

JUST IMMIGRATION SOLICITORS

Note: 5th October 2020

New Student Rules

The previous Tier 4 (General) and Tier 4 (Child) immigration routes have been replaced by a new set of student and child rules on 5 October 2020. This note looks at some of the major changes.

Reasons for the changes

The changes are being introduced to give effect to the government's plan to introduce a unified system which applies to EU and non-EU nationals.

EU Nationals

The new rules will only apply to EU nationals from 1 January 2021. Any such application under the new rules before 1 January 2021 will be treated as invalid and will not be considered.

Replacement of the Tier 4 General and Tier 4 Child Route in the Immigration Rules

The new Student and Child Student routes will replace the Tier 4 (General) and the Tier 4 (Child) routes in the Immigration Rules.

When will the new rules take effect?

The changes take effect on 5 October 2020 at 09:00. If an application for entry clearance, leave to enter or leave to remain has been made before 5 October 2020 at 09:00, the application will be decided in accordance with the existing Tier 4 (General) and Tier 4 (Child) rules in force on 5 October 2020 at 08:59.

Appendix ST: Student

This route is for:

- a) A person aged 16 or over who wants to study with a sponsor on a course of further or higher education, a pre-sessional English course, a recognised foundation programme, on the Doctorate Extension Scheme or to take an elected post as a Student Union Sabbatical Officer; or
- b) A person who is aged 16 or 17 and wants to study with a sponsor at an independent school on a course at Regulated Qualification Framework 3. They can choose to apply as a student or as a child student.

Appendix CS: Child Student

The Child Student route is for a person aged between 4 and 17 who wants to study at an independent school in the UK that is a student sponsor.

More generous in-country switching provisions

Under the new student rules, a broader range of people are allowed to apply to switch into the student category whilst in the UK without having to return abroad to apply for entry clearance as a student or child student.

In broad terms, subject to the following exceptions, anyone with permission to remain in the UK on the date of application under any immigration categories are able to apply to switch into the student route in the UK without being required to return to their country of residence to apply for a student or child student visa.

However, those who fall within the following exceptions are prohibited from applying to switch or make a student application in the UK and must return to their country of residence to apply for entry clearance for a visa as student or child student.

For students over the age of 16, the exceptions apply to those who have permission to remain in the UK on the following basis:

- a) A Visitor
- b) A Short Term Student
- c) A Parent of a Child Student
- d) A Seasonal Worker
- e) A Domestic Worker in a Private Household
- f) Those who were granted permission to stay in the UK outside the Immigration Rules

For child students, the exceptions apply to those who are in the UK with permission:

- a) As a Visitor
- b) As a Short Term Student or
- c) Granted outside the Immigration Rules

More Generous Financial Requirement

If the applicant is applying for permission to stay in the UK and has been living in the UK with permission for 12 months or more on the date of application they will meet the financial requirement and do not need to show funds.

This means applicants who apply for permission to stay in the UK will not be required to provide evidence of maintenance funds when they have spent longer than one year in the UK on their current leave.

More Generous English Language Requirement:

An applicant will meet the English language requirement if they have already shown they met the requirement, at the level required for their current application, in a previous successful application for entry clearance or permission. They do not have to take the English Language test again.

More Generous Maximum Period of Study for Postgraduate Courses

The eight year time limit on studying courses at post graduate level has been removed. There is no longer a limit on the time that an individual can spend studying postgraduate courses.

There is still a maximum period of study for undergraduate courses. If the course is at degree level, the grant of permission must not lead to the applicant being granted more than five years on the Student route from the age of 18 to study at degree level unless the course of study is one of those listed below:

- (a) architecture;
 - (b) medicine;
 - (c) dentistry;
 - (d) veterinary medicine and science;
 - (e) music at a music college that is a member of Conservatoires UK;
- or

(f) law, where the applicant has completed a course at degree level or above and is applying for a course of study which is:

- i. a law conversion course validated by the Solicitors Regulation Authority and the Bar Standards Board in England and Wales;
- ii. Masters in Law (MLaw) in Northern Ireland; or
- iii. an accelerated graduate LLB in Scotland.

Students from more countries are able to benefit from the differential evidence requirement

Under the new student rules, students who are holders of valid British National Overseas passports or passports issued by Hong Kong SAR, Macau SAR, Taiwan or who are nationals of the following countries are able to benefit from the differential evidence requirement.

This means that if they apply from the country where they are living or from within the UK, they are not required to provide documentary evidence to show that they meet the financial requirement or to provide the documents that they used to obtain the offer of acceptance for the course of study with their applications.

The nationals who are able to benefit from the differential evidence requirement are:

- Australia
- Austria
- Bahrain
- Barbados
- Belgium
- Botswana
- Brazil

- Brunei
- Bulgaria
- Cambodia
- Canada
- Chile
- China
- Croatia
- Republic of Cyprus
- Czech Republic
- Denmark
- The Dominican Republic
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Iceland
- Indonesia
- Ireland
- Italy
- Japan
- Kazakhstan
- Kuwait
- Latvia
- Liechtenstein
- Lithuania
- Luxembourg
- Malaysia
- Malta

- Mauritius
- Mexico
- Netherlands
- New Zealand
- Norway
- Oman
- Peru
- Poland
- Portugal
- Qatar
- Romania
- Serbia
- Singapore
- Slovakia
- Slovenia
- South Korea
- Spain
- Sweden
- Switzerland
- Thailand
- Tunisia
- United Arab Emirates
- United States of America

Comments:

Although the new rules are broadly similar to the previous Tier 4 (General) and Tier 4 (Child) rules, they are more generous and therefore the changes are welcomed.

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If you would like advice or assistance on any of the issues raised in this note/article, please contact Agnes Lai by email at

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