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Overseas Domestic Workers

5th April 2012

On 6 April 2012, the Immigration Rules relating to overseas domestic workers will change. This information sheet provides information about the changes.

Who is affected by the changes?

Overseas domestic workers fall into two categories – those working in private households and those working in diplomatic households. There are changes affecting both, but changes are different for these two categories. These two categories are dealt with separately in this information sheet.

Applications in either category made before 6 April 2012 will be decided on the basis of the Immigration Rules before that date – i.e. the changes will not apply to these applications. Domestic workers in either category, who are or have been permitted to enter the UK under the Immigration Rules as these were before 6 April 2012, will be able to continue to apply for further leave (i.e. to continue their stay in the UK, including changing employer and applying for settlement) as if the changes to be made on 6 April 2012 had not been made.

Overseas domestic workers in private households

To be granted permission to come to the UK as a domestic worker in this category, a person must:

- be no younger than 18 years old; and no older than 65 years old
- have been working as a domestic worker in the home of the employer for whom he or she intends to work in the UK, for at least 12 months before applying to come to the UK
- intend to travel to the UK with that same employer (or the employer's spouse, civil partner or child)
- intend to work full-time for the employer in that employer's household, and with no intention of working for anyone or anywhere else
- be able to maintain and accommodate himself or herself without recourse to public funds

These requirements will remain. The following additional requirements are new:

- the employer must not intend to remain in the UK for more than six months or the employer (or his or her spouse, civil partner or child) must be intending to come to the UK as a visitor
- the domestic worker must intend to leave the UK at the same time as the employer or after six months, whichever is the shorter period
- there must be a written contract of employment between employer and domestic worker, which ensures that the domestic worker will be paid in accordance with the national minimum wage in the UK

Domestic workers will not be permitted to stay in the UK for any longer than six months. (Currently, domestic workers are initially granted permission to come to the UK for up to 12 months, and this may be extended; and after five years, domestic workers may apply for indefinite leave to remain.) Domestic workers will not be permitted to bring their dependents with them to the UK. (Currently, they may do so and those dependents are permitted to work.)

Overseas domestic workers in diplomatic households

The immigration rules relating to overseas domestic workers in diplomatic households are dealt with under the wider category of Tier 5 (temporary worker). Within that category, they fall within the sub-category of Overseas Government Employees, who are sponsored under an international agreement.

The key changes affecting domestic workers in this category are that:

- there will be a maximum period of five years during which the domestic worker may remain in the UK (or up until his or her employer leaves, whichever is the shorter period)
- the domestic worker will not be permitted to change employer in the UK (note that currently, permission to change employer is restricted to continuing to work as a domestic worker in another diplomatic household in the same diplomatic mission)
- the domestic worker will not be permitted to apply to settle in the UK

Why the Government is making these changes

The Government set out its explanation for these changes in its March 2012 impact assessment, which says of these changes:

- they are necessary because the current provisions for overseas domestic workers are contrary to the Government's general policy to exclude low-skilled workers from outside the European Economic Area
- they are necessary to reduce net migration
- they will return the Immigration Rules to their original intended purpose ("*providing certain groups with access to domestic workers*") and provide "*appropriate protection against abuse and exploitation*"
- fewer changes are made in respect of those working in diplomatic households so as to comply with the 1961 Vienna Convention on Diplomatic Relations

The impact assessment is available at:

<http://www.homeoffice.gov.uk/publications/immigration/employment-related-settlement/impact-assessment?view=Binary>

As ILPA explained in its response to the Government's consultation about these changes, overseas domestic workers are not properly compared to those migrating for the purposes of work (skilled or unskilled). This is because of the longstanding requirement that the overseas domestic worker must have been part of the employer's household for at least 12 months prior to the application to come with that household to the UK. ILPA does not accept the Government's claim that the changes provide "*appropriate protection against abuse and exploitation*". As ILPA said in its response, "*The way to protect people against exploitation is to give them more choices...*" By removing choices for some of the most vulnerable to abuse among the world's workers, the changes are likely to increase the risk of abuse to domestic workers – both in and outside of the UK. ILPA's response to the consultation is available at (see in particular, the answers to questions 26 to 32):

<http://www.ilpa.org.uk/data/resources/13678/11.09.05-ILPA-response-Employment-related-settlement-Tier-5-domestic-workers.pdf>