

HJT SUMMARY OF [STATEMENT OF CHANGES HC895](#), 15 MARCH 2018

For ease of reference, all excerpts copied from the Statement of Changes into this summary appear in **bold font**. Insertions and deletions are then applied to the immigration rules, which are copied below in *italics*.

The footnotes contain the relevant paragraphs from the Explanatory Memorandum.

The changes are, in summary:

Change to Part 11

- **11.1** Where a person (presuming they are not an EEA national) claims asylum, their claim will be treated as inadmissible if they have been granted status elsewhere (or in the UK on a basis that gives equivalent rights to refugee status). The effect of this change is that from now on, it is important to check, if your client has claimed asylum in an EEA Member State, whether they have been granted status via either of the two species of international protection: ie as a refugee *or as a beneficiary of subsidiary protection*.

Changes to Appendix FM

- **FM1.-FM3.** para (d) in Partner ILR 'Requirements' is being moved, with virtually identical wording (identical in effect), into Partner ILR 'Eligibility' as new sub paras (1A) & (1B). This clarifies that, to qualify for ILR after 5 years, not only must the applicant have accrued 5 years on the 5 year route (i.e. satisfying financial, immigration and English requirements) but that they must also satisfy those requirements at the ILR stage.
- **FM4.-FM6.:** para (d) in Parent ILR 'Requirements' is being moved, with virtually identical wording (identical in effect), into Partner ILR 'Eligibility' as new sub paras (1A) & (1B). This clarifies that, to qualify for ILR after 5 years, not only must the applicant have accrued 5 years on the 5 year route (i.e. satisfying financial, immigration and English requirements) but that they must also satisfy those requirements at the ILR stage. The only difference to the change in relation to Partner ILR is that the first part of the substitution of E-ILRPT.1.3 substitutes identical words for (a) and (b) apart from the insertion of the number (1).

Changes to Appendix V relating to visitors

- Annual update to list of Permit Free Festivals (see side by side lists)

Implementation: all changes to take effect as applicable to decisions from 6 April 2018 except the App V changes which will apply only to decisions on applications made on or after 6 April 2018.

CHANGES TO PART 11¹**11.1 Delete paragraph 345(A)(i) and replace with:****“(i) another Member State has granted refugee status or subsidiary protection;”****Inadmissibility of non-EU applications for asylum**

345A. An asylum claim will be declared inadmissible and will not be substantively considered if the Secretary of State determines that one of the following conditions are met:

- (i) ~~another Member State has granted refugee status;~~ another Member State has granted refugee status or subsidiary protection;
- (ii) a country which is not a Member State is considered to be a first country of asylum for the applicant, according to the requirements of paragraph 345B;
- (iii) a country which is not a Member State is considered to be a safe third country for the applicant, according to the requirements of paragraphs 345C and 345D;
- (iv) the applicant is allowed to remain in the United Kingdom on some other grounds and as a result of this has been granted a status equivalent to the rights and benefits of refugee status;
- (v) the applicant is allowed to remain in the United Kingdom on some other grounds which protect them against refoulement pending the outcome of a procedure for determining their status in accordance with (iii) above.

¹ Explanatory memorandum: Changes relating to asylum claims

7.1. The change to Part 11 is being made to provide that an asylum claim will be deemed inadmissible, and will not be substantively considered by the UK, if another EU Member State has granted either refugee status or subsidiary protection (known collectively as international protection). This change is in line with both the UK’s established policy on safe third countries, and the EU’s objective in reducing the secondary movements of those granted international protection.

7.2. Article 25(2)(a) of Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status (“the Procedures Directive”) permits a Member State to apply the principle of inadmissibility to asylum claims in certain circumstances.

7.3. The rule change is made further to the Procedures Directive, in line with the stated aim of the European Union to limit secondary movements of applicants for international protection.

7.4. The UK has operated a safe third country policy for many years. Broadly, this means the identification of circumstances in which an individual has arrived in the UK and sought international protection, but where there is an alternative country that would be regarded as capable of granting sufficient protection. This policy is a key element of the UK’s asylum policy and allows the UK to prevent misuse of the asylum system.

CHANGES TO APPENDIX FM²

FM1. In paragraph R-ILRP.1.1.(c) after “remain;” insert “and”.

FM2. In paragraph R-ILRP.1.1., delete sub-paragraph (d).

