

Response ID ANON-8YVV-F6DJ-7

Submitted to **Law Commission consultation on simplifying the Immigration Rules**

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About you

What is your name?

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Are you responding to this consultation in a personal capacity or on behalf of your organisation?

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Consultation Questions

Consultation Question 1: Do consultees agree that there is a need for an overhaul of the Immigration Rules?

Yes

Consultation Question 2: Do consultees agree with the principles we have identified to underpin the drafting of the Immigration Rules?

Yes

Please expand on your answer::

Immigration Rules are complex like spider web and overlapping in some extend. It almost impossible for lay people to understand the text of Immigration Rules.

Case-laws from the IAC FTT, IAC UTT, High Court, Court of Appeal, Supreme Court and ECHR are not properly reflected in the Immigration Rules. Immigration Rules should be regularly updated inlight of the landmark case-laws.

Consultation Question 3: We provisionally consider that the Immigration Rules should be drafted so as to be accessible to a non-expert user. Do consultees agree?

Yes

Please expand on your answer::

Agree with the statement. However, the language should not be so plane that legal terminologies are vanished from the Immigration Rules.

Consultation Question 4: To what extent do consultees think that complexity in the Immigration Rules increases the number of mistakes made by applicants?

Please share your views::

Complexity in the Immigration Rules increases the number of mistakes made by the Home Office rather than the applicants. It is very normal and expected that unrepresented applicants may make mistake, however the trained Home Office caseworkers are making more mistakes in the decisions than lay applicants

application.

Consultation Question 5: This consultation paper is published with a draft impact assessment which sets out projected savings for the Home Office, applicants and the judicial system in the event that the Immigration Rules are simplified. Do consultees think that the projected savings are accurate?

Yes

Please expand on your answer::

Agree with the statement.

Consultation Question 6: Do consultees agree that the unique status of the Immigration Rules does not cause difficulties to applicants in practice?

Yes

Please expand on your answer::

Agree with the statement.

Consultation Question 7: To what extent is guidance helpfully published, presented and updated?

Please share your views::

The Home Office Guidance are not updated properly and not consistent.

Case Comment: SSHD v Anastasia Pankina [2010] EWCA Civ 719 principal are not followed by the Home Office.

Consultation Question 8: Are there any instances where the guidance contradicts the Immigration Rules and any aspects of the guidance which cause particular problems in practice?

Please share your views::

Yes. The Home Office Guidance are not reflecting the Immigration Rules in many instances.

Consultation Question 9: To what extent are application forms accessible? Could the process of application be improved?

Please share your views::

Online Application system are much better than paper application system.

However, technical and bandwidth problem should be resolved to improve the Online Application system.

Consultation Question 10: We seek views on the correctness of the analysis set out in this chapter of recent causes of increased length and complexity in the Immigration Rules.

Please share your views::

Increased length and complexity in the Immigration Rules are unnecessary.

Consultation Question 11: We seek views on whether our example of successive changes in the detail of evidentiary requirements in paragraph 10 of Appendix FM-SE is illustrative of the way in which prescription can generate complexity.

Please share your views::

Evidentiary requirements in paragraph 10 of Appendix FM-SE and Immigration Rules part 6A: the points-based system - Points-based system (paragraphs 245AAA to 245ZZE) are most complex and confusing chapter.

Consultation Question 12: We seek views on whether there are other examples of Immigration Rules where the underlying immigration objective has stayed the same, but evidentiary details have changed often.

Please share your views::

3C of the Immigration Act 1971 and Paragraph 39(E) are conflicting in light of the recent case law of R (on the application of Ahmed) v Secretary of State for the Home Department (para 276B – ten years lawful residence) [2019] UKUT 00010 (IAC).

Consultation Question 13: Do consultees consider that the discretionary elements within Appendix EU and Appendix V (Visitors) have worked well in practice?

No

Please expand on your answer::

Consultation Question 14: We seek views as to whether the length of the Immigration Rules is a worthwhile price to pay for the benefits of transparency and clarity.

