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**IMMIGRATION DIRECTORATES' INSTRUCTIONS****CHAPTER 17  
SECTION 10****JAPAN: YOUTH EXCHANGE SCHEME****1. INTRODUCTION**

The Japan: Youth Exchange Scheme is a scheme established in the interests of the strategic UK-Japan relationship. The scheme was launched on 2 February 2001, and Japanese participants were eligible to enter the United Kingdom under the scheme from 16 April 2001.

The scheme is a bi-lateral arrangement, operating subject to review, outside the Immigration Rules. It provides wider opportunities for young British and Japanese people to experience and develop a greater understanding of each other's country, culture, people, society and way of life through an extended stay in Japan or Britain. The scheme permits young Japanese people between the ages of 18 and 25 (with a discretionary upper limit of 30 years of age\*) to spend up to a year in the United Kingdom, enjoying an extended holiday visit, of which employment is only an incidental part. Young British citizens will likewise be able to spend up to a year in Japan. During their stay they will be able to take temporary work incidental to their holiday to supplement their travel funds. A quota of 400 participants in each direction has been agreed, this quota being subject to review. The scheme operates exceptionally outside the Rules, however *all participants are required to be in possession of an entry clearance for admission under this category when they arrive in the United Kingdom.*

\*Entry Clearance Officers will have the discretion to grant an entry clearances on an exceptional basis to any applicant up to the age of thirty years, where all the other criteria for participating in the scheme are met, and such an applicant has made a good case that there was a genuine and compelling impediment to their submitting an application before their 26th birthday. Reasons why such an applicant might not have been able to apply for a place on the scheme between the ages of 18 and 25 could include such circumstances as, for example, the applicant having been engaged in full time studies throughout that period, or engaged in the care of a sick relative. NB Applicants who have been unable to apply for a place on the scheme *only* because the scheme was not in existence until after their 26<sup>th</sup> birthday will not be eligible for exceptional consideration. However, where for reasons such as those outlined above, an applicant would have been unable to apply for a place on the scheme during the relevant years had the scheme existed such an applicant will be eligible for exceptional consideration.

Those applicants who fail to meet the criteria required for entry under the terms of this scheme should be refused on the basis that they are not seeking entry for a purpose that is covered by the Immigration Rules. (Paragraph 320(1) of HC395 refers)

**NB** A refusal of entry clearance on the basis that there is no provision in the Immigration Rules attracts a right of appeal because it does not come within the exclusions in section 60 of the 1999

Act. (Such an appeal can only be allowed on the basis that it is referred back for reconsideration.)

## **2. LEAVE TO ENTER**

### **2.1. Granting leave to enter**

Those in possession of an entry clearance under the scheme should normally be permitted to enter the United Kingdom for up to one year from the date on which the entry clearance becomes valid, in line with the validity of the entry clearance (provided that there is no reason to believe that false representations were made in order to obtain the entry clearance or that circumstances have changed since its issue). They may not extend their stay beyond the period authorised, or alter their immigration status during their stay. (The entry clearance for a participant in the scheme will be issued for entry on Code 4 “as a participant in the Japan: Youth Exchange Scheme”.)

### **2.2. INDECS**

**O** Other person given leave to enter.

## **3. Refusal of leave to enter.**

Under the terms of the Japan: Youth Exchange Scheme those seeking entry under the scheme are required to hold an clearance issued for the purpose for which entry is being sought. Those seeking entry under the scheme who do not possess an entry clearance for the purpose should accordingly be refused. Since the entry clearance requirement in respect of the scheme is non-statutory, the refusal should be on the basis that entry is being sought for a purpose not covered by the Rules (Paragraph 320(1) refers).

**NB** The right of appeal in respect of such a refusal is non-suspensive (ie from abroad, after removal). (If, however, the subject arrives with an entry clearance and is refused entry, then the appeal is suspensive and the subject has the right to remain in the United Kingdom pending it's resolution.)

*ANNEX C (below) provides examples of refusal formulae.*

### **3.1 On entry refusal code.**

**Z1** Other reasons

#### 4. KEY POINTS

To be eligible to be considered for entry clearance under the Japan: Youth Exchange Scheme an applicant must:

- be a Japanese national who is currently present in Japan;
- intend primarily to holiday in the United Kingdom for a period of up to one year from the date on which the entry clearance becomes valid;
- be aged between eighteen (18) and twenty-five (25) years inclusive at the time of application (\* except in cases as outlined in paragraph 1 above where there is a discretion to extend the age limit up to thirty (30) years);
- be a person who is **not** accompanied by children;
- be a person who is **not** accompanied by a spouse **unless** that spouse is also in possession of an entry clearance issued under the Japan: Youth Exchange Scheme;
- possess a valid passport and a return travel ticket or sufficient funds with which to purchase such a ticket;
- be able to maintain and accommodate themselves without recourse to public funds;
- intend to leave the United Kingdom at the end of their stay; and
- have **not** previously visited the United Kingdom under these arrangements.

