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CHAPTER 1
SECTION 4**ENTRY CLEARANCE****1. GENERAL**

The Statement of Changes in Immigration Rules (HC395), as amended by (HC 704), describe "Entry Clearance" as an inclusive term for visas (for visa nationals), entry certificates (for non-visa nationals) and family permits for the family members of EEA nationals. An entry clearance takes the form of a sticker ("vignette") placed in a person's passport.

2. ENTRY CLEARANCES CONFERRING LEAVE TO ENTER

From 2 October 2000, an entry clearance (EC) which specifies the purpose for which the holder wishes to enter the UK and is endorsed with either, the conditions to which the holder is subject or "indefinite leave to enter the United Kingdom", has effect as leave to enter, which is activated upon passing through the Immigration Control. The Entry Clearance will have a "valid from" date as well as a "valid until" date (unless it is ILE). The Immigration Officer will activate the EC by stamping the passport with the date of arrival on the first entry only. A list of the conditions of entry is attached at ***Annex U. Certificates of Entitlement, EEA Family Permits, Direct Airside Transit Visas and Exempt visas do not have effect as leave to enter.***

Entry clearances, conferring leave to enter, normally allow unlimited entries within the period of the validity shown on the entry clearance. The concept of a "Single Entry" has not been abandoned but is now only used in the most exceptional circumstances, such as applications with national security implications.

3. TYPES OF ENTRY CLEARANCE

United Kingdom entry clearances are issued in the following formats

- ◆ the Uniform Format Visa (UFV) (see paragraph 4 below), used for visas issued for Direct Airside Transit, Transit and Visits; or
- ◆ the United Kingdom Category D Entry Clearance (see paragraph 5 below), used for long-stay visas, all categories of non visa nationals and EEA family permits.

Old style UFVs and the old style UK vignette issued prior to the 2 October are still valid for use but do not have effect as leave to enter.

4. THE UNIFORM FORMAT VISA (UFV)

In accordance with EC regulations, all *short-term* visas issued by Member States from 8 September 1996 must be produced on a standard label, known as the Uniform Format Visa (UFV), containing a number of standard security features. The visa labels have space for machine-readable information to be provided, which must conform to the internationally agreed ICAO (International Civil Aviation Organisation) specification.

The EC Regulation mandates visas in four categories:

- | | |
|---|-----------------------------|
| A | Airside Transit |
| B | Transit |
| C | Visit |
| D | Long Stay or National visas |

Because the UK deals differently with long stay visa applicants and requires them to show that they meet the requirements of UK law before a visa is issued, we do not use Category D on our UFVs. Category D is reserved for applicants in all categories other than A, B, and C above. Category D visas are issued in a UK specific format. Other Member States use category D to distinguish, for example, a national visa from a visa valid for all the Schengen States.

4.1. Description

The UFV is based on the Schengen visa, which will continue to be issued by those States as their UFV. It contains many security features.

4.2. Information included on the UFV

The data fields in the visual inspection zone of the visa are completed as shown in paragraph 1 to *Annex T*. In particular, you should note where our practice may differ from that of other EU member States.

The UK adds a visa endorsement after the letter (A, B or C) identifying the category of visa. The only endorsements are:

- | | |
|----|----------------------------|
| A: | Direct Airside Transit |
| B: | Visitor in Transit |
| C: | Visit |
| C: | Visit - Medical Treatment |
| C: | Visit - PLAB Test |
| C: | Visit - Marriage |
| C: | Visit - Diplomatic Courier |

It is probable that most, if not all, other EU Member States will not include an expanded endorsement and only the letter (A, B, C or D) will identify the category.

4.3. **The machine readable zone**

The machine-readable zone (MRZ) is completed in conformance with ICAO Document 9303 Part 2 as it describes the MRV-B type visa. The two machine-readable lines each contain 36 characters as described in paragraph 2 of *Annex T*.

4.4. **Validity of the Visit EC's (UFVs)**

Visit EC's issued in accordance with the 2000 Order allow unlimited entries within the period of validity shown on the entry clearance. Holders of visit visas may remain in the UK for a maximum of six months on any one visit. The holder may not remain (without further permission) in the UK after the "valid until" date on the entry clearance, even if this is less than six months. Normally the "valid from" date will be the date of issue. However, it is possible for the Entry Clearance Officer to delay the "valid from" date for up to 3 months to correspond with the date of travel. See *Annex V* for how to deal with passengers arriving before the visa is valid.

