

Draft Order laid before Parliament under section 3A(13) of the Immigration Act 1971, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No.

IMMIGRATION

The Immigration (Leave to Enter and Remain) (Amendment) Order 2010

Made - - - - 2010
Coming into force - - 2010

The Secretary of State makes the following Order in exercise of the powers conferred by section 3A(1), (2) and (10) of the Immigration Act 1971⁽¹⁾.

In accordance with section 3A(13) of that Act, a draft of this Order was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Immigration (Leave to Enter and Remain) (Amendment) Order 2010 and shall come into force on the day after the day on which it is made.

Amendment to the Immigration (Leave to Enter and Remain) Order 2000

2. The Immigration (Leave to Enter and Remain) Order 2000⁽²⁾ is amended as follows.

3.—(1) Article 8 (grant or refusal of leave otherwise than by notice in writing) is amended as follows.

(2) In paragraph (1), at the start insert “Subject to paragraph (5)”.

(3) After paragraph (4) insert—

“(5) No notice shall be given where a person is given leave to enter the United Kingdom by passing through an automated gate in accordance with article 8A.”.

4. After article 8 insert—

(1) 1971 c.77. Section 3A was inserted by section 1 of the Immigration and Asylum Act 1999 (c.33).
(2) S.I. 2000/1161 as amended by S.I. 2004/475 and S.I. 2005/1159.

“Automatic grant of leave

8A.—(1) An immigration officer may authorise a person to be a person who may obtain leave to enter the United Kingdom by passing through an automated gate.

(2) Such an authorisation may—

- (a) only authorise a person to obtain leave to enter the United Kingdom as one of the categories of person under the immigration rules mentioned in paragraph (5);
- (b) set out the conditions of use for an automated gate;
- (c) list the automated gates for which the authorisation is valid;
- (d) remain in force for up to 24 months; and
- (e) be varied or withdrawn at any time, with or without notice being given to the person.

(3) Where a person passes through an automated gate—

- (a) having been authorised under paragraph (1) as a person who may obtain leave to enter the United Kingdom by passing through an automated gate;
- (b) in accordance with the conditions of use for an automated gate;
- (c) which is an automated gate for which the authorisation is valid; and
- (d) while the authorisation remains in force,

the person shall be given leave to enter the United Kingdom for six months as the category of person under the immigration rules for which the person has been authorised under paragraph (1).

(4) Such leave shall be subject to conditions prohibiting employment and recourse to public funds (within the meaning of the immigration rules).

(5) The categories of person under the immigration rules mentioned in this paragraph are—

- (a) a general visitor;
- (b) a business visitor;
- (c) an academic visitor;
- (d) a sports visitor;
- (e) an entertainer visitor;
- (f) a person seeking leave to enter as a visitor for private medical treatment;
- (g) a person seeking leave to enter as the parent of a child at school in the United Kingdom.”.

5. In article 11 (burden of proof) after “or 9,” insert “or by virtue of article 8A,”.

Home Office
Date

Name
Minister of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Immigration (Leave to Enter and Remain) Order 2000 (the “2000 Order”).

Article 4 inserts a new article 8A into the 2000 Order. This enables an immigration officer to authorise a person in advance to enter the United Kingdom through an automated gate. Such authorisation will relate to a particular category of person under the immigration rules, as set out in article 8A. Where such a person passes through an automated gate in accordance with the authorisation, the person will automatically be given leave to enter for six months (subject to the conditions set out in article 8A). Where such leave is given, no notice of the leave is given to the person and the 2000 Order is amended in article 3 to reflect this.

Article 5 amends article 11 to provide that where any question arises under the Immigration Acts as to whether a person has leave to enter the United Kingdom and the person alleges that the person has such leave by virtue of passing through an automated gate under article 8A, the onus shall be on the person to show the manner and date of entry into the United Kingdom.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.