

2016 No. 9

IMMIGRATION

The Immigration (Residential Accommodation) (Prescribed Requirements and Codes of Practice) (Amendment) Order 2016

<i>Made</i>	- - - -	<i>6th January 2016</i>
<i>Laid before Parliament</i>		<i>11th January 2016</i>
<i>Coming into force</i>	- -	<i>1st February 2016</i>

The Secretary of State, makes the following Order in exercise of the powers conferred by sections 24(2), (7) and (8), 26(2), (7) and (8), 32(6), 34(1) and 37(1)(a) of the Immigration Act 2014**(b)**.

In accordance with section 32(6) of that Act a draft code of practice for the purposes of Chapter 1 of Part 3 has been laid before Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Immigration (Residential Accommodation) (Prescribed Requirements and Codes of Practice) (Amendment) Order 2016 and comes into force on 1st February 2016.

(2) In this Order, “the 2014 Order” means the Immigration (Residential Accommodation) (Prescribed Requirements and Codes of Practice) Order 2014**(c)**.

Amendment of the 2014 Order

2. The 2014 Order is amended as follows.

3. In article 2 (interpretation) at the appropriate places insert—

““charity” means a charity within the meaning of section 1 of the Charities Act 2011**(d)**, or section 1 of the Charities Act (Northern Ireland) 2008**(e)** or a body entered in the Scottish Charity Register**(f)**;

““further education institution” means an institution which is within the further education sector;”

““higher education institution” means—

(a) See the definition of “prescribed”.

(b) 2014 c. 22.

(c) S.I. 2014/2874.

(d) 2011 c. 25.

(e) 2008 c. 12.

(f) The Scottish Charity Register was set up pursuant to section 3 of the Charities and Trustee Investment (Scotland) Act 2005 (2005 asp 10).

- (a) an institution that has been granted degree-awarding powers by either a Royal Charter, an Act of Parliament or the Privy Council; or
 - (b) an institution not falling within paragraph (a) but which provides full courses that lead to the award of a degree by an institution falling within that paragraph;”
- ““public authority” has the meaning given by section 6(3) of the Human Rights Act 1998(a);”
- ““voluntary organisation” means a body (other than a public authority) whose activities are not carried on for profit.”

4. In article 9 (notification of contraventions to the Secretary of State)—

- (a) for “in writing” substitute “made via the GOV.UK website or by telephone”;
- (b) omit paragraph (b).

5. The Schedule to the 2014 Order is amended in accordance with articles 6 to 15.

6. In paragraph 8 of List A, omit “which has not expired”.

7. In paragraph 11 of List A, omit “which has not expired”.

8. For paragraph 5 of List B, substitute—

“**5.** A letter which—

- (a) is issued by a government department or local authority no longer than 3 months before the date on which it is presented;
- (b) is signed by a named official stating their name and professional address;
- (c) confirms the holder’s name;
- (d) confirms that the holder has accessed services from that department or authority or is otherwise known to that department or authority.”

9. For paragraph 6 of List B, substitute—

“**6.** A letter which—

- (a) is issued no longer than 3 months before the date on which it is presented;
- (b) is signed by a British passport holder who is or has been a professional person or who is otherwise of good standing in their community;
- (c) confirms the holder’s name;
- (d) states how long the signatory has known the holder, such period being of at least 3 months’ duration, and in what capacity;
- (e) states the signatory’s name, address, profession, place of work and passport number.”

10. In paragraph 7 of List B, after “employee reference number” insert “or National Insurance number”.

11. In paragraph 8 of List B, for “and personal documents have been stolen” substitute “in which the holder’s passport or biometric immigration document has been stolen”.

12. In paragraph 11 of List B, for “holder has been released from the custody of that service” substitute “the holder has been released from the custody of that service no longer than 6 months before the date on which that letter is presented, and”.

13. In paragraph 12 of List B—

(a) 1998 c. 42.

- (a) for “issued within 6 months of discharge” substitute “issued no longer than 3 months before the date on which it is presented”;
- (b) at the end, insert “and confirming that the holder is the subject of an order requiring supervision by that officer”.

14. Omit paragraph 14 of List B.

15. After paragraph 16 of List B insert—

“**17.** A letter which—

- (a) is issued no longer than 3 months before the date on which it is presented;
- (b) is issued by a public authority, voluntary organisation or charity in the course of a scheme operated to assist individuals to secure accommodation in the private rented sector in order to prevent or resolve homelessness;
- (c) confirms the holder’s name;
- (d) states the address of a prospective tenancy which the authority, organisation or charity is assisting the holder to obtain.

18. A letter which—

- (a) is issued by a further or higher education institution in the United Kingdom;
- (b) confirms that the holder has been accepted on a current course of studies at that institution;
- (c) states the name of the institution and the name and duration of the course.

19. A current immigration status document issued by the Home Office, to the holder, with a valid endorsement indicating that the holder has been granted limited leave to enter, or remain in, the United Kingdom.”

Code of Practice

16. The revised code of practice entitled “Code of practice on illegal immigrants and private rented accommodation” issued by the Secretary of State under section 32(1) of the Act comes into force on 1st February 2016.

Home Office
6th January 2016

James Brokenshire
Minister of State

EXPLANATORY NOTE

(This note is not part of the Order)

Chapter 1 of Part 3 of the Immigration Act 2014 (“the Act”) provides a statutory excuse for landlords and their agents from being required to pay a civil penalty if they conduct prescribed identity checks on prospective occupiers and those occupiers who are renewing their tenancy agreements. The Immigration (Residential Accommodation) Prescribed Requirements and Codes of Practice) Order 2014 (S.I. 2014/2874) set out the prescribed requirements for identity checks which must be complied with by landlords and agents when entering into a residential tenancy agreement. That Order also brought into force a code of practice which specified, among other things, the reasonable enquiries that landlords and agents should make to determine the identity of relevant occupiers in relation to a residential tenancy agreement.

Articles 3 and 5 to 15 of this Order amend S.I. 2014/2874 to alter the list of acceptable documents which a landlord or agent must obtain from an occupier or prospective occupier in order to establish an excuse under section 24 or 26 of the 2014 Act.

Article 4 amends the prescribed form and manner in which contraventions of the prohibition on leasing premises to people disqualified by their immigration status must be notified to the Secretary of State.

Article 16 provides for a revised code of practice to come into force on 1st February 2016.

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