4.5. **Accompanying dependants**

Where accompanying dependants are included on a visa holder's passport, the visa will be annotated immediately after the passport number with an "x" preceded by a number to indicate children and a "y" to indicate a spouse (e.g. if a spouse and three children are to accompany the holder, the annotation will read "+3x +y"). This is the procedure stipulated in the EC Regulation. The UK will also include their full details on a separate page, authenticated by an official stamp and/or signature of the entry clearance officer.

4.6. **Computer-based issuing and printing**

Posts accounting for over 99% of UK visas issued globally are equipped with computer-based issuing and printing systems. Posts without the necessary IT will invariably be very small in terms of annual visa applications and will continue to write entry clearances by hand using a black ballpoint pen. Other posts will handwrite entry clearances in the same manner in the event of printer or other IT failure.

4.7. **Old format entry clearances**

It should be noted that the old and new visas will run concurrently for some time, until visas issued in the old format (in some cases, multiples up to five years) expire. However, old style entry clearances not issued in accordance with the requirements of the 2000 Order do not have effect as leave to enter.

5. THE UK CATEGORY D ENTRY CLEARANCE

5.1. General

The UK Category D Entry Clearance is reserved for entry clearance applicants in all categories other than visa applicants under categories A, B and C. The list of endorsements on the Category D visa is attached at *Annex T*.

5.2. Description

The Category D Entry Clearance contains many security features.

5.3. Information included on the Category D Entry Clearance

The data fields in the visual inspection zone of the visa are completed as shown in paragraphs 3 and 4 to *Annex T*.

5.4. The machine readable zone

The machine-readable zone (MRZ) is completed in compliance with ICAO Document 9303 part 2 as it describes the MRV-B type. The two machine-readable lines each contain 36 characters as described in paragraph 4 of *Annex T*.

5.5. Validity of the Category D Entry Clearance

Category D Entry Clearances issued in accordance with the requirements of the Order, will usually allow unlimited entries within the period of validity shown on the entry clearance. Leave to enter, will be activated on the passengers first arrival in the United Kingdom and the EC will be date stamped on that occasion and not on any subsequent re-entry occasions, during the validity of the entry clearance, unless the entry clearance is for the category of settlement or returning resident. The leave will expire on the “valid until” date of the entry clearance. The holder may not remain (without further permission) in the UK after the “valid until” date on the entry clearance. **This does not apply in settlement or returning resident cases where indefinite leave to enter is entered onto the entry clearance.** In settlement and returning resident cases, the “valid until” date should coincide with the expiry date of the passport. On expiry of the visa, providing the person meets the requirements of the “Returning Residency” requirements of paragraph 18 of the Immigration Rules, they will be entitled to remain in the UK.

Normally the “valid from” date will be the date of issue. However, it is possible for the Entry Clearance Officer to delay the “valid from” date for up to 3 months to correspond with the date of travel. See *Annex V* for how to deal with passengers arriving before the visa is valid.

5.6. **Accompanying dependants**

The names of any accompanying dependants travelling on the same passport or travel document will be endorsed on the entry clearance.

5.7. **Computer-based issuing and printing**

Posts accounting for over 99% of UK visas issued globally are equipped with computer-based issuing and printing systems. Posts without the necessary IT will invariably be very small in terms of annual visa applications and these will continue to write entry clearances by hand using a black ball point pen. Other Posts will hand write entry clearances in the same manner in the event of printer or other IT failure.

5.8. **Old format entry clearances**

The Category D Entry Clearance replaced the old style UK entry clearance. Old and new style entry clearances will run concurrently for some time, until the old entry clearances expire. Old style entry clearances do not have effect as leave to enter.

6. **DEFINITIONS OF TYPES OF ENTRY CLEARANCES**

6.1. **Visas**

Nationals or citizens of certain countries or territorial entities require visas to enter the United Kingdom *irrespective* of the purpose for which they are seeking entry (but see paragraphs (below) headed "*Visa exemption*" and "*Transit visas*"). Such persons are collectively known as visa nationals. A list of the countries whose nationals are subject to a visa requirement is contained in the Appendix to Statement of Changes in Immigration Rules (HC 395) (as amended).

