

**IMMIGRATION DIRECTORATES' INSTRUCTIONS**  
**CHAPTER 22**  
**SECTION 5 - ENDORSEMENTS AND DATE STAMPS**  
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**1. INTRODUCTION**

Leave to enter or remain is normally granted by means of an endorsement in the passenger/applicant's passport or travel document. Any condition imposed applies only during the period of the time limit. Thus, if a person remains beyond the period of the time limit any other condition attached to his stay will cease to apply.

It should be remembered, however, that a person can have leave beyond that endorsed in his passport, for example:

\* he may have leave under VOLO - any condition imposed previously will continue to apply while VOLO applies; or

\* a person who entered the United Kingdom through the Republic of Ireland is deemed to have leave under the Immigration (Control of entry through the Republic of Ireland) Order 1972.

**2. THE PERSONALISED DATE STAMP**

**2.1. Immigration officers' "stamping on" procedure**

Passports endorsed with an entry or embarkation stamp containing an incorrect date cause serious inconvenience both to the passenger and to IND. To avoid errors of this kind the following rules should be strictly observed by immigration officers:

“ at the commencement of duty, stamps should be set at the current date and impressions should be made in the record book;

“ a supervising officer should check and initial the date stamp record book as soon as possible after an officer stamps it to ensure that the day, month and the year are correctly recorded;

“ once the record book has been stamped the setting should never be altered except with the permission of the supervising officer. If a document requires to be endorsed with an earlier date, the current date should be impressed and then amended in manuscript to the earlier date. The amendment should be initialled. If very special circumstances make it essential that the stamp should be set to an earlier date, permission should be obtained from the supervising officer who should afterwards personally confirm that the stamp is correctly reset.

“ if a stamp falls to the ground the setting should be checked to ensure that the fall has not caused it to move.

## **2.2. Reporting "stamping on" errors**

If, despite these precautions, it is discovered after passengers have left the control that their passports have been stamped with an incorrect date, the fact should be reported immediately. The report should explain the circumstances, giving the stamp number and the correct and incorrect dates.

If the error concerns an entry stamp and the error is of more than one day the report should also include the name, nationality and date of birth of each passenger for whom a landing card exists and the details of any leave to enter and conditions attached.

The date on the cards should in every case be corrected in manuscript and the report should indicate that this has been done. The corrected cards should be copied and the original cards submitted without delay for statistical processing and for normal disposal in accordance with **Chapter 28, Section 1**. The copy cards should be forwarded with the report in order that Headquarters may, where possible, recall the passports for amendment. The copy cards should contain clear and legible details of personal particulars and, where available, United Kingdom addresses.

Where the error occurs on entry in respect of a person admitted on Codes 1-4 (excluding Section 3(3)(b) re-impositions) a copy of the reverse of the landing card should also be forwarded. The report should contain the supervising officer's observations and a copy should be retained by the Port Inspector.

## **2.3. Caseworkers' "stamping on" procedure**

Similarly, the use by caseworkers of IND stamps containing an incorrect date may cause confusion and questions as to the legitimacy of leave. Caseworkers should therefore stamp on at the beginning of each duty and the endorsement should be checked by a supervising officer.

## **2.4. Use of the personalised date stamp**

The personalised date stamp should always be used in conjunction with the appropriate conditional endorsing stamp. The immigration officer's personalised date stamp should always be placed as closely as possible to the relevant endorsing stamp.

The caseworker's personalised date stamp should be placed with the tip just covering the bottom line of the conditional endorsing stamp. See **ANNEX K** for examples of the endorsing and personalised stamps and how to complete and position them.

Endorsements requiring a person to register with the police should be signed and dated and positioned below the leave to remain endorsement and personalised date stamp. The endorsing stamp should not be stamped with the officer's personal date stamp.

## **2.5. Authentication of Home Office letters or notices**

On occasions it may be necessary to grant leave to enter, leave to remain or indefinite leave to remain by letter. The letter should be authenticated by endorsing the bottom left hand corner with the personalised date stamp.