#### 5. Age

The terms of the scheme require that participants must be between the age of 18 and 25 at the time they apply for a place on the scheme, or up to 30 years of age if they are eligible for exceptional consideration as outlined above. If a participant who has earlier been admitted to the United Kingdom returns here to resume his period of stay within the currency of his existing leave he will be expected to continue to meet the requirements of the category, **but he should not be disqualified from re-admission solely on grounds that he no longer meets the age requirements.**

#### 6. Family commitments

A participant in the scheme who is married can **only** be accompanied by a spouse if that spouse is in possession of an entry clearance under the Japan: Youth Exchange Scheme. Where, however, the spouse is an EEA national (see **Chapter 7 Section 3** below) who is coming to the United Kingdom, or is a non-EEA national who otherwise qualifies for entry under the Rules, it may be appropriate to advise such a person to apply to accompany the spouse as a dependant.

A participant in the scheme may **not** be accompanied by any children.

A participant in the scheme must not have any commitments which make it likely that they would wish to, or have to, earn a regular income (these might, for example, include dependent relatives overseas, and the ownership of property, particularly if it is mortgaged). For an applicant to be eligible for entry clearance, it should be clear that their circumstances are such that they will be in a position to comply with the restrictions upon employment.

## **7. Funds/Support**

An applicant must have the cost of the outward fare to the United Kingdom. The requirement to have the means to pay for the return or onward journey should be flexibly applied where there is reasonable expectation that the necessary funds will be earned before the expiry of the period of stay under the scheme.

An applicant must also have the means to support himself for at least the first 2 months after arrival without recourse to public funds or for at least one month if he has a job arranged in advance.

## **8. Intentions**

An applicant for entry clearance under the Japan: Youth Exchange Scheme must intend to leave the United Kingdom on completion of his stay under the scheme. The entry clearance officer will wish to be satisfied that an applicant, whilst not settled down in his own country, nevertheless has sufficient ties and prospects there to ensure that it is likely he or she will wish to return after one year.

## **9. EMPLOYMENT**

### **9.1. Intention to work**

A participant in the Japan: Youth Exchange scheme should come to the United Kingdom with the intention of taking work here *as part of his holiday*. If he does not intend working or has no reasonable prospect of obtaining the type of work envisaged then he will be unlikely to meet the requirements of the category.

While a participant in the scheme may engage in work incidental to a holiday here he is prohibited from engaging in business or pursuing a career, and is also prohibited from providing services as a professional sportsperson or entertainer (see *paragraphs 3.4. and 3.5.* below). It is inappropriate for a person whose specific purpose in coming to the United Kingdom is to take full-time work to be admitted under the auspices of the Japan: Youth Exchange Scheme. A participant will, however, be free to take temporary unpaid work, such as for a registered charity on a volunteer basis, as and when he wishes.

### **9.2. Work incidental to a holiday**

As a general rule of thumb this should be considered to mean engaging in full-time work for **50% or less** of the working holiday. Full-time employment should be taken to mean employment for more than 25 hours per week. A participant in the scheme may, however, engage in part-time work for more than 50% of his holiday provided it is clear that he will have a holiday.

### 9.3. Professional/Vocational work

A participant in the Japan: Youth Exchange Scheme should not engage in work which represents the continuation of his career whilst here. A person established or qualified in a profession or vocation overseas and who intends to take up a post or appointment in the same field in the United Kingdom should normally be required to obtain a work permit.

This need not, however, rule out all professional activity and it may be acceptable for a participant to engage in, for example, supply teaching at a relatively junior level or agency nursing. Working on a temporary basis in a profession allied to medicine, as an occupational therapist, physiotherapist, speech therapist or radiographer is also allowed. The entry clearance officer should, however, have regard to the length of the contract and the commitments involved in the work undertaken. A participant should not take up managerial positions or act as a locum hospital doctor, GP, solicitor, barrister etc., but work as a locum vet is allowed.

### 9.4. Self employment

The restriction on engaging in business should not rule out all self-employed activity where the latter is clearly temporary in nature (for example, window cleaning or working from home as a hairdresser) but any activity which involves such commitments as investment in premises, expensive equipment or the employment of staff is to be regarded as activity for which a person would be required to qualify under the Rules relating to business.

### 9.5. Sportspersons and entertainers

The prohibition upon providing services as a professional sportsperson or entertainer does not rule out all sporting activity or performance as an entertainer for recreational purposes. The prohibition is not intended to prohibit the admission of those who participate in sport or the performing arts as amateurs abroad and who may want to engage in sporting activity or perform as an entertainer for recreational purposes by joining a United Kingdom club, orchestra or theatre group whilst they are here. However where a person is established abroad in a professional or semi-professional capacity as a sportsperson or entertainer and it is his intention to engage in such activity in the United Kingdom, even temporarily or ostensibly for no pay, he should be refused and required to obtain a work permit.