Please share your views::

Length of the Immigration Rules is neither a worthwhile price to pay for the benefits of transparency nor does it have much clarity. Most of the time the length makes the Immigration Rules more complex and conflicting.

Consultation Question 15: We seek consultees' views on the respective advantages and disadvantages of a prescriptive approach to the drafting of the Immigration Rules.

Please share your views::

The intention of the Law makers are most of the time do not reflect in the Immigration Rules. Some time drafting of immigration rules are so vague and unclear - it does not make any sense.

Consultation Question 16: We seek views on whether the Immigration Rules should be less prescriptive as to evidential requirements (assuming that there is no policy that only specific evidence or a specific document will suffice).

Please share your views::

Immigration Rules should be prescriptive as to evidential requirements and ascertain mandatory documents for specific application.

Consultation Question 17: We seek views on what areas of the Immigration Rules might benefit from being less prescriptive, having regard to the likelihood that less prescription means more uncertainty.

Please share your views::

Immigration Rules might benefit from being less prescriptive on Appendix FM-SE and Immigration Rules part 6A: the points-based system - Points-based system (paragraphs 245AAA to 245ZZE)

Consultation Question 18

Yes

Please expand on your answer::

Consultation Question 19: We seek views on whether consultees see any difficulties with the form of words used in the New Zealand operation manual that a requirement should be demonstrated "to the satisfaction of the decision-maker"?

Please share your views::

Consultation Question 20: Do consultees agree with the proposed division of subject-matter? If not, what alternative systems of organisation would be preferable?

Yes

Please expand on your answer::

Consultation Question 21: Do consultees agree that an audit of overlapping provisions should be undertaken with a view to identifying inconsistencies and deciding whether any difference of effect is desired?

Yes

Please expand on your answer::

Consultation Question 22: Do consultees agree with our analysis of the possible approaches to the presentation of the Immigration Rules on paper and online set out at options 1 - 3? Which option do consultees prefer and why?

Yes

Option 1

Please expand on your answer::

Consultation Question 23: Are there any advantages and disadvantages of the booklet approach which we have not identified?

Please share your views::

Consultation Question 24: Are there any advantages and disadvantages of the common provisions approach which we have not identified?

Please share your views::

Consultation Question 25: Do consultees agree with our proposal that any departure from a common provision within any particular application route should be highlighted in guidance and the reason for it explained?

Yes

Please expand on your answer::

Consultation Question 26:

Yes

Please expand on your answer::

Consultation Question 27:

Yes

Please expand on your answer::

Consultation Question 28: We invite consultees' views as to whether less use should be made of subheadings? Should subheadings be used within Rules?

Please share your views: :

Subheadings used within Rules are helpful some times and it is also not necessary some times. It is depend upon which part of the Immigration Rules should have subheadings

Consultation Question 29: Do consultees consider that tables of contents or overviews at the beginning of Parts of the Immigration Rules would aid accessibility? If so, would it be worthwhile to include a statement that the overview is not an aid to interpretation?

Yes

Please expand on your answer::

Consultation Question 30: Do consultees have a preference between overviews and tables of contents at the beginning of Parts?

Yes

Please expand on your answer: :

Consultation Question 31:

Yes

Please expand on your answer::

It will simplify the Immigration Rules and lay people can read and understand the rule.

Consultation Question 32: We provisionally propose that Appendices to the Immigration Rules are numbered in a numerical sequence.Do consultees agree?

Yes

Please expand on your answer: :

Consultation Question 33:

No

Please expand on your answer: :

Consultation Question 34: Should the current Immigration Rules be renumbered as an interim measure?

Yes

Please expand on your answer: :

Consultation Question 35: In future, should parts of the Immigration Rules be renumbered in a purely numerical sequence where they have come to contain a substantial quantity of inserted numbering?

Yes

Please expand on your answer: :

Consultation Question 36: We provisionally propose that definitions should not be used in the Immigration Rules as a vehicle for importing requirements.Do consultees agree?

Yes

Please expand on your answer::

Consultation Question 37:

Yes

Please expand on your answer::

Consultation Question 38:

Yes

Please expand on your answer::

Consultation Question 39: We seek consultees' views on whether repetition within portions of the Immigration Rules should be eliminated as far as possible, or whether repetition is beneficial so that applicants do not need to cross-refer.

