



STATEMENT OF
CHANGES IN
IMMIGRATION RULES

Laid before Tynwald on 15th July 1997 under Section 3(2) of the Immigration Act 1971 (as extended to the Isle of Man by the Immigration (Isle of Man) Order 1991 (SI 1991 No 2630) and the Immigration (Isle of Man) Order 1997 (SI 1997 No 275)).

Statutory Document No. 86/97
G.O. Reference No. 080.4(1)

STATEMENT OF CHANGES IN IMMIGRATION RULES

The Lieutenant Governor has made the changes hereinafter stated in the rules laid down by him as to the practice to be followed in the administration of the Immigration Act 1971 (an Act of Parliament) (a) (as extended to the Isle of Man (b)) for regulating entry into and the stay of persons in the Isle of Man contained in the statement laid before Tynwald on 18th October, 1994, (c) (as amended (d)).

These changes shall take effect on 9th June 1997

1. In Appendix 1 to the said Statement after "China" there shall be inserted "Colombia".
2. Paragraph 62(i) of the said Statement shall not apply to any application for an extension of stay for the purpose of studying made by a national of Colombia whose current leave to enter or remain was granted before 9th June 1997.
3. For paragraph 244, there shall be substituted:

"244. The requirements to be met by a person seeking leave to enter the Isle of Man with a view to settlement as the spouse of a person present and settled in the Isle of Man or who is on the same occasion being admitted for settlement are that:

- (i) the applicant is married to a person present and settled in the Isle of Man or who is on the same occasion being admitted for settlement; and
- (ii) the parties to the marriage have met; and
- (iii) each of the parties intends to live permanently with the other as his or her spouse and the marriage is subsisting; and
- (iv) there will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
- (v) the parties will be able to maintain themselves and any further dependants adequately without recourse to public funds; and
- (vi) the applicant holds a valid Isle of Man entry clearance for entry in this capacity.

For the purposes of this paragraph, a member of HM Forces based in the Isle of Man but serving overseas is to be regarded as present and settled in the Isle of Man".

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- (a) 1971 Chapter 77 (Parliament)
 - (b) S.I. 1991 No 2630 and S.I. 1997 No 275
 - (c) S.D. 373/94
 - (d) S.D. 399/94, S.D. 540/95, S.D. 1/96, S.D. 146/96 and S.D. 180/96

4. For paragraph 247, there shall be substituted:

"247. The requirements for an extension of stay as the spouse of a person present and settled in the Isle of Man are that:

- (i) the applicant has limited leave to remain in the Isle of Man; and
- (ii) is married to a person present and settled in the Isle of Man; and
- (iii) the parties to the marriage have met; and
- (iv) the applicant has not remained in breach of the immigration laws; and
- (v) the marriage has not taken place after a decision has been made to deport the applicant or he has been recommended for deportation or been given notice under Section 6(2) of the Immigration Act 1971; and
- (vi) each of the parties intends to live permanently with the other as his or her spouse and the marriage is subsisting; and
- (vii) there will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
- (viii) the parties will be able to maintain themselves and any further dependants adequately without recourse to public funds".

5. For paragraph 253, there shall be substituted:

"253. The requirements to be met by a person seeking leave to enter the Isle of Man as a fiancé(e) are that:

- (i) the applicant is seeking leave to enter the Isle of Man for marriage to a person present and settled in the Isle of Man or who is on the same occasion being admitted for settlement; and
- (ii) the parties to the proposed marriage have met; and
- (iii) each of the parties intends to live permanently with the other as his or her spouse after the marriage; and
- (iv) adequate maintenance and accommodation without recourse to public funds will be available for the applicant until the date of the marriage; and
- (v) there will, after the marriage, be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
- (vi) the parties will be able after the marriage to maintain themselves and any dependants adequately without recourse to public funds; and
- (vii) the applicant holds a valid Isle of Man entry clearance for entry in this capacity".

6. For paragraph (iv) of paragraph 256, there shall be substituted:

"(vi) the requirements of paragraph 253 (ii)-(vi) are met."

7. After paragraph 307 of the said Statement there shall be added:

"308. Where an application for revocation is refused there is a right of appeal to an adjudicator.

309. No appeal lies while the person is in the Isle of Man or where the Lieutenant Governor decides that continued exclusion from the Isle of Man is conducive to the public good.

310. Where an appeal does lie the right of appeal will be notified at the same time as the decision to refuse to revoke the order.

PART 12: RIGHTS OF APPEAL

Notice of refusal of leave to enter

311. Where refusal of leave to enter is confirmed, the person concerned should be handed a notice informing him of the decision and of the reasons for refusal. This notice will also inform him whether he has a right of appeal under Section 13 of the 1971 Act and, if so, how the right of appeal might be exercised. If he has difficulty in understanding the notice its meaning should be explained to him.

Right of appeal in relation to a person claiming to have the right of abode

312. A person who claims to have the right of abode is not entitled to appeal against a decision that he requires leave to enter unless he holds either a United Kingdom passport describing him as a British citizen or as a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom, or a certificate of entitlement duly issued to him by or on behalf of the Government of the Isle of Man or United Kingdom certifying that he has such a right of abode.

Rights of appeal in relation to a person who holds an entry clearance or work permit

313. Subject to Section 13(5) of the Immigration Act 1971, a person in possession of a valid Isle of Man clearance or named in a current work permit who is entitled to appeal against refusal of leave to enter the Isle of Man may exercise his right of appeal before removal from the Isle of Man.

Rights of appeal exercisable from abroad

314. Except in cases described in paragraphs 312 and 313 above, a person entitled to appeal against refusal of leave to enter, irrespective of his national status, may exercise that right only after he has left the Isle of Man.

Rights of appeal against a time limit or condition

315. A person aggrieved by the imposition on entry of a time limit or condition may apply to the Immigration Office for variation of his leave. Subject to paragraph 316 below, he will have a right of appeal if variation is refused.

Rights of appeal against variation of leave to enter or refusal to vary it

316. A person may appeal against any variation of his leave to enter or any refusal to vary it except:

- (i) when a refusal is on one of the grounds specified in Section 14(2A) of the 1971 Act; or
- (ii) if the case comes within Section 14(3) of the 1971 Act following a decision taken personally by the Lieutenant Governor and not by a person acting under his authority; or
- (iii) when a variation of leave is made by statutory instrument; or
- (iv) if leave is curtailed under Section 7(1) of the Asylum and Immigration Appeals Act 1993.

Notice of appeal rights

317. When an application for variation of leave to enter is refused, or a variation is made otherwise than on the application of the person concerned, or is less favourable than that for which he applied, notice of the decision and, if an appeal lies, of his right of appeal will normally be handed to the person concerned or sent to his last known address. Alternatively it may be so given or sent to a person who has either made the application on behalf of another, or has subsequently been appointed to act on another's behalf in connection with an application.

Explanatory statement

318. If notice of appeal is given within the period allowed, an explanatory statement summarising the facts of the case on the basis of which the decision was taken will normally be prepared and be sent to the adjudicator, who will notify the appellant of the arrangements for any appeal to be heard".

EXPLANATORY NOTE

This does not form part of the Statement of Changes and should not be taken as an authoritative Statement of the law.

This Statement of Changes:

1. adds to Appendix 1 the nationals of Columbia who will require visas to enter the Isle of Man;
2. abolishes the 'primary purpose' rule; and
3. adds provisions relating to appeals consequent upon the extension to the Isle of Man of Part II of the Immigration Act 1971 by Order in Council.