

COVID-19 Measures in Immigration

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IN-COUNTRY APPLICATIONS

- ▶ Automatic extensions originally until 31st May 2020
- ▶ Process : email Coronavirus Immigration Help Centre
- ▶ Applied to :
 - ❖ Temporary visa extensions
 - ❖ Visa holders and short term residents
- ▶ 22nd May 2020 announcement – Extended temporary leave due to Covid to 31st July 2020

HOME OFFICE GUIDANCE FOR (I) VISA HOLDERS AND SHORT-TERM RESIDENTS AND (II) SPONSORS

- ▶ Updated [visa holders and short-term residents guidance](#) includes the link to the [online form](#) for requesting an extension to any visas expiring before 31st July 2020 where the individual cannot leave the UK due to coronavirus.
- ▶ **Strictly speaking, does not** extend leave under section 3C of the [Immigration Act 1971](#).
- ▶ Other useful links :
- ❖ [ILPA's Coronavirus \(COVID-19\) factsheet: visa holders and short-term residents in the UK](#) - published 9th April 2020
- ❖ [ILPA's Coronavirus \(COVID-19\) factsheet: guidance for sponsors](#) – also 9th April 2020

VISA EXTENSIONS FOR NHS WORKERS

- ▶ Current climate is reflected in the concessions made for NHS workers
- ▶ Home Office announced at the end of March that NHS workers on work visas (not just Tier 2) with leave due to expire by 1 October 2020 would benefit from:
 - ❖ automatic one-year extension to their leave
 - ❖ no application, no fee & applies to extensions for family members too.
- ▶ This now extends **beyond doctors, nurses and paramedics** – “**NHS and front-line health workers:**
 - ❖ **See link for other categories.** - much wider “work for the NHS or an independent healthcare provider in an eligible profession,” but still largely within the medical/health-care field – arguably doesn't go far enough. Psychologists, social workers, speech and language therapist & therapy professionals employed as mentioned qualify too.)
- ▶ **PROCESS:** Employer & UKVI will liaise and involve employee when BRPs are required.
- ▶ **Immigration Health Surcharge - UPDATE**

ENTRY CLEARANCE - COMING TO THE UK

- ▶ Quarantine periods: 14 days from 8th June 2020 (see [link](#) to gov.uk website) for residents and visitors.
- ▶ Process for travellers
 - ❖ Online form to provide journey and contact details prior to travel, spot checks on arrival and at specified address, self isolate at specified address for 14 days.
- ▶ Penalties for non-compliance
 - ❖ Could be refused entry to non-British citizens/UK residents if refuse to fill out form; £1,000 fixed penalty notice in England & Wales if refuse to self-isolate; or potential prosecution and unlimited fine.
- ❖ Exemptions (see [link](#): Ireland, Channel Islands & IoM & separate exemptions for data collection and self-isolation which depend on individual's occupation)

OTHER ISSUES TO BE AWARE OF...

- ▶ **Application Fee Waiver Policy - R (Dzineku-Liggison) v SSHD**
- ▶ 20th May 2020, successful challenge to the Home Office fee waiver policy entitled: *Fee Waiver: Human Rights-based and other specified applications, version 3.0 (dated 4 January 2019)*, although onward permission to appeal has been granted so the policy remains for now...
- ▶ Fee waiver policy also applies to EC applications now – see ILPA and JCWI announcements.
- ▶ **Separated families**
- ▶ Minimum income requirement – Calls for this to be reviewed as will affect both EC and in-country extensions if employment/income affected due to COVID-19.
- ▶ No recourse to Public Funds – High Court judgment *R (W, a child by his litigation friend J) v SSHD & Project 17*
- ▶ EC Applications in limbo – Limited guidance available on 24 March 2020 (last updated on the 26th May 2020)
- ▶ EC applications granted but not yet travelled to UK – Expired 30-day visa/vignette - can ask for a replacement for free, by emailing CIH@homeoffice.gov.uk with 'REPLACEMENT 30 DAY VISA'

APPEALS – FITT (IAC)

