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Draft Immigration Bill

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On 12 November 2009, the Government published a draft Immigration Bill. This is the second draft of the Government's proposals for a new Immigration Act. It replaces the draft (partial) Immigration and Citizenship Bill published in July 2008.

The draft Immigration Bill is available at:

<http://www.ind.homeoffice.gov.uk/sitecontent/documents/policyandlaw/legislation/simplification-project-draft-bil/>

This information sheet provides information about the draft Immigration Bill.

Background information

The draft Immigration Bill is the most recent step towards one of the key aims of the UK Border Agency's simplification project. Further information about that project is available from the August 2007 "Simplification Project" and March 2008 "Simplification Project 2" information sheets. An aim of the project is to replace all the current immigration Acts with one immigration Act. This is a form of consolidation (described in the August 2007 information sheet), but the draft Immigration Bill shows that the intention is to go further than consolidation. At the same time as bringing all relevant pieces of legislation together in one Act, it is intended to make changes to that legislation. The UK Border Agency says these changes will simplify the law (i.e. make it easier to understand and to operate).

What is new about the draft Immigration Bill

There are a number of differences between the draft Immigration Bill and the draft (partial) Bill published last year. Two general differences are as follows.

The draft Immigration Bill is bigger. It has more provisions in it. It includes provisions that were missing from last year's draft. However, it is still incomplete. More information on this is given in the document described in the next section.

The draft Immigration Bill is only about immigration law. Last year's draft included provisions about nationality law. These provisions became part of the Borders, Citizenship and Immigration Act 2009. It is now intended to concentrate on consolidating (and making changes) to immigration law so the draft Immigration Bill contains no nationality law provisions. It now seems unlikely that Parliament will consider new legislation on nationality law for several years.

Further information about the draft Immigration Bill and simplification

At the same time as publishing the draft Immigration Bill, the UK Border Agency published a document called “Simplifying Immigration Law: The Draft Bill”. This document is available at: <http://www.ind.homeoffice.gov.uk/sitecontent/documents/policyandlaw/legislation/simplification-project-draft-bil/>

This document provides further information about the draft Bill and simplification including chapters on:

- Why we need to simplify the law
- Simplification – work in progress
- How the proposed legislation supports our wider objectives
- What’s not included in today’s draft Immigration Bill
- Wider simplification – beyond the draft Bill

It also includes a summary of what is in the draft Immigration Bill.

When might the provisions in the draft Immigration Bill become law?

It is unclear when the provisions in the draft Immigration Bill might become law, but it is unlikely this could happen quickly.

The draft Immigration Bill is no more than a draft Bill. In other words it is not ready to be introduced to Parliament in order to become law. A comparison of last year’s draft Bill and the draft Immigration Bill shows that some provisions in last year’s draft have now been changed. It is possible that some of the provisions in the draft Immigration Bill will be changed before a Bill is introduced to Parliament.

As explained above, the draft Immigration Bill is a key step towards the aim of introducing a new immigration Bill (sometimes referred to as an Immigration Simplification Bill) to Parliament in order to replace all current immigration Acts. However, there must be a general election no later than June 2010. It is clear that an Immigration Simplification Bill will not be introduced to Parliament before that election.

Whoever wins next year’s election will, therefore, have to decide whether they want to introduce an Immigration Simplification Bill to Parliament. If they do want to do so, they will still need to consider how much of a priority it is – e.g. whether it is necessary to introduce it in 2010 or 2011 or whether it can wait? They will also need to consider whether they are generally satisfied with the contents of the draft Immigration Bill or whether they wish to make great changes. For these reasons, it is not possible to be clear about when the provisions in the draft Immigration Bill might become law or whether they will ever become law. However, it is clear that the UK Border Agency has expended much time and effort in producing the draft Immigration Bill. The Agency will not want to see that wasted, and will want whoever forms the next Government to introduce an Immigration Simplification Bill.

Immigration Rules

Another aim of the UK Border Agency’s simplification project is to rewrite the Immigration Rules so as to make these easier to understand and to use. The consultation document “Simplifying Immigration Law: A New Framework for Immigration Rules” relates to this aim. It is available at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/221878/simplifying-imm-law-new-framework/>