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IMMIGRATION DIRECTORATES' INSTRUCTIONS

CHAPTER 3 SECTION 4

SPOUSES OR CIVIL PARTNERS AND CHILDREN OF STUDENTS

1. GRANTING LEAVE TO REMAIN AS THE SPOUSE OR CIVIL PARTNER AND CHILD OF A STUDENT

The requirements to be met by a person seeking leave to remain as the spouse or civil partner of a student / student nurse / person re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer are set out in paragraph 76 of HC 395 (as amended). The requirements to be met by a person seeking leave to remain as the child of a student / student nurse / person re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer are set out in paragraph 79 (as amended). These requirements **must** be referred to when reading the following advice.

Leave to remain should be granted for a period normally equal to, but in any event not in excess of, that granted to the student or prospective student (up to a maximum of six months, in the case of dependants of prospective students):

- Where the period of leave granted to the student is **12 months or more**, grant **Code 1**;
- Where the period of leave granted to the student is **less than 12 months**, grant **Code 3**.

In cases where the applicant already has been granted by the ECO leave to enter, or leave to remain by Managed Migration on code 1 or where, **had the student's application been dealt with on the day it was made**, 12 months or more would have been granted, but due to administrative delay, less than 12 months is indicated, see **paragraph 4 below** entitled "Prohibition on employment".

2. CODES FOR CASE INFORMATION DATABASE (CID)

On entry - Admission codes:

STD - Dependant of student

After Entry - Extension codes:

S1S/C Spouse or civil partner/child - to end of student's course (English language course)

S2S/C Spouse or civil partner/child - other than to end of course (English language course)

S3S/C Spouse or civil partner/child - to end of student's course (not English language course)

S4S/C Spouse or civil partner/child - other than to end of course (not English language course)

3. DEPENDANTS SWITCHING

As entry clearance is not a prerequisite for a spouse or civil partner or child of a student, switching is permissible, provided that all the requirements of the rules are met.

However, caseworkers should ensure that the applicant would leave the United Kingdom with the student on completion of his studies (except where the principal student successfully completes degree level study and meets the requirements to switch into work permit

employment). The landing card should always be obtained and in the case of visa nationals it may also be appropriate to request the Visa Application Form. Consideration should then be given to what was said to the immigration officer and/or the entry clearance officer. Refusal will normally be appropriate in cases where there is blatant deception or where specific undertakings were given.

4. PROHIBITION ON EMPLOYMENT

Under paragraphs 77 and 80 of the rules employment is prohibited to dependants of students where less than 12 months leave is granted to the student. Discretion should be used, however, to maintain on code 1 a dependant who already has leave on code 1 at the date of application.

However, where a dependant is not already on code 1, it would clearly be wrong to penalise a person if the leave granted to the student is less than 12 months ***solely as a result of queuing and processing times***. Therefore, in such circumstances, if an applicant would have been granted code 1 if the student application was dealt with on the date it was made and the student would, as a result, have been granted 12 months or more, the dependant should be granted leave on code 1 to cover the period applied for.

5. CHILD BENEFIT

Section 10 of the Asylum and Immigration Act 1996 removed from students their entitlement to claiming child benefit for dependant children residing in the United Kingdom (see ***Chapter 1 Section 7 "Public Funds"*** of these instructions).

6. SCHOOLING FOR DEPENDANTS OF STUDENTS

A child should not be given leave in his own right for studies unless he is attending a fee paying independent school but he may be given leave despite the fact that he is attending a maintained school if he is here as the dependant of a parent who qualifies for leave as a student.

The child of a student may therefore receive state education while his parent is studying here but he would be expected to leave with his parent on completion of the parent's studies.

7. CHILD WISHING TO REMAIN AFTER COMPLETION OF THE PARENT'S STUDIES

If the child wished to remain in the United Kingdom to continue his education he would have to enrol at a private school. Discretion may, however, be exercised where a child would be required to change schools or leave the country shortly before the end of his studies or an important examination.

In such a case the child may be given leave outside the rules for a short period to enable him to sit the examination or complete the school year, rather than disrupt his education.