Section R-ILRP: Requirements for indefinite leave to remain (settlement) as a partner

R-ILRP.1.1. The requirements to be met for indefinite leave to remain as a partner are that-

(a) the applicant and their partner must be in the UK;

(b) the applicant must have made a valid application for indefinite leave to remain as a partner;

(c) the applicant must not fall for refusal under any of the grounds in Section S-ILR: Suitability for indefinite leave to remain; and

(d) ~~the applicant:~~

~~(i) must meet all of the requirements of Section E-LTRP: Eligibility for leave to remain as a partner (except that paragraph E-LTRP.1.2. cannot be met on the basis set out in sub-paragraph (c) of that paragraph, and in applying paragraph E-LTRP.3.1.(b)(ii) delete the words “2.5 times”); or~~

~~(ii) must meet the requirements of paragraphs E-LTRP.1.2. 1.12. (except that paragraph E-LTRP.1.2. cannot be met on the basis set out in sub-paragraph (c) of that paragraph) and E-LTRP.2.1 – 2.2. and paragraph EX.1. applies; and~~

(e) the applicant must meet all of the requirements of Section E-ILRP: Eligibility for indefinite leave to remain as a partner.

FM3. After paragraph E-ILRP.1.3. (1)(b)(iii) insert:

“(1A) In respect of an application falling within sub-paragraph (1)(a) above, the applicant must meet all of the requirements of Section E-LTRP: Eligibility for leave to remain as a partner (except that paragraph E-LTRP.1.2. cannot be met on the basis set out in sub-paragraph (c) of that paragraph, and in applying paragraph E-LTRP.3.1.(b)(ii) delete the words “2.5 times”).

(1B) In respect of an application falling within sub-paragraph (1)(b) above:

(a) the applicant must meet all of the requirements of paragraphs ELTRP.1.2.-1.12.

(c) of that paragraph) and E-LTRP.2.1 - 2.2.; and

(b) paragraph EX.1. must apply.”

² Explanatory Memorandum: Changes relating to family life

7.5. To clarify, in Appendix FM, that those on a 5-year route to settlement must meet all eligibility requirements, including the immigration status, financial and English language requirements, at every application stage including where indefinite leave to remain is sought after five years, in order to be granted leave under these Rules.

Section E-ILRP: Eligibility for indefinite leave to remain as a partner

E-ILRP.1.1. To meet the eligibility requirements for indefinite leave to remain as a partner all of the requirements of paragraphs E-ILRP.1.2. to 1.6. must be met.

E-ILRP.1.2. The applicant must be in the UK with valid leave to remain as a partner under this Appendix (except that, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded).

E-ILRP.1.3.

(1) Subject to sub-paragraph (2), the applicant must, at the date of application, have completed a continuous period of either:

(a) at least 60 months in the UK with:

(i) leave to enter granted on the basis of entry clearance as a partner granted under paragraph D-ECP.1.1.; or

(ii) limited leave to remain as a partner granted under paragraph D-LTRP.1.1.;

or

(iii) a combination of (i) and (ii);

or

(b) at least 120 months in the UK with:

(i) leave to enter granted on the basis of entry clearance as a partner granted under paragraph D-ECP.1.1. or D-ECP.1.2.; or

(ii) limited leave to remain as a partner granted under paragraph D-LTRP.1.1. or D-LTRP.1.2.; or

(iii) a combination of (i) and (ii).

(1A) In respect of an application falling within sub-paragraph (1)(a) above, the applicant must meet all of the requirements of Section E-LTRP: Eligibility for leave to remain as a partner (except that paragraph E-LTRP.1.2. cannot be met on the basis set out in sub-paragraph (c) of that paragraph, and in applying paragraph E-LTRP.3.1.(b)(ii) delete the words "2.5 times").

(1B) In respect of an application falling within sub-paragraph (1)(b) above:

(a) the applicant must meet all of the requirements of paragraphs ELTRP.1.2.-1.12.

(except that paragraph E-LTRP.1.2. cannot be met on the basis set out in sub-paragraph (c) of that paragraph) and E-LTRP.2.1 - 2.2.; and

(b) paragraph EX.1. must apply.

(2) In calculating periods of leave for the purposes of sub-paragraph (1) above, any period of leave to enter or limited leave to remain as a fiancé(e) or proposed civil partner will be excluded.

FM4. In paragraph R-ILRPT.1.1.(c) after “remain;” insert “and”.

FM5. In paragraph R-ILRPT.1.1., delete sub-paragraph (d).

