

**CHAPTER 8
SECTION 3****ANNEX O****CHILDREN****CHILDREN OF FIANCÉ(E)S****1. INTRODUCTION**

A concession for children of fiancé(e)s has been in existence for some time. In line with the Home Secretary's commitment to incorporate concessions into the Immigration Rules wherever possible, this concession has been withdrawn in favour of a specific provision in the Immigration Rules. These provisions in HC 395 allow for the granting of entry clearance, admission or an extension of stay to a child of a fiancé(e) who is coming here or seeking an extension of stay in order to marry/remarry.

2. REQUIREMENTS FOR LIMITED LEAVE TO ENTER

Entry clearance or admission may be granted to a child to accompany or join a parent who is being, or has been admitted, as a fiancé(e), provided that the child:

- ◆ is seeking to accompany or join a parent who is, on the same occasion that the child seeks admission, being admitted as a fiancé(e), or who has been admitted as a fiancé(e); and
- ◆ is under the age of 18; and
- ◆ is not leading an independent life, is unmarried, and has not formed an independent family unit; and
- ◆ can and will be maintained and accommodated adequately without recourse to public funds with the parent admitted or being admitted as a fiancé(e); and
- ◆ there are serious and compelling family or other considerations which make the child's exclusion undesirable, that suitable arrangements have been made for his care in the United Kingdom, and there is no other person outside the United Kingdom who could reasonably be expected to care for him; and
- ◆ he holds a valid United Kingdom entry clearance for entry in this capacity.

2.1 Serious and compelling family or other considerations

The relevant considerations, where a child is seeking to enter or remain in this capacity must relate to the *child* and his circumstances in the country in which he lives or lived prior to travelling here. They must be exceptional in comparison with the ordinary circumstances of children there. It is not sufficient to show that he would be better off here (eg. by being able to attend a state school). No circumstances, however serious or compelling, relating to the *parent* should be taken into account.

2.2. Granting leave to enter

A child who meets the requirements in paragraph 2 above may be admitted on Code 3 for *up to a maximum of 6 months*.

- * if the period of limited leave granted to the parent expires in *6 months or less*, the child should be granted leave in line with the parent's leave;
- * if the parent's leave will expire in *more than 6 months*, 6 months only should be granted to the child.

2.3. INDECS

O Other person on limited leave to enter

2.4. Refusal of entry clearance or leave to enter

- * A child is to be refused entry clearance or admission (where no entry clearance is held) in this category if the requirements outlined above are not met. Refusal is under paragraph 303C of HC 395 with reference to paragraph 303A. The reasons for deciding that the child did not qualify under the Immigration Rules should be explained to the person responsible for the child.
- * Where the child holds an entry clearance, refusal must be in accordance with Paragraph 321 (see Chapter 9).

2.5. Right of appeal and corresponding refusal form

Where no entry clearance is held, there is a right of appeal only *from abroad* for children seeking entry in this capacity.

Form IS 82 C is therefore appropriate in such cases.

2.6. On entry refusal code

H1 Other reasons

3. REQUIREMENTS FOR AN EXTENSION OF STAY

Leave to remain may be granted to a child already in the United Kingdom on the basis of the status here of his parent as a fiancé(e), provided that the applicant:

- ◆ was admitted with a valid United Kingdom entry clearance as the child of a fiancé(e); and

- ◆ is the child of a parent who has been granted limited leave to enter, or an extension of stay, as a fiancé(e); and
- ◆ the requirements of paragraph 303A (ii) – (v) are met.

3.1 **Granting leave to remain**

A child who meets the requirements in paragraph 3 above may be granted leave to remain on Code 3 for *up to a maximum of 6 months*.

- * if the period of limited leave granted to the parent expires in *6 months or less*, the child should be granted leave in line with the parent's leave;
- * if the parent's leave will expire in *more than 6 months*, 6 months only should be granted to the child.

3.2. **INDECS**

M1C or M2C depending on the circumstances of the parent admitted as a fiancé(e) See *Section 2* to this chapter.

3.3. **Refusal of extension of stay**

A child is to be refused leave to remain in this capacity if the requirements outlined above are not met. Refusal is under paragraph 303F of HC 395 with reference to paragraph 303D. The reasons for the Secretary of State's decision that the child did not qualify under the Immigration Rules should be explained in a covering letter (see guidance contained in *Chapter 9, Section 1 "Adverse decisions - General Guidance"*).

3.4. **INDECS**

X6 Refusal of extension