8. DEPENDENT CHILD WHO HAS REACHED 18 YEARS OF AGE

Caseworkers may come across instances where a child has reached the age of eighteen whilst still being the dependant of a student. Paragraph 79(ii) of HC 395 makes provision for such a circumstance by allowing children who already have leave in this capacity to be granted further leave to remain in line with the parent, **subject** to meeting all the other requirements of paragraph 79.

9. REFUSAL OF LEAVE TO ENTER OR REMAIN

Where no entry clearance is held and the requirements of paragraph 76, in the case of a spouse or civil partner or paragraph 79 in the case of a child are not met, the passenger should be refused **leave to enter** under paragraph 78 or 81 respectively.

A visa national seeking **leave to enter** without a valid United Kingdom visa falls to be refused under paragraph 320(5) (see **Chapter 9 Section 2** of these instructions).

Where a passenger seeking **leave to enter** in this capacity holds an entry clearance for this purpose, refusal may only be considered under paragraph 321A (see **Chapter 9 Section 3** of 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"** of these instructions.

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.

9.1 Refusal codes for Case Information Database (CID)

On entry - Refusal Codes:

Z1 Other reasons

After entry – Refusal Codes:

S5S/S5C	Refusal – spouse or civil partner/child of student not enrolled on acceptable course
S6S/S6C	Refusal – spouse or civil partner/child of student refused - insufficient funds
S7S/S7C	Refusal – spouse or civil partner/child of student refused - intention to leave
S8S/S8C	Refusal – spouse or civil partner/child of student refused – government sponsored
S9S/S9C	Refusal – spouse or civil partner/child of student refused - "no switching"
SAS/SAC	Refusal – spouse or civil partner/child of student refused - inability to pursue course
SBS/SBC	Refusal – spouse or civil partner/child of student refused - other reasons, including general grounds
X6	Refusal - does not qualify as spouse/civil partner/child of student

9.2 On entry – right of appeal and corresponding refusal forms

- A passenger without entry clearance, refused entry as a spouse or civil partner or child of a student, has no right of appeal if the student of whom he is a dependant is seeking entry (a) to attend a course lasting **six months or less**, for which he has been accepted or (b) with the intention of studying but without having been accepted for a course, irrespective of the length of the intended course.

Refusal form IS82A should therefore be used.

- A passenger without entry clearance, refused entry as a spouse or civil partner or child of a student, has a right of appeal **from abroad** if the student of whom he is a dependant is

seeking leave to enter for less than six months and has been accepted for a course of study for more than six months.

Refusal form IS82B should therefore be used.

- A passenger without entry clearance, refused entry as a spouse or civil partner or child of a student, has only residual appeal rights under section 88, if the student of whom he is a dependant is seeking leave to enter for more than six months and has been **accepted for a course of study lasting more than six months**.

Refusal form IS82A should therefore be used.

- The spouse or civil partner or child of a **returning** student who previously had leave to attend a course lasting **more than six months** and is now seeking leave to enter in order to complete his studies has an in country right of appeal, if refused leave to enter.

Refusal form IS82C should therefore be used.

10. 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.

10.1 Spouses or civil partners of students – Entry clearance

You have applied / An application has been made on your behalf for entry clearance to the United Kingdom as the husband / wife / civil partner of a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer but your application has been refused.

- **Not related as claimed**

In view of [.....] the Secretary of State is not satisfied that you are married to a person / have registered a civil partnership with a person [to be] admitted to or allowed to remain in the United Kingdom as a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer.

Paragraph 78 with reference to 76(i)

- **Spouse or civil partner refused entry clearance**

Your wife / husband / civil partner's application for entry clearance in that capacity has been refused and consequently the Secretary of State is not satisfied that you are married to a person/have registered a civil partnership with a person to be admitted to or allowed to remain in the United Kingdom as a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer.

Paragraph 78 with reference to 76(i)

- **Spouse or civil partner not in United Kingdom or not in appropriate category within the United Kingdom**

In view of [.....] the Secretary of State is not satisfied that you are married to a person / have registered a civil partnership with a person admitted to or allowed to remain in the United Kingdom as a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer.

Paragraph 78 with reference to 76(i)

- **Intention to live as husband and wife or civil partners**

In view of [.....] the Secretary of State is not satisfied that you and your spouse or civil partner intend to live as husband and wife or civil partners during your stay.