The personalised date stamp should also be used on notices of refusal including the copy of the notice retained on the file.

Indefinite leave to remain may be granted on form RON 60 if the passport is not available at the time indefinite leave is to be granted. If the person subsequently requests that indefinite leave be endorsed in the passport this should be done by the use of the "No time limit" stamp. This is because, although indefinite leave was not endorsed in the passport, it was previously granted by virtue of the form RON 60. A replacement form RON 60 should not be issued in the event of loss by the applicant. Where such a replacement is requested a letter may be written confirming the person's status.

### **3. SECURITY**

Staff should be alert to the fact that endorsing and, particularly, personalised date stamps may be forged or misused. It is not necessary to examine every endorsement in detail, but all officers should be alert to any apparently authenticated endorsement which does not appear to correspond with previous endorsements or the action recorded on the landing card, minute sheets or call notes.

Where there is reason to suspect that what purports to be an immigration officer's endorsement is not genuine the papers should be referred to IES(1). If there is reason to suspect that what purports to be a caseworker's endorsement is not genuine this should be reported to the Security Unit (FSD) who hold a list of names of officers to whom the numbered stamps were allocated along with specimen signatures.

Staff should be aware that strict security must always be observed with regard to personalised date and other endorsing stamps. Immigration officers should ensure that their stamps are with them at all times. It should never be left in a public area and should always be locked away on completion of the shift. Caseworkers must lock away their stamps at lunch time and when they conclude their duty. The last person to leave at night should ensure that all the stamps are locked away in accordance with security instructions.

When an officer is transferred to a post where his stamp is no longer required, it must be surrendered to Security Unit (FSD). Security Unit should also be informed **immediately** about the loss of any stamp. Officers must only use the personalised date stamp **issued to them** and ensure that no one else uses it. Overall responsibility for ensuring that all these precautions are observed rests with line management.

#### **3.1. The "No time limit" stamp**

"No time limit" stamps should be held by HEOs only. These stamps must be used by caseworkers only with the agreement of and in the presence of the HEO.

*ANNEX I (below) provides information about erroneous and illegible endorsements*

*ANNEX K provides examples of passport endorsements*

## **ANNEX I - ENDORSEMENTS & DATE STAMPS ERRONEOUS AND ILLEGIBLE ENDORSEMENTS AND ENTRY WITHOUT LEAVE**

### **1. INTRODUCTION**

Section 4(1) of the Immigration Act 1971 requires that notice of leave to enter or remain must be given in writing.

Prior to **10 July 1988**, Paragraph 6(1) of Schedule 2 provided that where a person subject to control under the Act is examined by an immigration officer with a view to either being granted limited leave to or being refused leave to enter, notice of the decision must be given to the person affected within 12 hours of the conclusion of the examination. If such a notice was not given within this period, the person was deemed to have been granted indefinite leave to enter.

The amendment to Paragraph 6(1) of Schedule 2 made by the Immigration Act 1988 came into force on 10 July 1988. On or after that date the immigration officer must give notice by giving or refusing leave within 24 hours of the conclusion of an examination. If notice is not given within this period then the person is deemed to have been given leave to enter for 6 months with a prohibition on the taking of employment.

This amendment is not retrospective, so in a case where the endorsement given by an immigration officer is found to be either erroneous or illegible, the **date** of the endorsement is of considerable importance.

If it is not clear from the immigration officer's stamp or the landing card what date the illegible stamp was given the applicant should be asked to provide evidence of his date of arrival. In cases of doubt the onus is on the applicant to prove that his arrival was before 10 July 1988.

## **2. ERRONEOUS "CLEAR LANDING" ENDORSEMENTS OR UNENDORSED PASSPORTS**

The courts have held that if a passenger requires leave and enters without it, then he is an illegal entrant, even if he has not entered in any way dishonestly or fraudulently. This means that if a person who is not exempt from control, a returning resident, or a person who qualifies to be admitted under Section 3(3)(b) is landed with only the immigration officer's personal date stamp, which is known as a "clear landing", or if a person who is not exempt from control enters without having his passport endorsed, he **may be** an illegal entrant.

