

EXPLANATORY MEMORANDUM TO
THE IMMIGRATION (PASSENGER TRANSIT VISA) ORDER 2014

2014 No. 2702

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order consolidates the Immigration (Passenger Transit Visa) Order 2003 and subsequent amendments.

2.2 It additionally removes the requirement for citizens and nationals of Bolivia, Ecuador and Montenegro to hold a transit visa (a Direct Airside Transit Visa - 'DATV') if they want to travel to another country or territory via the United Kingdom, without entering (i.e. without passing through immigration control).

2.3 This Order also extends the range and use of documents which exempt the holder from the requirement to have a DATV. Holders of such documents will therefore also be able to travel to another country or territory via the United Kingdom without a visa, when not entering.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The Immigration (Passenger Transit Visa) Order 2003 (as amended) previously imposed the requirement for passengers who are citizens or nationals of certain countries or territories (as listed in Schedule 1 to that order) to hold a DATV to pass through the United Kingdom whilst transiting to another country or territory airside. The 2003 Order and related amendment orders are now being consolidated and revised.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure, and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 In line with good legal practice, the Government has introduced this Order to consolidate the Immigration (Passenger Transit Visa) Order 2003 since it has been amended on numerous occasions. The nationals and citizens listed in Schedule 1 to this Order are required to hold a DATV to pass through the United Kingdom whilst transiting to another country or territory airside in order to protect the UK's national security and guard against immigration abuse.

7.2 This instrument also introduces further amendments to the UK's DATV requirements. These changes to the UK's transit visa regime will support the flight networks of UK airlines, while at the same time ensuring our aviation security and guarding against immigration abuse. The changes balance the need for security and economic growth.

7.3 The DATV requirements on Bolivian, Ecuadorian and Montenegrin citizens and nationals were first introduced on 18th May 2009, 25th May 2000 and 2nd May 2003 respectively in response to concerns about abuse of our transit system. The Home Office keeps the UK's visa requirements under constant review and it has been decided that the risk of abuse from Bolivian, Ecuadorian and Montenegrin citizens and nationals in relation to airside transit is now sufficiently reduced to allow this requirement to be lifted.

7.4 Citizens and nationals of Bolivia, Ecuador and Montenegro will therefore no longer require a DATV to pass through the UK without entering whilst transiting (airside) to another country.

7.5 Additionally, it has further been decided that it is appropriate to widen and amend the range of documents that grant an exemption from the need for certain citizens and nationals to hold a transit visa whilst travelling to another country or territory via the United Kingdom without entering. Additional exemptions for direct airside transit passengers include holders of the following documents:

- Any visa which is valid for entry to Australia, Canada, NZ or the USA (whether or not the individual is en-route to or from these countries);
- A valid common format Category D visa for entry to Switzerland; or
- A valid residence permit issued by:
 - Australia; or
 - New Zealand;
 - United States of America, issued after 21 April 1998 in one of the following forms: a valid USA I-551 Temporary Immigrant visa; an expired I-551 Permanent Residence card provided it is

accompanied by a valid I-797 letter authorising extension; a standalone US Immigration Form 155A/155B (attached to a sealed brown envelope)

- Switzerland, pursuant to Council Regulation No. 1030/2002; or
- A valid visa issued to members of Chinese tour groups by Schengen member states in accordance with the Approved Destination Status ('ADS') Agreement with China;
- A valid airline ticket from the Schengen area, provided the person is also able to demonstrate they entered the Schengen area no more than 30 days previously on the basis of a valid Schengen ADS visa; or
- A valid biometric visa issued by the Republic of Ireland

7.6 The passengers who will benefit from the amendments to the list of exemptions made by this Order are assessed as being low risk in terms of abuse of immigration control. The holding of the documentation referred to in the exemptions is regarded as an indication that the holder is genuinely in transit and is unlikely to seek to remain in the United Kingdom.

- Consolidation

7.7 This Order consolidates the Immigration (Passenger Transit Visa) Order 2003 which is revoked together with twelve related amendment orders.

8. Consultation outcome

8.1 There has been no public consultation.

9. Guidance

9.1 This change will be reflected in guidance on the gov.uk website and on local websites of British High Commissions, Embassies and Consulates. Relevant operational partners and carriers will be informed, and operational guidance will be amended appropriately.

10. Impact

10.1 The impact on business, charities or voluntary bodies is considered minimal and indirect.

10.2 The impact on the public sector is not significant.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Home Office regularly reviews the UK's visa regime.

13. Contact

Suzanne Barnes at the Home Office Tel: 02070354365 or email:
Suzanne.Barnes@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.