



Joint Committee on Human Rights

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From Dr Hywel Francis MP, Chair

The Rt Hon Theresa May MP,
Secretary of State for the Home Office,
Home Office,
2 Marsham Street,
London, SW1P 4DF

Wednesday 11 July 2012

Dear Theresa,

Statements of Changes in Immigration Rules

The Joint Committee recently discussed the issue of the Statement of Changes in Immigration Rules presented to Parliament on Wednesday 13 June, a motion connected to which was debated in the House of Commons on Tuesday 19 June.

In our predecessor Committee's Report on *Highly Skilled Migrants: Changes to the Immigration Rules* (Twentieth Report of Session 2006-7) published in August 2007, the then Joint Committee called for all Statements of Changes in Immigration Rules to be accompanied by the Government's assessment of their compatibility with the ECHR. This recommendation was not accepted by the previous Government, and while we are pleased to note that this latest Statement was accompanied by a detailed ECHR memorandum, we also have to express some dissatisfaction that it was not drawn to the attention of our Committee.

We re-iterate our predecessor Committee's call for Statements of Changes in Immigration Rules which affect Convention rights to be accompanied by an ECHR memorandum. Moreover, when a Statement is presented to Parliament which touches substantively upon Convention rights (and in this case the Statement does, as also does the motion chosen as the procedure for debating this matter in the Commons), it would be good practice for your Department to ensure that the Joint Committee has an opportunity to examine the ECHR memorandum well in advance of any debate (and indeed to report substantively on the human rights compatibility of the changes to the Rules if need be in time for the debate).

We also request that the Government give serious consideration to arranging as a matter of general practice a debate for both Houses on any Statement of Changes in Immigration Rules which engages Convention Rights, at an interval after its presentation which will allow for relevant Committees to scrutinise and report on its content. Without such a practice, the current negative procedure does not seem to us to be the best mechanism to ensure the level of parliamentary scrutiny which such Statements often warrant.

We also note the recent Report of the Secondary Legislation Scrutiny Committee in the House of Lords which draws the attention of its House to the Statement in terms of (i) the different procedures followed in the two Houses (which that Committee considers to be unsatisfactory), and (ii) of the uncertainty as to the effectiveness of what the Government intends by the unusual procedure adopted in the Commons.

It seems to us that following two significantly different procedures in the two Houses in a matter such as this is unsatisfactory. Moreover in this particular case it seems to undermine the very intention of the Government to allow the voice of Parliament (not just the House of Commons) to be heard clearly and fully by the courts on the matters covered by this recent Statement of Changes in Immigration Rules.

I look forward to your response.

Yours

Hywel

Dr Hywel Francis
Chair