
STATUTORY INSTRUMENTS

2013 No. 1749

The Immigration (Leave to Enter and Remain) (Amendment) Order 2013

Amendments to the Immigration (Leave to Enter and Remain) Order 2000

4. For article 8(1) (grant or refusal of leave otherwise than by notice in writing) substitute—

“Oral grant or refusal of leave

8.—(1) A notice giving or refusing leave to enter the United Kingdom as a visitor may, instead of being given in writing as required by section 4(1) of the Act, be given orally, including by means of a telephone.

(2) In paragraph (1), “leave to enter the United Kingdom as a visitor” means leave to enter as a visitor under the immigration rules for a period not exceeding six months, subject to conditions prohibiting employment and recourse to public funds (within the meaning of the immigration rules).

Grant, refusal or variation of leave by notice in writing

8ZA.—(1) A notice in writing—

- (a) giving leave to enter or remain in the United Kingdom;
- (b) refusing leave to enter or remain in the United Kingdom;
- (c) refusing to vary a person’s leave to enter or remain in the United Kingdom; or
- (d) varying a person’s leave to enter or remain in the United Kingdom,

may be given to the person affected as required by section 4(1) of the Act as follows.

(2) The notice may be—

- (a) given by hand;
- (b) sent by fax;
- (c) sent by postal service to a postal address provided for correspondence by the person or the person’s representative;
- (d) sent electronically to an e-mail address provided for correspondence by the person or the person’s representative;
- (e) sent by document exchange to a document exchange number or address; or
- (f) sent by courier.

(3) Where no postal or e-mail address for correspondence has been provided, the notice may be sent—

- (a) by postal service to—

- (i) the last-known or usual place of abode, place of study or place of business of the person; or
- (ii) the last-known or usual place of business of the person’s representative; or
- (b) electronically to—
 - (i) the last-known e-mail address for the person (including at the person’s last-known place of study or place of business); or
 - (ii) the last-known e-mail address of the person’s representative.

(4) Where attempts to give notice in accordance with paragraphs (2) and (3) are not possible or have failed, when the decision-maker records the reasons for this and places the notice on file the notice shall be deemed to have been given.

(5) Where a notice is deemed to have been given in accordance with paragraph (4) and then subsequently the person is located, the person shall as soon as is practicable be given a copy of the notice and details of when and how it was given.

(6) A notice given under this article may, in the case of a person who is under 18 years of age and does not have a representative, be given to the parent, guardian or another adult who for the time being takes responsibility for the child.

Presumptions about receipt of notice

8ZB.—(1) Where a notice is sent in accordance with article 8ZA, it shall be deemed to have been given to the person affected, unless the contrary is proved—

- (a) where the notice is sent by postal service—
 - (i) on the second day after it was sent by postal service in which delivery or receipt is recorded if sent to a place within the United Kingdom;
 - (ii) on the 28th day after it was posted if sent to a place outside the United Kingdom;
- (b) where the notice is sent by fax, e-mail, document exchange or courier, on the day it was sent.

(2) For the purposes of paragraph (1)(a) the period is to be calculated excluding the day on which the notice is posted.

(3) For the purposes of paragraph (1)(a)(i) the period is to be calculated excluding any day which is not a business day.

(4) In paragraph (3) “business day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971(2) in the part of the United Kingdom to which the notice is sent.

Notice not given

8ZC. No notice under article 8(1) or 8ZA(1)(a) shall be given where a person is given leave to enter the United Kingdom by passing through an automated gate in accordance with article 8A.”