Paragraph 6(1) of Schedule 2 to the 1971 Act applies, however, where it can be shown that the immigration officer believed that a person required leave to enter and, having examined him to establish whether and on what conditions he should be granted leave, either omitted to stamp his passport, or endorsed the passport with his personal date stamp alone.

### **2.1. Referral to IES(1)**

Cases in which a passenger appears to have **erroneously** been given a "clear landing", or no passport endorsement, should be referred to IES(1). If IES(1) conclude that the passenger is an illegal entrant and should be dealt with as such, no further action will be required in AEAD. If IES(1) conclude that the passenger should be given leave to enter under Paragraph 6(1) to Schedule 2, the following will apply:

- if the person arrived **on or after** 10 July 1988, the file, containing the passport should be forwarded to ISPD, Passenger Casework Section, who will decide on the appropriate action; or
- if the passenger arrived **before** 10 July 1988, the file will be returned to AEAD for action as set out in paragraph 2.2. below.

### **2.2. AEAD actions when a person is deemed to have been given indefinite leave to enter**

Where it is decided that a person is deemed to have been granted indefinite leave to enter, AEAD caseworkers should:

- \* raise an INDECS record via the on-line working system; and
- \* endorse the passport with a "no time limit" stamp; and
- \* notify the computer of the decision as if the person had been granted indefinite leave to remain, INDECS code 7B.

IES(1) may conclude, however, that a passenger who is deemed to have been given 6 months leave to enter or who was an illegal entrant now qualifies for leave to remain. In this eventuality they will return the case to AEAD advising that leave to remain should be granted.

### 3. ERRONEOUS SECTION 3(3)(b) ENDORSEMENTS

Since the amendment to Section 3(3)(b) by the 1988 Act, immigration officers' endorsement of conditions of entry are no longer accompanied by a 3(3)(b) enabling stamp. Immigration officers may now give leave to enter under Section 3(3)(b) if a person has extant conditions (normally where leave to enter or remain has been given for more than 6 months). The endorsement will read "Given leave to enter until (date of previous expiry date) Section 3(3)(b)".

Where the immigration officer stamps the passport with the 3(3)(b) endorsement, but omits to write in the date, the previous conditions will still apply. Where, however, the immigration officer enters a date other than the previous expiry date, the endorsement is erroneous and the passenger should be deemed to have been given leave to enter for six months Code 3.

Before 10 July 1988 the 3(3)(b) resuming endorsement simply read "Given leave to enter - Section 3(3)(b)". As no date is specified on this endorsement, if there is no enabling endorsement then indefinite leave is deemed to have been given. The actions set out in paragraph 2.2 above should be taken.

As long as there **is an enabling stamp accompanying original conditions imposed before 10 July 1988**, Section 3(3)(b) will be deemed to apply, even if the immigration officer:

- \* omitted his personal date stamp;
- \* omitted the 3(3)(b) endorsement; or
- \* made an illegible endorsement.

As long as valid leave was previously endorsed, accompanied by an enabling stamp, valid leave has been granted. If a person landed in this way enquires about his status he should be advised that he has been admitted in accordance with Section 3(3)(b) and that the previous conditions still apply.

### 4. LEAVE ENDORSED TO A NON-EXISTENT DATE

An endorsement which grants leave to a non-existent date, for example 30 February is not a valid notice of leave.

Where the endorsement was given **on or after** 10 July 1988 and there has been no further grant of leave, the relevant papers and passport should be sent to the Inspector in charge of the port in question via the Ports Management Section to rectify the mistake.

Where the mistake can be rectified in AEAD, for example where the time has passed and the applicant is requesting and qualifies for further leave to remain then the appropriate action should be taken **before** passing the papers to the port concerned to note.

Where it is not possible to identify the port from the passport endorsement or landing card then the case should be sent to ISPD Passenger Casework Section.

