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IMMIGRATION DIRECTORATES' INSTRUCTIONS

CHAPTER 3 SECTION 2

PROSPECTIVE STUDENTS

1. DEFINITION OF A PROSPECTIVE STUDENT

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. For the avoidance of doubt, this category includes:

- prospective student **nurses** but **not** postgraduate doctors or dentists; or
- overseas qualified nurses or midwives.

Six months is the maximum permitted period allowed for this purpose.

2. ENTRY CLEARANCE

From 1st September 2007 changes to the Immigration Rules relating to prospective students mean that it is a mandatory requirement that all persons seeking entry to the United Kingdom to finalise their study arrangements with the intention of undertaking a course of study that meets the requirements of the student rules require prior entry clearance as a prospective student before arriving in the United Kingdom.

3. ADMITTING PROSPECTIVE STUDENTS

- The requirements to be met by a person seeking leave to enter the United Kingdom as a prospective student are set out in paragraph 82 of HC 395 (as amended) and **must** be referred to when reading the following guidance.
- A person seeking to enter the United Kingdom as a prospective student may be admitted provided that he is able to produce on arrival a valid United Kingdom entry clearance for entry in this capacity. The Immigration Officer should endorse the passport with his personal date stamp to record that the leave is being activated.
- The maximum 6 month period of leave for which a prospective student may enter the United Kingdom is endorsed in the entry clearance vignette.

3.1 Key points

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

- the passenger holds a valid (Code 3) 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 the 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).

4. CODES FOR IMMIGRATION – CASE INFORMATION DATABASE (IS-CID)

STS Short term student

5. REFUSAL OF LEAVE TO ENTER

Immigration Officers may find the following scenarios useful when deciding whether to grant leave to enter to a prospective student:

- 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).

5.1 On entry refusal code

PA4 A4 Port Refusal - Unsatisfactory or unacceptable arrangements for proposed study
PA5 A5 Port Refusal - Intention to study not genuine or realistic
PE4 E4 Port Refusal - Lack of required non-settlement entry clearance

5.2 Right of appeal and corresponding refusal form

Details of Appeal rights and the corresponding refusal form can be found in **Chapters 12 and 9** respectively of these instructions.

6. GRANTING LEAVE TO REMAIN AS A PROSPECTIVE STUDENT

- The requirements to be met by a person seeking leave to remain in the United Kingdom as a prospective student are set out in paragraph 85 of HC 395 and **must** be referred to when reading the following advice;
- From 1st September 2007 a prospective student seeking leave to remain in this capacity must hold a valid prospective student entry clearance;
- Applications for leave to remain in this capacity should be comparatively rare, since 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 1st September 2007, all prospective students who intend to switch into the student category will require entry clearance as a prospective student.

6.1 Checklist for caseworkers

Caseworkers need to satisfy themselves in respect of the following:

- 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.***)

6.2 Codes for General – Case Information Database (G-CID)

S4 Student extension - other than to end of course

7. DEPENDANTS OF PROSPECTIVE STUDENTS

Paragraphs 76 & 79, respectively, as amended, provide for leave to be granted to the spouse or civil partner and children of a person admitted or allowed to remain as a prospective student. Dependants who qualify as such should be granted leave on code 3 in line with the prospective student for up to a maximum period of 6 months. See ***Chapter 3 Section 4 "Spouses or Civil Partners and children of students"*** of these instructions, if further guidance is required.

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.

8.1 After entry refusal codes for G-CID

- S6 Refusal - lack of funds.
- S7 Refusal - intention to leave.
- SA Refusal - no switching by visa national.
- SB Refusal - inability to pursue course.
- S9 Refusal - other reasons, including general grounds for refusal.

9. REFUSAL FORMULAE

The following are examples of refusal wordings. Caseworkers should note that this is not an exhaustive list of all possible formulae.

Details of Appeal rights can be found in ***Chapter 12*** of these instructions.