6.2. **Entry certificates**

Entry certificates are entry clearances issued to non-visa nationals. An entry clearance is required for certain purposes under the Immigration Rules. But even where there is no explicit requirement for a person to obtain an entry clearance, it remains open to any non-visa national voluntarily to apply for one with a view to facilitating his admission to the United Kingdom. The words "entry certificate" no longer appear on the UK (Category D) entry clearance which is simply entitled "United Kingdom Entry Clearance."

6.3. **EEA Family permits**

EEA Family permits are issued, without charge, to non EEA national family members of EEA nationals, to enable them to accompany or join the principal in the United

Kingdom. Holders of these permits are not subject to control and these permits do not therefore confer leave to enter.

7. REQUIREMENTS UNDER THE IMMIGRATION RULES

- ◆ An applicant for an entry clearance must be outside the United Kingdom and Islands at the time of the application.
- ◆ An applicant for an entry clearance who is seeking entry as a *visitor* must apply to a post designated by the Secretary of State to accept applications for entry clearance for that purpose and from that category of applicant.
- ◆ Any other application must be made to the post *in the country or territory where the applicant is living* and which has been designated by the Secretary of State to accept applications for entry clearance for that purpose and from that category of applicant. Where there is no such post the applicant must apply to the appropriate designated post outside the country or territory where he is living.
- ◆ An application for an entry clearance is not made until any fee required to be paid under the Consular Fees Act 1980 (including any Regulations or Orders made under that Act) has been paid.

7.1. List of designated posts

The list of posts designated to accept entry clearance applications is produced by the Joint Entry Clearance Unit. A copy is kept by the Immigration and Nationality Policy Directorate (INPD) Section 2, OASIS or by the Management Unit of your Directorate. Caseworkers in the ICD should approach their Senior Caseworker.

It is up to the post concerned in each individual case to decide whether to accept an application. The Home Office has no authority to override a decision by the entry clearance officer in this respect.

7.2. Definition of "living"

There is no precise definition of the word "living" as contained in the Immigration Rules but the relevant rule has been so worded to allow posts to operate with a degree of flexibility, discretion and common sense. In general terms 'country or territory where the applicant is living' refers to the place where a person is present in any capacity other than as a short-term visitor and has permission from the relevant authorities to be so.

In dealing with enquiries, caseworkers should refer potential applicants to the wording of the Immigration Rules (Paragraph 28) and may also suggest that British Missions abroad be contacted directly to ascertain whether an application would be accepted there.

8. VISA EXEMPTION

The following persons, regardless of their nationality do not need a visa for the United Kingdom:

- ◆ those who qualify for admission to the United Kingdom as returning residents in accordance with Paragraph 18 of HC 395.
- ◆ those who have leave which is in force and seek entry into the United Kingdom within the period of their leave and for the same purpose as that for which the leave was granted unless that leave:
 - * was for a period of 6 months or less; or
 - * was extended by statutory instrument or by section 3C of the Immigration Act 1971 (inserted by section 3 Immigration and Asylum Act 1999). (Note: Appendix 1, para 2(b) to the Immigration Rules has not been amended to include s.3C

It should be noted that a passenger who is returning for a **different purpose** is **not visa exempt** and will need to obtain a fresh visa prior to his return (Statement of Changes in Immigration Rules HC31). In both instances the case for entry is subject to normal consideration under the provisions of the Rules. It should also be noted that visa exemption refers to the situation where a person requires leave to enter but does not need a visa. This is to be distinguished from the situation where a person has leave which has not lapsed on his leaving the common travel area. Such a person will not require a visa as he already has leave to enter or remain in the United Kingdom.

- ◆ those holding refugee travel documents issued under the 1951 Convention relating to the Status of Refugees by countries which are signatories of the Council of Europe Agreement of 1959 on the Abolition of Visas for Refugees *if coming on visits of 3 months or less* (see *Annex V* if further guidance is required).
- ◆ third country national school pupils who are resident in an EU Member State, seeking entry for a short stay or in transit, as a member of a school group (see *Annex V* for further guidance).

