

SECTION CONTENTS

**CHAPTER 4 SECTION 2
WORKING HOLIDAYMAKERS**

1. INTRODUCTION

2. LEAVE TO ENTER AS A WORKING HOLIDAYMAKER

2.1. Key points

2.2. Further guidance

2.3. Admitting Working Holidaymakers

2.4. Stats Code

2.5. Refusal of leave to enter at the port

2.6. On entry refusal codes

2.7. Appeal rights and information on refusal form3. APPLICATIONS FOR

LEAVE TO REMAIN AS A WORKING HOLIDAYMAKER

3.1. Further guidance

3.2. Refusal of leave to remain

3.3. Stats Code

4. CHILDREN OF WORKING HOLIDAYMAKERS - LEAVE TO ENTER OR

REMAIN

4.1. Granting leave to enter or remain

4.2. Stats Codes

4.3. Refusal of leave to enter or remain

4.4. On entry refusal codes

4.5. Stats Codes

CHAPTER 4
SECTION 2**WORKING HOLIDAYMAKERS****1. INTRODUCTION**

The working holidaymaker scheme allows young Commonwealth nationals of participating countries listed in Appendix 3 of the Immigration Rules (HC 395), and also young persons who are British Overseas Citizens, British Overseas Territories Citizens, or British Nationals (Overseas), to come to the United Kingdom for an extended holiday (*up to a maximum of 2 years*), during which they may take work which is incidental to the holiday. (See Annex C below for full details of the requirements relating to nationality.) *Entry clearance is mandatory for this category.* Prior to the changes to the Immigration Rules which took effect on 8 February 2005, nationals of any Commonwealth country (not just those listed as participating countries in Appendix 3) were eligible to participate in the Working Holidaymaker Scheme, and entry clearances will have been issued to such nationals up to that date.

2. LEAVE TO ENTER AS A WORKING HOLIDAYMAKER

The requirements to be met by a person seeking leave to enter the United Kingdom as a working holidaymaker are set out Paragraph 95 in Part 4 of the Rules. In order to be eligible for the grant of an entry clearance, an applicant must have met all the requirements of these Rules. Those Rules *must* be referred to when reading the following.

2.1. Key points

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

- the passenger holds a valid (Code 4) entry clearance as a working holidaymaker which is endorsed with the full two year period 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)

2.2. Further guidance

The immigration officer may require further guidance where facts have come to light which may not have been available to the entry clearance officer.

ANNEX C (below) provides guidance on the interpretation of the Rules in respect of working holidaymakers and their dependants.

2.3. Admitting Working Holidaymakers

A person seeking to enter the United Kingdom as a working holidaymaker 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 2 year period of leave for which working holidaymaker may enter the United Kingdom is endorsed in the entry clearance vignette. Those issued with a working holidaymaker entry clearance from 8 February 2005, under the amended Immigration Rules, enter subject to a work restriction limiting work to 12 months of the total stay, and prohibiting the working holidaymaker from engaging in business or providing services as a sports person. This restriction is included in the information on the entry clearance vignette.)

NB Those who delay arrival until a date after the “effective” date from which the entry clearance became valid for use will lose a part of the potential 2 year stay endorsed on the entry clearance. They will not be able to obtain an extension of stay to make up for the period of stay thus lost.

NB The category allows only one period of stay as a working holidaymaker in a lifetime, so those who have spent any period in the United Kingdom in the category will not be eligible for a further entry clearance in that capacity. However, where it is clear from the absence in the passport of endorsements made by Immigration Officers at the ports of entry that a person who was earlier issued with a working holidaymaker entry clearance has not activated that entry clearance by entering the United Kingdom, and therefore has not spent any time in the United Kingdom in the category, a fresh application for entry clearance may be granted, provided that all the requirements of the category are met. A fresh fee for the new entry clearance will be charged. (Such applications may occur in the case of working holidaymakers who for some reason have not traveled to the United Kingdom.)

2.4. Stats Code

WH - Working Holidaymakers

2.5. Refusal of leave to enter at the port

- Where a non-visa national does not hold a valid United Kingdom entry clearance for this purpose and no compassionate circumstances exist, he should be refused entry under Paragraph 97 of HC 395.
- A visa national seeking entry without a valid United Kingdom visa falls to be refused under

Paragraph 320(5). See *Chapter 9, Section 2* to these instructions.

