the appeal would be treated as abandoned by reason of the appellant leaving the United Kingdom.

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## **2.19 ARCHAEOLOGICAL EXCAVATIONS**

Those seeking entry or leave to remain as visitors may take part in archaeological excavations if they:

- are doing unpaid work as volunteers; or
- are paid only subsistence and travelling expenses.

Persons seeking to enter or remain should produce a letter from the director or organiser of the excavation stating:

- the period of employment and, where appropriate;
- what arrangements have been made for the applicant's accommodation and maintenance.

Entry Clearance is not mandatory but if issued should be endorsed "Visit".

### **2.19.1 Leave to enter**

A visitor who holds an entry clearance, or who holds suitable documentary evidence that he satisfies these requirements, may be granted leave to enter on Code 5N, if appropriate or for up to 12 months on Code 3 (6 months at a time at ports).

Persons granted 12 months should be advised that this is the maximum length of stay permitted. Foreign nationals aged 16 and over coming for longer than 6 months should be required where appropriate to register with the police.

### **2.19.2 Leave to Remain**

Applicants who were admitted for only 6 months may apply for an extension to a maximum of 12 months on Code 3. They should be advised that no further extension of stay will be granted in this capacity.

### **CID Code**

General Visitor LTR: V1X

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## 2.20 CHILD MINDERS FOR RELATIVES

It is acceptable for general visitors to act as **temporary** child minders for relatives where:

- The visitor is a close relative of the parent (e.g. parent, sibling, in-law). More distant relatives are only acceptable if they have formed part of the family unit or are the closest surviving relatives of the parents;
- Neither parent is able to supervise the daytime care of the child;
- It is not simply an arrangement to enable both parents to take gainful employment or to study;
- Neither parent is in a category leading to settlement;
- the visitor will not receive a salary (disregarding provision of board, accommodation and pocket money);
- The visitor intends to remain in the United Kingdom for not more than 6 months. If it is suspected that the arrangement amounts to employment (paid or unpaid) the application should be refused on those grounds.

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## 2. 21 COURT REPORTERS

Any Court Reporter who intends to take a formal deposition for use in court proceedings overseas will need to seek entry under the Points Based System.

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## 2.22 VISITORS SEEKING VISAS FOR OTHER COUNTRIES

Persons seeking leave in order to obtain visas for travel to other countries should be treated as visitors and all the provisions of the Rules should be strictly applied. Officers must be satisfied that the applicant is genuinely seeking leave for the purpose stated and that the duration of the visit will not exceed 6 months.

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## 2.23 PERSONS SEEKING SETTLEMENT VISAS

Where a person is seeking a visa for **settlement** in a third country, he must show that:

- His visa application for that country will be decided in a short and clearly defined period; and
- He has returnability to **another** country valid until or beyond the period of his proposed stay in the United Kingdom.

## ANNEX A

<b>List of Permit Free Festivals: 1 May 2009 – 30 April 2010</b>	<b>Contact Phone Nos.</b>
Alnwick International Music Festival	01670 787966
Barbican Festivals (Summer, Autumn 1, Autumn 2 & Only Connect)	020 7382 7123
Bath International Music Festival	01225 462231
BBC Proms	020 7765 4791
Belfast Festival at Queen's	028 90971034
Birmingham International Jazz Festival	0121 454 7020
Brecon Jazz Festival	0870 787 2848
Brighton Festival	01273 700747
Brouhaha International Festival	0151 709 3334
Cambridge Folk Festival	01233 457515
Celtic Connections Festival	0141 353 8019
Cheltenham Festivals (Jazz/Science/Music/Literature)	01242 775863
City of London Festival	020 7583 3585
Dance Umbrella	020 8741 4040
Download Festival	020 7009 3393
Edinburgh Festival Fringe	0131 226 0026
Edinburgh International Festival	0131 473 2046
Edinburgh International Jazz and Blues Festival	0131 467 5200
Festival Republic's Music Festivals (Reading Festival, Leeds Festival)	020 7009 3000
Glasgow International Jazz Festival	0141 552 3552
Glastonbury Festival	01749 890470
Glyndebourne	01273 812321
Great British Rhythm and Blues Festival	01282 661220
Greenbelt Festival	020 7374 2755
Harrogate International Festival	01423 562303
Huddersfield Contemporary Music Festival	01484 472900
International Workshop Festival	020 7091 9666
La Linea (London Latin Music Festival)	020 8693 1042
Llangollen International Musical Eisteddfod	01978 862004
London African Music Festival (Joyful Noise)	0207 608 4140
London Jazz Festival	020 7324 1880
Meltdown Festival	020 7921 0779
Norfolk and Norwich Festival	01603 877767
Salisbury International Arts Festival	01722 332 241
The Big Chill	0207 685 0525
T in the Park	0141 566 4999
V Festivals	0161 907 3443
WOMAD Festival	0845 146 1760
Zee Carnival	0208 839 4000

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