Paragraph 78 with reference to 76(ii)

- **Marriage or civil partnership not subsisting**

In view of [.....] the Secretary of State is not satisfied that the marriage or civil partnership is subsisting.

Paragraph 78 with reference to 76(ii)

- **Accommodation**

In view of [.....] the Secretary of State is not satisfied that there will be adequate accommodation for you and your husband / wife / civil partner and any dependants without recourse to public funds.

Paragraph 78 with reference to 76(iii)

- **Maintenance**

In view of [.....] the Secretary of State is not satisfied that you and your spouse or civil partner will be able to maintain yourselves and any dependants adequately without recourse to public funds.

Paragraph 78 with reference to 76(iv)

- **Intention to take employment**

You are seeking entry as the dependant of a student who has less than 12 months and [? in view of ...] the Secretary of State is not satisfied that you do not intend to take employment.

Paragraph 78 with reference to 76(v) and 77

- **Intention to leave**

In view of [.....] the Secretary of State is not satisfied that you intend to leave the United Kingdom at the end of any period of leave granted to you.

Paragraph 78 with reference to 76(vi)

10.2 Spouses or civil partners of students – On entry

You have applied /... has applied on your behalf for leave to enter the United Kingdom as the spouse or civil partner of a person admitted as a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student /

postgraduate doctor or dentist / students' union sabbatical officer but your application has been refused.

- **Not related as claimed**

In view of [.....] the Secretary of State is not satisfied that you are married to a person / have registered a civil partnership with a person admitted to or allowed to remain in the United Kingdom as a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer.

Paragraph 78 with reference to 76(i)

{Refusal Code: Z1}

- **Spouse's or civil partner's application refused / spouse or civil partner not in the United Kingdom / spouse or civil partner has no LTE / LTR**

Your spouse or civil partner has been refused leave to enter the United Kingdom / is not present in the United Kingdom / does not have current leave to enter or remain and consequently the Secretary of State is not satisfied that you are married to a person / have registered a civil partnership with a person admitted to or allowed to remain in the United Kingdom as a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer.

Paragraph 78 with reference to 76(i)

{Refusal Code Z1}

- **Intention to live as husband and wife or civil partners**

In view of [.....] the Secretary of State is not satisfied that you and your spouse or civil partner intend to live together during your stay and that the marriage or civil partnership is subsisting.

Paragraph 78 with reference to 76(ii)

{Refusal Code Z1}

- **Marriage or civil partnership not subsisting**

In view of [.....] the Secretary of State is not satisfied that the marriage or civil partnership is subsisting.

Paragraph 78 with reference to 76(ii)

{Refusal Code: Z1}

- **Accommodation**

In view of [.....] the Secretary of State is not satisfied that there will be adequate accommodation for you and your spouse or civil partner and any dependants without recourse to public funds.

Paragraph 78 with reference to 76(iii)

{Refusal Code: Z1}

- **Maintenance**

In view of [.....] the Secretary of State is not satisfied that you and your spouse or civil partner will be able to maintain yourselves [and your dependants] without recourse to public funds.

Paragraph 78 with reference to 76(iii) or (iv)

{Refusal Code Z1}

- **Intention to take employment (student granted less than 12 months)**

You are the dependant of a student who has leave of less than 12 months and the Secretary of State is not satisfied that you do not intend to take employment.

Paragraph 78 with reference to 76(v) & 77

{Refusal Code Z1}

- **Intention to leave**

In view of [.....] the Secretary of State is not satisfied that you intend to leave the United Kingdom at the end of any period of leave granted to you.

Paragraph 78 with reference to 76(vi)

{Refusal Code: Z1}

10.3 Spouses or civil partners of students – After entry

You have applied / An application has been made on your behalf for leave to remain in the United Kingdom as the husband / wife / civil partner of a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer but your application has been refused.

- **Sponsor's or civil partner's application refused - no switching**

Your husband / wife / civil partner is a person specified in the Appendix to the Immigration Rules and his / her application for leave to remain has been refused for reason that he / she was not admitted to the United Kingdom with a valid student entry clearance.

Paragraph 78 with reference to 76(i)

{G-CID stats category: S9S}

- **Sponsor's or civil partner's application refused - other reasons**

Your husband / wife / civil partner's application for leave to remain has been refused.