## 10. Study

It is acceptable for a participant in the Japan: Youth Exchange Scheme to engage in some part-time study and short periods of full-time study whilst he is here. He may not, however, engage in full-time study for the whole period of his stay since he cannot be accepted as intending to

take employment incidental to a holiday. An applicant who intends to do so should be refused an entry clearance and be expected to meet the requirements of the Rules relating to students.

## 11. DEPENDANTS

### 11.1. Spouses

The terms of the scheme are such that a participants may *only* be accompanied by a spouse *if* that spouse is also in possession of an entry clearance issued under the Japan: Youth Exchange Scheme. An application for a participant to be accompanied by a dependent spouse should be refused under Paragraph 320(i) and will also disqualify the would-be participant.

### 11.2. Children of participants in the Japan: Youth Exchange Scheme.

There is *no* provision under the scheme for the children of participants to accompany them to the United Kingdom or to join them in the United Kingdom

## 12. SWITCHING

Under the terms of the Japan: Youth Exchange Scheme all participants in the scheme are required to have entered the United Kingdom with an entry clearance issued under the scheme. A person who did not enter the United Kingdom in possession of such an entry clearance and who seeks leave to remain under the scheme should accordingly be refused on the basis that the Secretary of State is not satisfied that they meet the criteria of the scheme. They should also be refused on the basis that the Secretary of State is also not satisfied that they are seeking leave to remain for a purpose which is covered by the Immigration Rules. (Paragraph 322(1) of HC 395 refers.)

### 12.1 INDECS

X6 Refusal – other reasons.

An application for a person admitted as a participant in the Japan Youth Exchange Scheme to remain for the purpose of employment for which a work permit or entry clearance is required should be refused on no-switching grounds (see *Chapter 5 - "EMPLOYMENT"*). Cases where it appears that the provisions of the scheme have been abused should be referred after action to INPD to note.

### 12.2 INDECS

W7 Refusal - no switching

NB There is *no* provision under the terms of the Japan: Youth Exchange Scheme for those who enter as participants to have their leave under the scheme extended beyond the validity of

their entry clearance. The period for which a participant may stay in the United Kingdom under the scheme is for up to one year from the date on which the entry clearance becomes valid, until the expiry of the validity of the entry clearance. A participant in the scheme may not extend his stay beyond the period authorised, or alter their immigration status during their stay. A person who seeks leave to remain under the scheme should therefore be refused on the basis that the Secretary of State is not satisfied that they meet the criteria of the scheme. They should also be refused on the basis that the Secretary of State is also not satisfied that they are seeking leave to remain for a purpose which is covered by the Immigration Rules. (Paragraph 322(1) of HC 395 refers.)

*ANNEX C (below) provides examples of refusal formulae.*

The *general guidance on adverse decisions at Chapter 9, Section 1* provides important advice about the decision making process and should be consulted whenever an application falls to be refused.

**Refusal formulae****ENTRY CLEARANCE**

You have applied for entry clearance to come to the United Kingdom under the Japan: Youth Exchange Scheme. However you have failed to meet the criteria required for entry under the terms of this concession and the Secretary of State is not satisfied that you are seeking entry for a purpose that is covered by the Immigration rules.

**Paragraph 320(1) of HC395****ON ENTRY**

You have applied for leave to enter the UK under the terms of the Japan: Youth Exchange Scheme. However the terms of the concession require those seeking entry to hold a valid and current UK entry clearance and you have no such entry clearance, nor are you seeking entry for a purpose which is covered by the Immigration Rules.

**Paragraph 320(1)**

**NB** *Where entry is refused there will be an out of country right of appeal under Section 59 (1), unless the applicant makes an asylum claim or raises Human Rights, when Sections 69 and 65 apply respectively.*

**AFTER ENTRY**

You have applied to remain in the UK as a participant in the Japan: Youth Exchange Scheme, but under the terms of the Japan: Youth Exchange Scheme all participants in the scheme are required to have entered the United Kingdom with an entry clearance issued under the scheme. You did not enter the United Kingdom in possession of such an entry clearance, and the Secretary of State is therefore not satisfied that you meet the criteria of the concession. The Secretary of State therefore refuses this application. The Secretary of State is also not satisfied that you are seeking leave to remain for a purpose which is covered by the Immigration Rules.

**Paragraph 322(1) of HC 395****Further leave to remain applications**

You have applied for further leave to remain in the United Kingdom in order to continue participating in the Japan: Youth Exchange Scheme. However the Secretary of State is not satisfied that you continue to meet the terms of the concession and is not prepared to grant you further leave under the scheme and therefore refuses this application. The Secretary of State is also not satisfied that you are seeking leave to remain for a purpose which is covered by the Immigration rules.

**Paragraph 322(1) of HC395**