9.1 Entry clearance

You have applied for entry clearance to the United Kingdom as a prospective student but your application has been refused.

- **Genuine and realistic intentions (prospective student who intends to switch into student or student nurse category)**

In view of [...], the Secretary of State is not satisfied that you can demonstrate a genuine and realistic intention of undertaking, within 6 months of your date of entry, a course of study which would meet the requirements for an extension of stay as a student under paragraphs 60 to 67 of the Immigration Rules

Paragraph 84 with reference to 82(i)(a)

- **Genuine and realistic intentions (prospective student who intends to switch into overseas qualified nurse or midwife category)**

In view of [.....], the Secretary of State is not satisfied that you can demonstrate a genuine and realistic intention of undertaking, within 6 months of your date of entry, a supervised practice placement or midwife adaptation course which would meet the requirements for an extension of stay as an overseas qualified nurse or midwife under paragraphs 69P to 69R of the Immigration Rules.

Paragraph 84 with reference to 82(i)(b)

- **Intention to leave (prospective student who intends to switch into student or student nurse category)**

In view of [.....], the Secretary of State is not satisfied that you intend to leave the United Kingdom on completion of your studies or on the expiry of your leave to enter if you are not able to meet the requirements of the Immigration Rules for an extension of stay as a student in accordance with paragraph 60 or 67 of the Immigration Rules.

Paragraph 84 with reference to 82(ii)(a)

- **Intention to leave (prospective student who intends to switch into overseas qualified nurse or midwife category)**

In view of [.....], the Secretary of State is not satisfied that you intend to leave the United Kingdom on completion of your studies or on the expiry of your leave to enter if you are not able to meet the requirements of the Immigration Rules for an extension of stay as an overseas qualified nurse or midwife in accordance with paragraph 69P of the rules.

Paragraph 84 with reference to 82(ii)(b)

- **Meet cost of course / maintenance and accommodation**

In view of [.....], the Secretary of State is not satisfied that you will be able without working or recourse to public funds to meet the costs of your intended course and accommodation and the maintenance of yourself and any dependants while making arrangements to study, and during the course of your studies.

Paragraph 84 with reference to 82(iii)

9.2 On entry

You have applied for leave to enter the United Kingdom as a prospective student but your application has been refused.

- **No entry clearance (visa national)**

Under the Immigration Rules you are required to produce a passport or other identity document endorsed with a valid and current United Kingdom entry clearance issued for the purpose for which entry is sought, and I am not satisfied that you have such entry clearance.

Paragraph 320(5)

- **No entry clearance (non-visa national)**

Under the Immigration Rules you are required to have a valid entry clearance for this purpose and I am not satisfied that you have such entry clearance.

Paragraph 84 with reference to 82(iv)

{Refusal Code PE4}

- **Genuine and realistic intentions (prospective student who intends to switch into student/student nurse category)**

In view of [.....], the Secretary of State is not satisfied that you have demonstrated a genuine and realistic intention of undertaking, within six months of entry, a course of study which would meet the requirements for an extension of stay as a student under paragraphs 60 to 67 of the rules.

Paragraph 84 with reference to 82(i)(a)

{Refusal Code PA5}

- **Genuine and realistic intentions (prospective student who intends to switch into overseas qualified nurse/midwife category)**

In view of [.....], the Secretary of State is not satisfied that you have demonstrated a genuine and realistic intention of undertaking, within six months of entry, a supervised practice placement or midwife adaptation course which would meet the requirements for an extension of stay as an overseas qualified nurse or midwife under paragraphs 69P to 69R of the rules.

Paragraph 84 with reference to 82(i)(b)

{Refusal Code PA5}

- **Intention to leave (prospective student who intends to switch into the student/student nurse category)**

In view of [.....] the Secretary of State is not satisfied that you intend to leave the United Kingdom on completion of your studies or on the expiry of your leave to enter if you are not able to meet the requirements for an extension of stay as a student in accordance with paragraph 60 or 67 of the rules.