8.1. Summary of visa exemption scheme

From the above, officers will see that visa nationals who have more than 6 months leave to enter/remain do not need to obtain another visa if they travel and return to the United Kingdom during that leave. In assessing whether a person does have more than 6 months leave, it is simply a question of looking at the date when the person received leave to enter and the date his latest leave to enter/remain expires. If this period amounts to more than 6 months there is a visa exemption. A number of examples are contained in *Annex R*.

9. TRANSIT VISAS

By administrative concession outside the Immigration Rules visa nationals who have a confirmed booking on an onward flight within 24 hours of arrival by air will normally be admitted as transit passengers without visas. However, this concession is withheld from nationals of *Afghanistan, Colombia, Democratic Republic of the Congo, Ecuador, Eritrea, Ethiopia, Federal Republic of Yugoslavia, Ghana, Iran, Iraq, Libya, Nigeria, People's Republic of China, Republic of Croatia, Slovak Republic, Somalia, Sri Lanka, Turkey, Uganda*. By virtue of the Immigration (Transit Visa) Order 1993 (as amended), nationals of these 19 countries and holders of documents entitled "Turkish Republic of Northern Cyprus" and "Former Socialist Federal Republic of Yugoslavia" are required to have transit visas even if they remain airside and do not seek to pass through United Kingdom immigration control. *Direct airside transit visas* issued for this purpose are *not* entry clearances within the meaning of the Immigration Act 1971 since they are not issued for the purpose of seeking entry to the United Kingdom. Furthermore, Direct Airside Transit Visas (DATV) do not confer leave to enter. See also *Chapter 2, Section 2, "Visitors in Transit"*.

10. REVOCATION (CANCELLATION) OF AN ENTRY CLEARANCE

10.1. Revocation of an EC by an ECO

An Entry Clearance Officer has the power to revoke an entry clearance in certain circumstances. They are when an ECO is satisfied that;

- (i) whether or not to the holder's knowledge, false representations were employed or material facts were not disclosed, either in writing, or orally for the purpose of obtaining the entry clearance; or
- (ii) a change of circumstances since the entry clearance was issued has removed the basis of the holder's claim to be admitted to the United Kingdom, except where the change of circumstance amounts solely to his exceeding the age of entry in one of the categories contained in paragraphs 296 – 316 of the Rules since the issue of the entry clearance; or
- (iii) the holder's exclusion from the United Kingdom would be conducive to the public good.

The ECO will then endorse the EC to show that it has been revoked. There is no right of appeal against the decision to revoke an EC .

Occasionally the applicant will not return to the mission and in these instances the ECO can revoke the EC without the individual being present as long as the ECO has the EC to stamp "REVOKED" upon. If a passenger arrives in the United Kingdom in possession of an EC which has been endorsed "**REVOKED**" and they have not obtained a fresh EC then they fall to be refused under paragraph 24 of (HC 395) with no right of appeal.

10.2. Refusal of entry clearance

Under Section 59(2) of the Immigration and Asylum Act 1999 a person whose entry clearance application is refused may appeal to an adjudicator against the refusal. However, by virtue of section 60(4 and 5) of that Act, a person shall not be entitled to appeal against a refusal of entry clearance if he has sought to enter the United Kingdom:

- (a) as a visitor (except family visitors);
- (b) in order to follow a course of study of not more than 6 months' duration for which he has been accepted;
- (c) with the intention of studying but without having been accepted for any course of study;
- (d) as a dependant of a person within paragraphs (a), (b) or (c) above.

Furthermore, under section 60(7) of the 1999 Act, a person shall not be entitled to appeal against a refusal of an entry clearance if the refusal is on the ground that -

- (a) he or any person whose dependant he is does not hold a relevant document which is required by the Immigration Rules;
- (b) he or any person whose dependant he is does not satisfy a requirement of the Immigration Rules as to age or nationality or citizenship;
- (c) he or any person whose dependant he is seeks entry for a period exceeding that permitted by the Immigration Rules.

“Relevant documents” are entry clearances, passports or other identity documents or work permits.

