

**EXPLANATORY MEMORANDUM TO THE
IMMIGRATION (LEAVE TO REMAIN) (PRESCRIBED FORMS AND
PROCEDURES) REGULATIONS 2005**

2005 No. 771

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 These Regulations revoke and partly replace the Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations 2003 (“the 2003 Regulations”). The 2003 Regulations prescribe application forms to be used in connection with applications for limited or indefinite leave to remain in the United Kingdom, and set out the correct procedures to be followed when making those applications.

- 2.2 These Regulations replace the application forms in the 2003 Regulations with revised application forms, and amend the prescribed procedures for some of the applications.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 The Regulations must come into force on the 1st April to coincide with the coming into force of fee increases for the applications to which they relate. The 21 day rule has been breached due to a combination of factors: the delay in the publication of the Government’s five year strategy for asylum and immigration, “Controlling our borders: Making migration work for Britain”; the need to await the making of the Immigration (Application Fees) Order 2005, on which the fee increases to which the changes on the forms relate are dependant, which was not possible until 9 March 2005; and technical and administrative delays associated with the production of the Schedules to these Regulations. The Department regrets this breach of the 21 day rule.

4. Legislative Background

- 4.1 Section 31A of the Immigration Act 1971 enables the Secretary of State by Regulations to prescribe forms and procedures for applications for leave to enter or remain in the United Kingdom.
- 4.2 Forms and procedures were first prescribed in the Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations 2003 (S.I. 2003/ No. 1712). Additional application forms and amendments to the procedure were prescribed by the Immigration (Leave to Remain) (Prescribed Forms and Procedures) Amendment Regulations 2004 (S.I. 2004/581), and the Immigration (Leave to Remain) (Prescribed Forms and Procedures) (Amendment No. 2) Regulations 2004 (S.I. 2004/2576).

5. Extent

- 5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

Not applicable

7. Policy background

- 7.1 New fees for leave to remain applications come into force from 1 April 2005. The leave to remain application forms have been revised to reflect the new fee levels and other recent changes in policy (e.g. the introduction of a requirement for applicants seeking leave to remain on the grounds of marriage to obtain a certificate of approval prior to making an application as the spouse of a person present and settled in the UK). In order to ensure that the application forms are as easy as possible for customers to use and understand, the wording in the forms has been simplified and the format redesigned.
- 7.2 As part of the on-going modernisation of the Immigration and Nationality Directorate, and in response to feedback from customers, the Home Office is

introducing a new service for applicants seeking leave to remain in the UK for employment purposes (e.g. work permit holders). Currently, applicants who come to the UK for a purpose *other than* employment have the option of making their applications for leave to remain by post or in person at a Public Enquiry Office. This service is now being extended to applicants who seek limited leave for the purposes of employment.

- 7.3 From 1 April 2005 individuals who seek limited leave for the purposes of employment (other than those on the Highly Skilled Migrant Programme) will be able to make an application in person at the Croydon Public Enquiry Office, on a trial, appointment-only basis. The service may be extended to other Public Enquiry Offices following an assessment of the trial and future demand. This facility will not be available to individuals seeking limited leave to remain as a highly skilled migrant or individuals seeking limited or indefinite leave to remain as a business person, investor, innovator, sole representative or retired person of independent means, as these applications require specialist casework skills and longer processing times (we aim to process 98% of applications made at Public Enquiry Offices on the same day).

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 The impact on the public sector is expected to be none.

9. Contact

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Cheryl.Pellew@ind.homeoffice.gsi.gov.uk can answer any queries regarding the instrument.