Section R-ILRPT: Requirements for indefinite leave to remain (settlement) as a parent
R-ILRPT.1.1. The requirements to be met for indefinite leave to remain as a parent are that-

(a) the applicant must be in the UK;

(b) the applicant must have made a valid application for indefinite leave to remain as a parent;

(c) the applicant must not fall for refusal under any of the grounds in Section S-ILR:

Suitability-indefinite leave to remain; and

~~(d) the applicant:~~

~~(i) must meet all of the requirements of Section E-LTRPT: Eligibility for leave to remain as a parent; or~~

~~(ii) must meet all of the requirements of paragraphs E-LTRPT.2.2.-2.4. and E-LTRPT.3.1.-3.2. and paragraph EX.1. applies; and~~

(e) the applicant must meet all of the requirements of Section E-ILRPT: Eligibility for indefinite leave to remain as a parent.

FM6. For E-ILRPT.1.3. substitute:

“E-ILRPT.1.3.

(1) The applicant must, at the date of application, have completed a continuous period of either:

(a) at least 60 months in the UK with:

(i) leave to enter granted on the basis of entry clearance as a parent granted under paragraph D-ECPT.1.1.; or

(ii) limited leave to remain as a parent granted under paragraph D-LTRPT.1.1.; or

(iii) a combination of (i) and (ii);

or

(b) at least 120 months in the UK with:

(i) leave to enter granted on the basis of entry clearance as a parent granted under paragraph D-ECPT.1.1. or D-ECPT.1.2.; or

(ii) limited leave to remain as a parent granted under paragraph D-LTRPT.1.1. or D-LTRPT.1.2.; or

(iii) a combination of (i) and (ii).

(1A) In respect of an application falling within sub-paragraph (1)(a) above, the applicant must meet all of the requirements of Section E-LTRPT: Eligibility for leave to remain as a parent.

(1B) In respect of an application falling within sub-paragraph (1)(b) above:

(a) the applicant must meet all of the requirements of paragraphs E-LTRPT.2.2.-2.4. and E-LTRPT.3.1.-3.2.; and

(b) paragraph EX.1. must apply.

Section E-ILRPT: Eligibility for indefinite leave to remain as a parent

E-ILRPT.1.1. To meet the eligibility requirements for indefinite leave to remain as a parent all of the requirements of paragraphs E-ILRPT.1.2. to 1.5. must be met.

E-ILRPT.1.2. The applicant must be in the UK with valid leave to remain as a parent under this Appendix (except that, where paragraph 39E of these Rules applies, any current period of overstaying will be disregarded).

~~E-ILRPT.1.3. The applicant must, at the date of application, have completed a continuous period of either:~~

~~(a) at least 60 months in the UK with:~~

~~(i) leave to enter granted on the basis of entry clearance as a parent granted under paragraph D-ECPT.1.1.; or~~

~~(ii) limited leave to remain as a parent granted under paragraph D-LTRPT.1.1.; or~~

~~(iii) a combination of (i) and (ii); or~~

~~(b) at least 120 months in the UK with:~~

~~(i) leave to enter granted on the basis of entry clearance as a parent granted under paragraph D-ECPT.1.1. or D-ECPT.1.2.; or~~

~~(ii) limited leave to remain as a parent granted under paragraph D-LTRPT.1.1. or D-LTRPT.1.2.; or~~

~~(iii) a combination of (i) and (ii).~~

"E-ILRPT.1.3.

(1) The applicant must, at the date of application, have completed a continuous period of either:

(a) at least 60 months in the UK with:

(i) leave to enter granted on the basis of entry clearance as a parent granted under paragraph D-ECPT.1.1.; or

(ii) limited leave to remain as a parent granted under paragraph D-LTRPT.1.1.; or

(iii) a combination of (i) and (ii); or

(b) at least 120 months in the UK with:

(i) leave to enter granted on the basis of entry clearance as a parent granted under paragraph D-ECPT.1.1. or D-ECPT.1.2.; or

(ii) limited leave to remain as a parent granted under paragraph D-LTRPT.1.1. or D-LTRPT.1.2.; or

(iii) a combination of (i) and (ii).

(1A) In respect of an application falling within sub-paragraph (1)(a) above, the applicant must meet all of the requirements of Section E-LTRPT: Eligibility for leave to remain as a parent.