Paragraph 78 with reference to 76(i)

{G-CID stats category: SBS}

- **Not related as claimed**

In view of [.....] the Secretary of State is not satisfied that you are married to a person / have registered a civil partnership with a person admitted to or allowed to remain in the United Kingdom as a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer.

Paragraph 78 with reference to 76(i)

{G-CID stats category: X6}

- **Spouse or civil partner not in United Kingdom or not in appropriate category within the United Kingdom**

In view of [.....] the Secretary of State is not satisfied that you are married to a person / have registered a civil partnership with a person admitted to or allowed to remain in the United Kingdom as a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer.

Paragraph 78 with reference to 76(i)

{G-CID stats category: X6}

- **Intention to live as husband and wife or civil partners.**

In view of [.....] the Secretary of State is not satisfied that you and your spouse or civil partner intend to live as husband and wife or civil partners during your stay.

Paragraph 78 with reference to 76(ii)

{G-CID stats category: X6}

- **Marriage or civil partnership not subsisting**

In view of [.....] the Secretary of State is not satisfied that the marriage or civil partnership is subsisting.

Paragraph 78 with reference to 76(ii)

{G-CID stats category: X6}

- **Accommodation**

In view of [.....] the Secretary of State is not satisfied that there is / will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation of their own or which they occupy exclusively.

Paragraph 78 with reference to 76(iii)

{G-CID stats category: X6}

- **Maintenance**

In view of [.....] the Secretary of State is not satisfied that the parties are / will be able to maintain themselves and any dependants adequately without recourse to public funds.

Paragraph 78 with reference to 76(iv)

{G-CID stats category: X6}

- **Intention to take employment**

You are seeking leave as the dependant of a student who has leave for a period of less than 12 months and [? in view of ...] the Secretary of State is not satisfied that you do not intend to take employment.

Paragraph 78 with reference to 76(v) and 77

{G-CID stats category: X6}

- **Intention to leave**

In view of [.....] the Secretary of State is not satisfied that you intend to leave the United Kingdom at the end of any period of leave granted to you.

Paragraph 78 with reference to 76(vi)

{G-CID stats category: X6}

10.4 Children of students – Entry clearance

You have applied / An application has been made on your behalf for entry clearance to the United Kingdom as the child of a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer but your application has been refused.

- **Not related as claimed**

In view of [.....] the Secretary of State is not satisfied that you are the child of a parent [to be] admitted to or allowed to remain in the United Kingdom as a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer.

Paragraph 81 with reference to 79(i)

- **Parent refused entry clearance**

Your mother / father's application for entry clearance in that capacity has been refused and consequently the Secretary of State is not satisfied that you are the child of a parent to be admitted to or allowed to remain in the United Kingdom as a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer.

Paragraph 81 with reference to 79(i)

- **Parent not in United Kingdom or not in appropriate category within United Kingdom**

In view of [.....] the Secretary of State is not satisfied that you are the child of a parent admitted to or allowed to remain in the United Kingdom as a student / student nurse/ re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer.

Paragraph 81 with reference to 79(i)

- **Over age**

As you were born on .../ as you have failed to produce [satisfactory] evidence of your date of birth the Secretary of State is not satisfied that you are under the age of 18.

Paragraph 81 with reference to 79(ii)

- **Married**

In view of [.....] the Secretary of State is not satisfied that you are unmarried.

Paragraph 81 with reference to 79(iii)

- **Independent family unit**

In view of [.....] the Secretary of State is not satisfied that you have not formed an independent family unit.

Paragraph 81 with reference to 79(iii)

- **Independent life**

In view of [.....] the Secretary of State is not satisfied that you are not leading an independent life.

Paragraph 81 with reference to 79(iii)

- **Maintenance and accommodation**

In view of [.....] the Secretary of State is not satisfied that you can, and will be, maintained and accommodated adequately without recourse to public funds.

Paragraph 81 with reference to 79(iv)

- **Intention to leave**

In view of [.....] the Secretary of State is not satisfied that you will not stay in the United Kingdom beyond any period of leave granted to your mother / father / parents.

Paragraph 81 with reference to 79(v)

10.5 Children of students – On entry

You have applied/ has applied on your behalf for leave to enter the United Kingdom as the child of a person admitted as a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer but your application has been refused.