- Where a passenger seeking entry in this capacity holds an entry clearance for this purpose, refusal *may only be considered under Paragraph 321 (see Chapter 9, Section 3A to these Instructions. For refusal formulae, see Chapter 9, Annex B)*.
- 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"*.

ANNEX D (below) provides examples of refusal formulae.

2.6. On entry refusal codes

- **E4** Lack of required non-settlement entry clearance.
- **K1** Refusal under Paragraph 321 of HC 395 (in respect of passengers refused entry in this capacity who hold an entry clearance for this purpose)

2.7. Appeal Rights – see Chapter 12 of the Immigration Directorates' Instructions

Where no entry clearance is held Form IS 82A should be used.

The *"Port Instructions for on-entry asylum applications"* provides details of the appropriate forms to use in mixed asylum/non-asylum cases.

3. APPLICATIONS FOR LEAVE TO REMAIN AS A WORKING HOLIDAYMAKER

As stated above, all working holidaymakers should enter the United Kingdom with valid United Kingdom entry clearances endorsed with the maximum permitted leave in the category. There is no provision in the Rules for the grant of leave to remain as a working holidaymaker. Any applications for extensions of leave in the category should therefore be refused.

3.1. Further guidance

ANNEX C (below) provides guidance on the interpretation of the rules in respect of working holidaymakers and their dependants

3.2. 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.

Refusal of extension of stay as a working holidaymaker is under Paragraph 322 (1) HC

395 on the grounds that variation of leave to enter is being sought for a purpose not covered by the Immigration Rules.

ANNEX D (below) provides examples of refusal formulae.

3.3. Stats Code

Z9

4. CHILDREN OF WORKING HOLIDAYMAKERS - LEAVE TO ENTER OR REMAIN

A person seeking to enter the United Kingdom as the child of working holidaymaker/s must be able to produce on arrival a valid United Kingdom entry clearance for entry in this capacity. Such a person may enter in accordance with the validity of the entry clearance, provided that the leave will not extend beyond the leave granted to the working holidaymaker/s. From 8 February 2005, the Rules have also required **that the working holidaymaker/s is/are currently present in the United Kingdom.** In the case of an application for leave to remain, he must have been admitted with a valid United Kingdom entry clearance for entry in this capacity and be able to satisfy the Secretary of State that each of the requirements of paragraph 101 (i)-(v) is met. The requirements to be met for leave to enter or remain in the United Kingdom as the child of a working holidaymaker are set out in Paragraph 101 of HC 395 *must* be referred to when dealing with persons seeking entry in this capacity.

ANNEX C (below) provides further guidance on the interpretation of the Rules in respect of the children of working holidaymakers.

4.1. Granting leave to enter or remain

Provided the requirements of Paragraphs 101 and 102 of HC 395 are met, the child of a working holidaymaker may be admitted in accordance with the validity of the entry clearance, or granted leave to remain, provided that the leave will not exceed that granted to the working holidaymaker(s).

4.2. Stats Code

On entry: O Other person on limited leave to enter

After entry: Z1C Extension working holidaymaker (child of)

4.3. Refusal of leave to enter or remain

Leave to enter or remain in the United Kingdom as the child of a working holidaymaker is to be refused if, in relation to an application for leave to enter, a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival or, in the case of an application for leave to remain, the applicant was not admitted with a valid United Kingdom entry clearance for entry in this capacity or is unable to satisfy the Secretary of State that each of the requirements of paragraph 101 (i)-(iv) is met.

If a person who is seeking leave to enter *or* to remain in the United Kingdom as the child of a working holidaymaker cannot produce either a valid entry clearance on arrival or show that he was admitted with one, then he should be refused under the provisions of Paragraph 103 of HC 395.

Refusal under Paragraph 103 is also appropriate where such a person is unable to satisfy each of the requirements of Paragraph 101 of HC 395.

Immigration officers should note that:

- Where the child of a working holidaymaker holds an entry clearance for this purpose, refusal may only be considered under paragraph 2A of schedule 2 of the Immigration Act 1971.

"After entry" caseworkers should note that:

- **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.

ANNEX D (below) provides examples of refusal formulae.

4.4. **On entry refusal codes**

E4 Lack of United Kingdom visa (other than for settlement)

4.5. **CID Codes**

Z5C refusal – age
ZAC refusal - no switching
Z9C refusal - other reason