(1B) In respect of an application falling within sub-paragraph (1)(b) above:

(a) the applicant must meet all of the requirements of paragraphs E-LTRPT.2.2.-2.4. and E-LTRPT.3.1.-3.2.; and

(b) paragraph EX.1. must apply.

CHANGES TO APPENDIX V³

V1. In Appendix 5 to Appendix V, in paragraph 1, for sub-paragraph (a) to (rr), substitute: (HJT comment: see list in right-hand column)

Visitors Appendix 5. Permit Free Festivals 1 An artist, entertainer or musician visiting the UK to perform at one or more of the following permit free festivals may receive payment to do so:

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| <p>List before 6 April 2018</p> <ul style="list-style-type: none"> (a) Aberdeen International Youth Festival (b) Alchemy (Southbank Centre) (c) Aldeburgh Festival (d) Barbican Festivals (Only Connect - Sound Unbound, Summer Festival, Autumn 1 – Transcender, Autumn 2 – Jazz at Lincoln Center Residency) (e) Belfast International Arts Festival (f) Bestival (g) Billingham International Folklore Festival of World Dance (h) Boomtown Fair (i) Breakin’ Convention (j) Brighton Festival (k) Brighton Fringe (l) Brouhaha International Street Festival (m) Cambridge Folk Festival (n) Camp Bestival (o) Celtic Connections (p) Cheltenham Festivals (Jazz/Science/ Music/Literature) (q) Cornwall International Male Voice Choral Festival (r) Dance Umbrella (s) Download (t) Edinburgh Festival Fringe (u) Edinburgh International Festival (v) Edinburgh Jazz and Blues Festival (w) Glasgow International Jazz Festival (x) Glastonbury (y) Glyndebourne (z) Greenbelt (aa) Harrogate International Festival (bb) Hay Festival (cc) Huddersfield Contemporary Music Festival (dd) Latitude (ee) Leeds Festival (ff) Llangollen International Eisteddfod (gg) London Jazz Festival (EFG) (hh) Manchester International Festival (ii) Meltdown (Southbank Centre) (jj) Norfolk and Norwich Festival (kk) Reading Festival (ll) Royal Edinburgh Military Tattoo (mm) Salisbury International Arts Festival (nn) Snape Festival (oo) V Festivals (pp) Wireless (qq) WOMAD (rr) Africa Utopia | <p>List from 6 April 2018</p> <ul style="list-style-type: none"> (a) Aberdeen International Youth Festival (b) Africa Utopia (Southbank Centre) (c) Alchemy (Southbank Centre) (d) Aldeburgh Festival (e) Barbican Festivals (Only Connect, Summer Festival, Autumn 1, Autumn 2) (f) Barclaycard presents British Summer Time Hyde Park (g) Belfast International Arts Festival (h) Bestival (i) Billingham International Folklore Festival of World Dance (j) BoomTown Fair (k) Breakin’ Convention (l) Brighton Festival (m) Brighton Fringe (n) Brouhaha International Street Festival (o) Cambridge Folk Festival (p) Camp Bestival (q) Celtic Connections (r) Cheltenham Festivals (Jazz/Science/Music/Literature) (s) Common People (t) DaDaFest International (u) Dance Umbrella (v) Download (w) Edinburgh Festival Fringe (x) Edinburgh International Festival (y) Edinburgh Jazz and Blues Festival (z) Glasgow International Jazz Festival (aa) Glyndebourne (bb) Greenbelt (cc) Harrogate International Festivals (dd) Hay Festival (ee) Huddersfield Contemporary Music Festival (ff) Latitude (gg) Leeds Festival (hh) LIFT (London International Festival of Theatre) (ii) Llangollen International Musical Eisteddfod (jj) London Jazz Festival (EFG) (kk) Meltdown (Southbank Centre) (ll) Norfolk and Norwich Festival (mm) Reading Festival (nn) RiZE (oo) Snape Proms (pp) The Royal Edinburgh Military Tattoo (qq) Wireless <p>Page 5 of 5 (rr) WOMAD (ss) WWE Live.”.</p> |
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³ **Explanatory Memorandum: Changes relating to visitors 7.6.** Appendix 5 to Appendix V comprises a list of events that are Permit Free Festivals. Permit Free Festivals are events that are assessed as contributing to the cultural heritage of the UK and at which performers can, exceptionally, be paid for their participation as visitors. Visitors cannot normally receive payment from a UK source for any permitted activities they undertake here. The list has been updated for 2018/19