Please share your views::

Introduction of Paragraph 39(E) since 24/11/2016 simplify the immigration rules.

However cross-reference in Appendix FM-SE and Immigration Rules part 6A: the points-based system - Points-based system (paragraphs 245AAA to 245ZZE) are unnecessary and should be eliminated as far as possible.

Consultation Question 40: Do consultees agree with our proposed drafting guide? If not, what should be changed? Are consultees aware of sources or studies which could inform an optimal drafting style guide?

Yes

Please expand on your answer::

Consultation Question 41: Is the general approach to drafting followed in the specimen redrafts at appendices 3 and 4 to this consultation paper successful?

Yes

Please expand on your answer::

Consultation Question 42: Which aspects of our redrafts of Part 9 (Grounds for refusal) and of a section of Appendix FM (Family members) to the Immigration Rules work well, and what can be improved?

Please share your views :

Consultation Question 43: We seek views on whether and where the current Immigration Rules have benefitted from informal consultation and, if so, why.

Please share your views::

Consultation Question 44: We seek views on whether informal consultation or review of the drafting of the Immigration Rules would help reduce complexity.

Please share your views :

Consultation Question 45: How can the effect of statements of changes to the Immigration Rules be made easier to assimilate and understand? Would a Keeling schedule assist? Should explanatory memoranda contain more detail as to the changes being made than they do currently, even if as a result they become less readable?

Please share your views::

Consultation Question 46: How can the temporal application of statements of changes to the Immigration Rules be made easier to ascertain and understand?

Please share your views::

Consultation Question 47: Is the current method of archiving sufficient? Would it become sufficient if dates of commencement were contained in the Immigration Rules themselves, or is a more sophisticated archiving system required?

Other

Please expand on your answer::

Current archiving system is perfect for me. I have saved all previous immigration rules since 1994 and all full Archive of Immigration Rules and Statements of changes in Immigration Rules since 09/12/2012 in my computer.

However, the system may be change to assist lay people and new practitioners.

Consultation Question 48: Do consultees agree that Appendix F (Archived Immigration Rules) and paragraphs 276DI to 276AI in Part 7 (Other categories) can be omitted from any redrafted Immigration Rules?

Yes

Please expand on your answer::

Consultation Question 49: What issues arise as a result of the frequency of changes to the Immigration Rules, and how might these be addressed?

Please share your views::

The Home Office instantly change the immigration rules whenever the Case-laws are uphold in favor of the Home Office. Nevertheless the Home Office is very reluctant to change the Immigration Rules if the case-laws goes against the Home Office.

Consultation Question 50: Do consultees agree that there should be, at most, two major changes to the Immigration Rules per year, unless there is an urgent need for additional changes? Should these follow the common commencement dates (April and October), or be issued according to a different cycle?

Yes

Please expand on your answer::

Consultation Question 51: Could a common provisions approach to the presentation of the Immigration Rules function as effectively as the booklet approach through the use of hyperlinks?

Yes

Please expand on your answer::

Consultation Question 52: We seek views on whether and how guidance can more clearly be linked to the relevant Immigration Rules.

Please share your views::

Modernised Guidance, Visa and Immigration Operational Guidance, Operational Guidance, Sponsorship Guidance for Employees and Educators should be amalgamated as a single and simplify Immigration Guidance. There should not multupal web-portal for guidance and all guidances should be under one web-portal.

Consultation Question 53: In what ways is the online application process and in-person appointment system as developed to date an improvement on a paper application system? Are there any areas where it is problematic?

Please share your views::

Third part partners of the Home Office many times failed to upload scan documents to the Home Office. Third part partners of the Home Office are very unhelpful and unprofessional.

Consultation Question 54: Do consultees agree with the areas we have identified as the principal ways in which modern technology could be used to help simplify the Immigration Rules? Are there other possible approaches which we have not considered?

Yes

Please expand on your answer::

Additional comments

Additional comments

Please use the space below if you have any additional comments::