Paragraph 84 with reference to 82(ii)(a)

{Refusal Code PA5}

- **Intention to leave (prospective student who intends to switch into overseas qualified nurse or midwife category)**

In view of [.....], the Secretary of State is not satisfied that you intend to leave the United Kingdom on completion of your studies or on the expiry of your leave to enter if you are not able to meet the requirements for an extension of stay as an overseas qualified nurse or midwife in accordance with paragraph 69P of the rules.

Paragraph 84 with reference to 82(ii)(b)

{Refusal Code PA5}

- **Meet cost of course and maintenance and accommodation (prospective student who intends to switch into student nurse / overseas qualified nurse or midwife)**

In view of [.....], the Secretary of State is not satisfied that you are able to meet the costs of your intended course and accommodation and the maintenance of yourself (and your dependants) without working or recourse to public funds while making arrangements to study and during the course of your studies.

Paragraph 84 with reference to 82(iii)

{Refusal Code PA4}

9.3 After entry

You have applied for leave to remain in the United Kingdom as a prospective student but your application has been refused.

- **Applicant was not admitted to the United Kingdom with a valid prospective student entry clearance**

In view of [.....] the Secretary of State is not satisfied that you were admitted to the United Kingdom with valid entry clearance as a prospective student.

Paragraph 87 with reference to 85(i)

{G-CID stats category: SA}

- **Genuine and realistic intentions (prospective student who intends to switch into student/student nurse category)**

In view of [.....], the Secretary of State is not satisfied that you can demonstrate a genuine and realistic intention of undertaking, within 6 months of your date of entry, a course of study which would meet the requirements of the Immigration Rules for an extension of stay as a student under paragraphs 60 to 67 of the rules.

Paragraph 87 with reference to 85(ii) and 82(i)(a)

{G-CID stats category: SB}

- **Genuine and realistic intentions (prospective student who intends to switch into overseas qualified nurse or midwife category)**

In view of [.....], the Secretary of State is not satisfied that you can demonstrate a genuine and realistic intention of undertaking, within 6 months of your date of entry, a supervised practice placement or midwife adaptation course which would meet the requirements for an extension of stay as an overseas qualified nurse or midwife under paragraphs 69P to 69R of the rules.

Paragraph 87 with reference to 85(ii) and 82(i)(b)

{G-CID stats category: SB}

- **Intention to leave (prospective student who intends to switch into student/student nurse category)**

In view of [.....], the Secretary of State is not satisfied that you intend to leave the United Kingdom on completion of your studies or on the expiry of your leave if you are not able to meet the requirements for an extension of stay as a student in accordance with paragraph 60 or 67 of the rules.

Paragraph 87 with reference to 85(ii) and 82(ii)(a)

{G-CID stats category: S7}

- **Intention to leave (prospective student who intends to switch into overseas qualified nurse or midwife category)**

In view of [.....], the Secretary of State is not satisfied that you intend to leave the United Kingdom on completion of your studies or on the expiry of your leave if you are not able to meet the requirements for an extension of stay as an overseas qualified nurse or midwife in accordance with paragraph 69P of the rules.

Paragraph 87 with reference to 85(ii) and 82(ii)(b)

{G-CID stats category: S7}

- **Meet cost of course / maintenance-accommodation / employment**

In view of [.....], the Secretary of State is not satisfied that you will be able without working or recourse to public funds to meet the costs of your intended course and accommodation and the maintenance of yourself [and your dependants] while making arrangements to study, and during the course of your studies.

Paragraph 87 with reference to 85(ii) and 82(iii)

{G-CID stats category: S6}

- **Maximum 6 months**

In view of [.....], the Secretary of State is satisfied that you would, as a result of an extension of stay, spend more than 6 months in the United Kingdom.

Paragraph 87 with reference to 85(iii)

{G-CID stats category: S9}