- ▶ **First-Tier Tribunal (IAC)**
 - ❖ Bail hearings are being held remotely
 - ❖ CMRs for the “legacy” appeals that had been adjourned off from the start of lock-down in March onwards.
 - ▶ **COVID Directions:**
 - ❖ Requests for Appeal Skeleton Arguments ('ASAs') / similar to Digital Reform procedures.
 - ❖ Appellants' bundles – max 50 pages whether or not a bundle has already been submitted - Mixed success so far for a number of reasons including:
 - ▶ **Difficulties ? YES:**
 - ❖ Case-specific directions/Hearing centre-specific directions sent out nearer the time of listing CMRs - seem to overtake COVID/general ones or run in parallel.
 - ❖ Funding difficulties as legal aid an issue for the cases that are in scope (see chambers policy) and front-loads the cost for privately funded Appellants.
 - ❖ Limited engagement from Respondent both in relation to compliance with bundles/reviewing decisions.
- ▶ **FACE TO FACE Hearings...**

BAIL HEARINGS

- ▶ See Head of Chambers' Anthony Metzger QC and Pierre Georget's webinar 21st May 2020 – [“Unlawful Detention Claims and Bail Applications”](#)
- ▶ IMPORTANT CHANGES DUE TO COVID:
 - ▶ High number of grants – controversial exchange of correspondence between HO & FTI President (See President's [letter](#)).
 - ▶ In favour of bail: removals are not imminent (ADVICE is DO NOT travel unless essential - see Guidance [“Travel advice: coronavirus \(COVID-19\)”](#) & [“Foreign Travel Advice”](#)); lower risk of reoffending due to lockdown; likely health considerations etc...
 - ▶ 'Minded to' grant procedure – see President's letter.
 - ▶ S.4 accommodation/licence difficulties & other such Catch 22 situations – strengthened by President's letter.
 - ▶ For anyone granted bail or under reporting conditions generally, no current need to report in person since 17th March (see update guidance [here](#))

UPPER TRIBUNAL (IAC)

- ▶ Upper Tribunal – Statutory Appeals
 - ❖ Directions: request for written submissions on error of law and on whether there should be an oral hearing for error of law .
 - ❖ Remote hearings: starting on virtual platforms and telephone.
- ▶ Upper Tribunal – Immigration judicial reviews
 - ❖ Updated Guidance - 29th April 2020: makes clear that as of 30th April, *all* Judicial Review applications, **urgent or not**, can be lodged via email.
 - ❖ EMAIL GROUNDS and attachments to
UTIACJudicialReviewApplications@justice.gov.uk,
 - ❖ ATTACHMENTS must not, in total, exceed 25 MB per email. If they exceed this limit the email will not be delivered.

ADMINISTRATIVE COURT

- ▶ Administrative Court issued guidance setting out the measures in place while the pandemic affects the Administrative Court Office's ('ACO') operations:
- ▶ Urgent ("Immediates") And Non-urgent Claims
- ❖ "Immediates" are defined as "situations where it is contended that irreversible action will take place if the Court does not act to prevent it, or where an expedited judicial review is required".
- ❖ Applications electronically issued and filed via email at administrativecourtoffice.immediates@hmcts.x.gsi.gov.uk.
- ❖ Accompanied by electronic bundle in single PDF form and must not exceed 20mb. Further specific guidance is provided as to the exact format of the PDF including the use of bookmarks, labels and hyperlinks.
- ❖ Other urgent queries marked high priority and with 'URGENT' in the subject line and all other claims should be sent by email to administrativecourtoffice.generaloffice@hmcts.x.gsi.gov.uk
- ▶ HEARINGS: SKYPE or PHONE - see recent NRPf case in HC was conducted in this way.

TIPS AND GENERAL MATTERS

- ▶ Still very fluid climate – important to stay updated, government U-turns, government announcements/guidance changing almost weekly.
- ▶ If any 'down-time', try and review your client-base and see if you can devise of any marketing strategies as the guidance issued and the policies brought in are overwhelming for many.
- ▶ For hearings, familiarise yourself with the preferred modes of communication of the court you will be appearing in and with which you will need to communicate. Most if not all hearings are currently being conducted by Skype or telephone, and only where possible, hearings will be conducted as public/face-to-face hearings.
- ▶ Ensure that you are ready with a time estimate for a hearing, it would be wise to ensure you adjust your estimate to take into account that hearings by Skype or telephone can last longer than those conducted in person.
- ▶ **Cloud Video Platform** is now to be rolled out as preferred mode for remote hearings across all courts and tribunals.

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Suggested donation of £5 to NHS Charities – link [here](#).