10.3. Cancellation of an EC by an IO

Statement of Changes to the Immigration Rules (HC 704) which took effect on 28 July 2000, provides the Immigration Officer with the power to cancel an entry clearance in certain circumstances.

An immigration officer may cancel an entry clearance, which is capable of having effect as leave to enter if the holder arrives in the UK before the day on which the entry clearance becomes effective. The IO should establish whether the passenger is seeking entry on the same basis for which the entry clearance was issued. If satisfied that he qualifies for leave to enter, the IO may cancel the EC using the cancelled without prejudice stamp and grant leave to enter. There is no right of appeal against the decision.

to cancel an EC. For guidance on how to deal with these passengers, see *Annex V*, on-entry practical considerations.

If the holder of the EC seeks to enter the UK for a purpose other than the purpose specified in the entry clearance then in this circumstance the IO should establish whether it is appropriate to grant leave to enter exceptionally without an EC. If the IO is satisfied that the person does not qualify for entry the IO should also consider whether to cancel the EC.

11. GROUNDS ON WHICH LEAVE TO ENTER OR REMAIN WHICH IS IN FORCE IS TO BE CANCELLED AT PORT OR WHILE THE HOLDER IS OUTSIDE THE UK

A person who has leave to enter or remain which is in force on his arrival may have that leave cancelled:

- * if the leave has been obtained as a result of false information given by that person or by that person's failure to disclose material facts;
- * if there has been a change of circumstances of that person's case, since the leave was given, then it should be cancelled ;
- * save in relation to a person settled in the UK or where the Immigration Officer or the Secretary of State is satisfied that there are strong compassionate reasons justifying admission, where it is apparent that, for medical reasons, it is undesirable to admit that person to the United Kingdom;
- * where from information available to the Immigration Officer or the Secretary of State, it seems right to cancel leave on the ground that exclusion from the United Kingdom is conducive to the public good;
- * where the Secretary of State has personally directed that the exclusion of that person from the United Kingdom is conducive to the public good.

Further guidance in respect of cancellation of leave to enter (or remain) in such circumstances is provided in Chapter 9, Section 3 of these instructions.

12. RIGHTS OF APPEAL

12.1. Cancellation of leave to enter

The holder of an entry clearance whose leave to enter is cancelled has an in-country right of appeal and if he appeals, may not be removed from the United Kingdom pending the outcome (Paragraph 2A(9) of Schedule 2 to the Immigration Act 1971 and section 59(1) and 60(3) and paragraph 10 of Schedule 4 of the Immigration and Asylum Act 1999).

13. REFERRAL AND DEFERRAL OF APPLICATIONS

Entry clearance officers have instructions to *refer* certain applications to the *Home Office for guidance*. These mainly involve cases which fall outside normal instructions or in which detailed enquiries in the United Kingdom will normally be needed. Entry clearance applications from asylum seekers are referred to Asylum & Appeals Policy Directorate (AAPD).

It is also open to an entry clearance officer to *defer* an application in order to obtain further information or advice following receipt of which the *decision is made by the post abroad*.

Further information on the categories for which referral/deferral is necessary is contained in the DSP a copy of which is held in INPD, Section 2.

14. REQUESTS FOR ENTRY CLEARANCE MADE DIRECTLY TO IND

An applicant applying for an entry clearance *must* be outside the United Kingdom and Islands at the time of the application. If a sponsor writes to IND requesting entry clearance on behalf of someone, he should be advised that an application must be made to the appropriate British Post abroad.

15. MISCELLANEOUS INFORMATION

15.1. Letters of consent

Letters of consent were a form of entry clearance issued to non-visa non-Commonwealth foreign nationals. The entry clearance was issued in the form of a letter and no endorsement was made in the applicant's passport. Letters of consent were abolished in July 1993. Entry clearance now takes the form of a visa or entry certificate only.

15.2. Re-entry visas

The facility for acquiring United Kingdom re-entry visas was withdrawn in May 1991 at the same time as the visa exemption scheme was extended.

15.3. Addresses of British Posts abroad

These can be obtained by contacting ICD Management Unit or Immigration and Nationality Policy Directorate (INPD), Section 2. A copy of the "Diplomatic List" is held at ports.