

**CHAPTER 5
SECTION 12****DOMESTIC WORKERS IN
PRIVATE HOUSEHOLDS****THE REGULARISATION PROGRAMME**

This annex provides guidance on how to deal with applications, which fall under the regularisation programme for domestic workers, which ran from 23 July 1998 until 23 October 1999.

BACKGROUND

Prior to 23 July 1998 the domestic workers concession did not allow domestic workers to change employer while here. This led to a number of domestic workers finding themselves in an irregular situation because as a result of abuse or exploitation they had left their original employer.

On 23 July 1998, in response to concerns about the treatment of overseas domestic workers, changes to the Overseas Domestic Workers concession were introduced.

The most significant of these changes were as follows:

- In order to qualify for entry as a domestic worker the duties undertaken had to exceed the requirements set out in the International Standard Classification of Occupations. (This requirement was subsequently dropped on 17 October 2001).
- A domestic worker was now only required to be in employment with their employer for 12 months immediately prior to the entry clearance application, regardless of in which capacity their employer was coming here
- Once in the United Kingdom the domestic worker would be able to change employer.

It was expected that there were a number of domestic workers who having been admitted prior to 23 July 1998 had found themselves in an irregular situation because as a result of abuse or exploitation they had left their original employer. Ministers therefore decided that as a general approach we would regularise the stay for 12 months in the first instance to those that brought themselves to the attention of IND between 23 July 1998 and 23 October 1999. This was provided that they were originally admitted to the UK with the correct entry clearance for employment as a domestic worker. The programme also included those that had already come to the attention of IND and against whom enforcement action was contemplated and those who had been granted leave to remain exceptionally to await court proceeding against an abusive employer.

DEALING WITH APPLICATIONS MADE UNDER THE REGULARISATION PROGRAMME

1. Persons who were admitted prior to 23 July 1998, overstayed and applied to regularise their stay between 23 July 1998 and 23 October 1999 (“the regularisation programme”).

Although caseworkers should look at each application on an individual basis, as a general approach, we will regularise stay where domestic workers have continued to be employed as a domestic in a private household.

In addition individuals who switched employer to be employed undertaking domestic work for businesses or public institutions (such as office cleaners, cooks in restaurants, and washing up staff) can have their leave extended as domestic workers.

The regularisation programme only applies to those who were originally admitted to the UK prior to 23 July 1998 with the correct entry clearance for employment as a domestic worker. Provided that we have a statement from the current employer confirming that the employment continues we can grant leave or indefinite leave (if it clear they have spent four years in domestic employment) as appropriate.

NOTE: ODWs making FLR applications under this category are permitted to continue to do domestic work on business premises provided they were doing so when their stay was originally regularised. However, domestic workers who were working in private households at the time their stay was regularised are expected to remain working in private households when they apply for further leave to remain.

Passport endorsement should read (code 4) "other than as domestic worker" if working on a business premises or "other than as a domestic worker in a private household" if working in a private household.

2. Persons who were admitted prior to 23 July 1998 as domestic workers have overstayed and applied to regularise their stay after 23 October 1999 (after the regularisation programme ended).

Caseworkers should look at each application on an individual basis. The normal course is that persons who entered prior to 23 July 1998 and missed the 23 October 1999 deadline will have enforcement action taken against them when they come to light. However, where merited a sympathetic approach should be taken and we can choose to regularise stay where domestic workers have continued to be employed in a domestic capacity. As in the guidance above those who switched employer to be employed undertaking domestic work for businesses or public institutions may have their leave extended as domestic workers.

Again this only applies to those who were originally admitted to the UK prior to 23 July 1998 with the correct entry clearance for employment as a domestic worker and includes those that have already come to attention of IND.

Provided that we have a statement from the current employer confirming the employment continues and evidence that the individual has been in fear or has suffered abuse we may grant leave or indefinite leave as appropriate.

General points

Evidence that a person seeking regularisation held a domestic worker entry clearance.

In a number of cases it will be likely that the no passport will be produced. In such cases efforts to confirm that an entry clearance was initially issued should be made through INDECS and/or the issuing Diplomatic Post. When all such checks have been exhausted and confirmation of issue is still unobtainable, if the representative is the Kalayaan organisation, which represents the interests of domestic workers, they should be approached (in writing) to confirm how long the individual has been in the country, when they first approached the organisation and for confirmation that the applicant has been in continuous domestic employment. Other than this, applications should be refused where there is no evidence that a person seeking regularisation was given entry clearance as a domestic worker.

Refusals

Where regularisation is considered inappropriate, the application should be refused. In addition to the refusal notice, a covering letter should also be provided confirming that the application has also been considered against the terms of the regularisation programme. (A draft letter is provided at **Annex CC**).