#### 4.1. Passengers who arrived before 10 July 1988

A passenger who was landed in this way **before** 10 July 1988 will be deemed to have been given indefinite leave to enter. A decision to recognise that a person has been given indefinite leave to enter must not be taken below HEO level. If it is decided that indefinite leave has been given then the actions set out in 2.2 above should be taken, except that the file should be sent to IES(1) to note **before the passport is returned**.

## 5. INCOMPLETE OR ILLEGIBLE ENDORSEMENTS MADE ON ENTRY

If an endorsement is clearly illegible, particularly if the words "leave to enter" or the time limit on the endorsement is omitted or illegible then the endorsement does not constitute notice in writing which is required under Section 4(1) of the 1971 Act. An endorsement where the employment restriction is legible, but where the leave given is not cannot be considered to be a valid grant of leave. When considering whether an endorsement which is to some extent illegible can be regarded as a valid grant of leave, the points listed below should be taken into account:

- “ The courts have held that there should not be any kind of uncertainty about the period for, or the date to which leave which has been granted.
- “ No account should be taken of any other factors other than the endorsement itself.
- “ Not every minor defect will make an endorsement invalid. If the words, despite the defect, can only be read in one way the defect will be immaterial if the period of leave granted can still be understood, for example, where the letter 'i' of the six on the Code 5N stamp is missing.
- “ Officers should try to view an endorsement from the standpoint of someone who had not seen such an endorsement before. Officers should avoid reading into the endorsement what they know it should say.

If it is decided that a supposedly illegible endorsement is in fact sufficiently legible to constitute a valid grant of leave, the applicant should be informed in writing of the decision, using a letter similar to that provided at the end of this Annex.

As with erroneous endorsements, where an endorsement is considered to be illegible and the arrival was **before** 10 July 1988 then the person will have been deemed to have been given indefinite leave to remain and the action as set out in paragraph 4.1 above should be followed, except a dummy landing will only be required if the illegible stamp had no arrival number.

Where an endorsement is considered to be illegible and the arrival was **on or after** 10 July 1988, the person will have been deemed to have been given 6 months Code 3 and the action set out in paragraph 4 above should be followed.

## 6. INCOMPLETE OR ILLEGIBLE ENDORSEMENTS MADE AFTER ENTRY

Paragraph 6(1) of Schedule 2 to the Act only applies to on-entry endorsements. There is no similar provision for after entry endorsements. Therefore, if it is considered that an applicant was given an incomplete notice of leave to remain, the purported leave given would not be effective and the application would remain outstanding.

### 6.1. Correction of faulty endorsements

If the endorsement is either partly or completely illegible, the missing letters should be neatly inked in using black biro **at the time the endorsement is made**.

If the wrong stamp is inadvertently impressed in the passport (eg a Code 3 stamp was used where a Code 1 stamp was intended) action should be taken as follows:

- “ a further endorsement showing the correct conditions should be impressed in the passport;
- “ the words "Endorsed in error. Please see subsequent endorsement on page ..." should be placed immediately below the incorrect endorsement. A rubber stamp is available for this purpose.

## 7. SUSPECT ENDORSEMENTS

Where there is any reason to suspect that an endorsement has been erased or tampered with

the case should be immediately referred to IES(1) to investigate before any further action is taken to confirm indefinite leave to enter.

## **8. DEPENDANTS**

People who have been deemed to have been given indefinite leave to remain will be entitled under the Rules to apply for close relatives to be granted leave to remain as a dependant of a person who is present and settled in the United Kingdom.

## **9. SUBSEQUENT GRANTS OF LIMITED LEAVE TO ENTER OR REMAIN**

### **9.1. Limited leave to remain following erroneously granted indefinite leave to remain**

There is no power under the Immigration Act 1971 to grant limited leave to remain to a person who already has indefinite leave. Therefore if an applicant has not left the common travel area since being erroneously granted indefinite leave, any subsequent **limited leave to remain** will be void.

