

SCHEDULE 1

PART 1

INTERPRETATION

1.—(1) In this Schedule—

“Article 3 or Refugee Convention application” means an application for leave to remain in the United Kingdom made on the basis that the applicant is—

- (a) a person making a claim for asylum within the meaning of section 94(1) of the Immigration and Asylum Act 1999⁽¹⁾ which has either not been determined or has been granted;
- (b) a person who has been granted humanitarian protection under the immigration rules;
- (c) a person who has been granted limited leave to enter or remain in the United Kingdom outside the provisions of the immigration rules on the rejection of their claim for asylum;
- (d) a person who is a dependent of a person referred to in paragraph (a), (b) or (c) and is applying for leave to enter or remain in the United Kingdom under paragraphs 352A to 352FI of the immigration rules; or
- (e) a child who does not come within paragraph (d) who was born in the United Kingdom to a person referred to in paragraph (a), (b) or (c);

“assistance by a local authority” means assistance, accommodation or maintenance provided by a local authority (or in Northern Ireland, an authority, which has the same meaning as provided in Article 2(2) of the Children (Northern Ireland) Order 1995⁽²⁾) under—

- (a) section 17, 20 or 23 of the Children Act 1989⁽³⁾;
- (b) section 22, 25 or 26 of the Children (Scotland) Act 1995⁽⁴⁾; or
- (c) article 18, 21 or 27 of the Children (Northern Ireland) Order 1995;

“certificate of sponsorship” means an authorisation issued by the Secretary of State to a sponsor in respect of one of more applications, or potential applications, for leave to remain in or enter the United Kingdom;

“CESC national” means a person who is a national of a state which has ratified the European Social Charter, agreed by the Council of Europe at Turin on 18th October 1961⁽⁵⁾;

“Highly Skilled Migrant” has the same meaning as provided in the immigration rules;

“leave to enter the United Kingdom” means leave to enter the United Kingdom given in accordance with the provisions of the 1971 Act or the immigration rules and any subsequent variation of that leave;

“online application” means an application made via the public website maintained by the United Kingdom Border Agency;

“PEO application” means—

- (a) an application made in person at a Public Enquiry Office; or

(1) 1999 c.33; section 94(1) was amended by section 60(2) of the Nationality, Immigration and Asylum Act 2002 (c.41) and paragraph 180 of Schedule 3 to the Transfer of Tribunal Functions Order (S.I. 2008/2833).

(2) S.I. 1995/755 (N.I.2).

(3) 1989 c.41.

(4) 1995 c.36.

(5) (CETS NO.:035).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) an online application where the applicant, when making the application, chooses to use the procedure which requires applicants to attend a Public Enquiry Office for the purposes of processing the application;

“premium case-working basis” means the processing of applications for leave to remain in the United Kingdom under the super premium service offered by the United Kingdom Border Agency;

“premium sponsor status” has the same meaning as provided in the immigration rules;

“qualifying work permit holder” means an applicant for limited leave to remain in the United Kingdom who—

- (a) was granted leave to remain in the United Kingdom for 3 years as a Tier 2 Migrant on the basis that they were a Qualifying Work Permit Holder under Part 6A of the immigration rules;
- (b) is applying to extend the duration of the leave to remain referred to in paragraph (a) to 5 years; and
- (c) is still working for the same employer and in the same role as they were when the leave to remain referred to in paragraph (a) was granted;

“small sponsor” means a sponsor that is—

- (a) a company that qualifies as small in accordance with sections 382 and 383 of the Companies Act 2006⁽⁶⁾;
- (b) in the case of a person who is not a company for the purposes of those sections, a person who employs no more than 50 employees; or
- (c) a charity within the meaning of section 1 of the Charities Act 2011⁽⁷⁾, or section 1 of the Charities Act (Northern Ireland) 2008⁽⁸⁾ or a body entered in the Scottish Charity Register.

“standard application” means either an application made by post or courier or an online application which is not a PEO application;

“Tier 1 Migrant”, “Tier 1 (Entrepreneur) Migrant”, “Tier 1 (Exceptional Talent) Migrant”, “Tier 1 (General) Migrant”, “Tier 1 (Graduate Entrepreneur) Migrant”, “Tier 1 (Investor) Migrant”, and “Tier 1 (Post-Study Work) Migrant” have the same meaning as provided in the immigration rules;

“Tier 2 Migrant” and “Tier 2 (Intra-Company Transfer) Migrant” have the same meaning as provided in the immigration rules;

“Tier 4 Migrant” and “Tier 4 (General) Student” have the same meaning as provided in the immigration rules;

“Tier 5 Migrant” and “Tier 5 (Temporary Worker) Migrant” have the same meaning as provided in the immigration rules;

“work permit holder” has the same meaning as provided in the immigration rules.

- (2) For the purposes of this Schedule a claim for asylum is to be taken to be determined-
 - (a) on the day on which the Secretary of State notifies the claimant of the decision on the claim;
 - (b) if the claimant has appealed against the Secretary of State’s decision, on the day on which the appeal is disposed of; or

⁽⁶⁾ 2006 c.46.

⁽⁷⁾ 2011 c.25. This section is due to come into force on 14th March 2012 under section 355 of that Act.

⁽⁸⁾ 2008 c.12.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (c) if the claimant has brought an appeal from within the United Kingdom, against an immigration decision under section 82 of the Nationality, Immigration and Asylum Act 2002⁽⁹⁾ or section 2 of the Special Immigration Appeals Commission Act 1997⁽¹⁰⁾ on the day on which the appeal is disposed of.

⁽⁹⁾ 2002 c.41.

⁽¹⁰⁾ 1997 c.68; section 2 was amended by paragraph 2 of Schedule 7 to the Nationality, Immigration and Asylum Act 2002 and paragraph 14 of Schedule 1 to the Immigration, Asylum and Nationality Act 2006.