- **Not related as claimed**

In view of [.....] the Secretary of State is not satisfied that you are the child of a parent admitted to or allowed to remain in the United Kingdom as a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer.

Paragraph 81 with reference to 79(i)

{Refusal Code: Z1}

- **Parent's application refused / parent not in the United Kingdom / parent has no LTE / LTR**

Your parent has been refused leave to enter the United Kingdom / is not present in the United Kingdom / does not have current leave to enter or remain and consequently the Secretary of State is not satisfied that you are the child of a parent admitted to or allowed to remain in the United Kingdom as a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer.

Paragraph 81 with reference to 79(i)

{Refusal Code Z1}

- **Over age**

In view of [.....] the Secretary of State is not satisfied that you are under the age of 18 or that you have current leave to enter or remain in this capacity.

Paragraph 81 with reference to 79(ii)

{Refusal Code Z1}

- **Married/ Independent family unit/ Independent life**

In view of [.....] the Secretary of State is not satisfied that you are unmarried / you have not formed an independent family unit / are not leading an independent life.

Paragraph 81 with reference to 79(iii)

{Refusal Code Z1}

- **Maintenance and accommodation**

In view of [.....] the Secretary of State is not satisfied that you can and will be maintained and accommodated adequately without recourse to public funds.

Paragraph 81 with reference to 79(iv)

{Refusal Code Z1}

- **Intention to leave**

In view of [.....] the Secretary of State is not satisfied that you will not stay in the United Kingdom beyond any period of leave granted to your mother / father / parents.

Paragraph 81 with reference to 79(v)

{Refusal Code: Z1}

10.6 Children of students – After entry

You have applied / An application has been made on your behalf for leave to remain in the United Kingdom as the child of a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer but your application has been refused.

- **Sponsor's application refused - no switching**

Your mother / father is a person specified in the Appendix 1 to the Immigration Rules and his / her application for leave to remain has been refused for reason that he / she was not admitted to the United Kingdom with a valid student entry clearance.

Paragraph 81 with reference to 79(i)

{G-CID stats category: S9C}

- **Sponsor's application refused - other reasons**

Your mother / father's application for leave to remain has been refused.

Paragraph 81 with reference to 79(i)

{G-CID stats category: SBC}

- **Not related as claimed**

In view of [.....] the Secretary of State is not satisfied that you are the child of a parent admitted to or allowed to remain in the United Kingdom as a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer.

Paragraph 81 with reference to 79(i)

{G-CID stats category: X6}

- **Parent not in United Kingdom or not in appropriate category within the United Kingdom**

In view of [.....] the Secretary of State is not satisfied that you are the child of a parent admitted to or allowed to remain in the United Kingdom as a student / student nurse / re-sitting an examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer.

Paragraph 81 with reference to 79(i)

{G-CID stats category: X6}

- **Over age**

As you were born on .../ as you have failed to produce [satisfactory] evidence of your date of birth the Secretary of State is not satisfied that you are under the age of 18 or that you have current leave to enter or remain as a child of a student / student nurse / re-sitting an

examination / writing up a thesis / overseas qualified nurse or midwife / prospective student / postgraduate doctor or dentist / students' union sabbatical officer.

Paragraph 81 with reference to 79(ii)

{G-CID stats category: X6}

- **Married**

In view of [.....] the Secretary of State is not satisfied that you are unmarried.

Paragraph 81 with reference to 79(iii)

{G-CID stats category: X6}

- **Independent family unit**

In view of [.....] the Secretary of State is not satisfied that you have not formed an independent family unit.

Paragraph 81 with reference to 79(iii)

{G-CID stats category: X6}

- **Independent life**

In view of [.....] the Secretary of State is not satisfied that you are not leading an independent life.

Paragraph 81 with reference to 79(iii)

{G-CID stats category: X6}

- **Maintenance and accommodation**

In view of [.....] the Secretary of State is not satisfied that you can, and will be, maintained and accommodated adequately without recourse to public funds.

Paragraph 81 with reference to 79(iv)

{G-CID stats category: X6}

- **Intention to leave**

In view of [.....] the Secretary of State is not satisfied that you will not stay in the United Kingdom beyond any period of leave granted to your parent.

Paragraph 81 with reference to 79(v)

{G-CID stats category: X6}