### **9.2. Requests made on entry for leave as a returning resident on the basis of a previous erroneous landing**

If a passenger produces a passport which shows that he was deemed to have been granted indefinite leave and that passenger is seeking admission as a returning resident by virtue of that erroneous endorsement, his application should be considered under Paragraphs 18 and 19 of HC 395.

### **9.3. Subsequent limited leave to enter**

Where a person granted limited leave to enter subsequently claims that he should have been treated as a returning resident because he had earlier been deemed to have been given indefinite leave to enter, the case should be considered in the same way as any after entry application to be treated as a returning resident. The fact that the person gained indefinite leave due to an error should not affect the decision as to whether the applicant qualifies as a returning resident.

Although there is no provision in the Immigration Rules to apply as a returning resident after entry, applications may be considered under the pre-entry conditions by virtue of Paragraph 357 of HC 395. However, the applicant must show that he intended to seek entry as a returning resident and not simply that he would have done had he known he could. **See Chapter 1, Section 3 "Returning Residents"**.

## **10. RIGHTS OF APPEAL**

A letter from a person or his representative claiming that he has been given indefinite leave to enter as a result of an erroneous or illegible endorsement given on his **last entry to the United Kingdom** does **not** constitute an application to vary leave. Such a letter should be treated as a request for confirmation of a person's status. It follows that a refusal to recognise an erroneous or illegible endorsement as the grant of indefinite leave to enter will not attract a right of appeal. Where it is decided that the person has not, in fact, been given indefinite leave to remain a letter along the lines of that provided at the end of this Annex should be used when replying to such a request.

A request from a person who was given valid leave on his last arrival to remove the conditions because he should have been treated a returning resident, by virtue of an **earlier** erroneous or illegible endorsement should be treated as an application to vary leave. If the application is "in time" then it **will** attract a right of appeal.

On occasions a person may claim that he has been given indefinite leave as a result of an erroneous or illegible endorsement as well as submitting an application for leave to remain.

Officers must consider whether the application has any basis other than the supposedly erroneous or illegible endorsement.

Where there is no other claim to remain other than because of the supposedly erroneous or illegible endorsement then the application for indefinite leave to remain is not a proper one. The application should not be considered as anything other than a request for clarification of status and should not be formally refused.

If it is decided that the person has not been given indefinite leave to enter as a result of the endorsement, the applicant should be notified as indicated in the letter attached at the end of this Annex, but the following should be substituted for the final paragraph:

"As a claim that indefinite leave to enter has been acquired as a result of an erroneous or illegible endorsement is a request for clarification of immigration status rather than an application for variation of leave, there is no right of appeal against this decision under the Immigration Act 1971.

Although your letter of ..... requested indefinite leave to remain, you did not state on what basis or provide any evidence to support your application for leave to remain, and as such, does not constitute a proper application for variation of leave."

**[LETTERHEAD]**

Immigration Policy Directorate

Apollo House 36 Wellesley Road

Croydon CR9 2BY

Telephone 0181 760

(GTN 3822)

Dear .....

Thank you for your enquiry about your/your client's immigration status.

The Secretary of State is satisfied that the endorsement on page..... of your/your client's passport is sufficiently clear to constitute an effective grant of leave to enter under Section 4(1) of the Immigration Act 1971. Paragraph 6(1) of Schedule 2 to the Immigration Act 1971, which makes provision for cases in which notice giving or refusing is not given promptly, does not therefore apply in this case.

As your letter of -/- was a request for clarification of your/your client's immigration status rather than an application for variation of leave, there is no right of appeal against this decision.

**ANNEX K - ENDORSING STAMPS EXAMPLES OF STAMPS AND ENDORSEMENTS**

This annex was issued during the week of 3 August 1998. However, because IPD does not have a scanner it is not possible to put a copy of the stamps in 'Review' in the B2-Share directory. Anyone in IPD who wishes to examine the IDI will have to refer to their paper-based copy.

Simon Greenwood, Section 6, IPD.