



**Press release from the Immigration Law Practitioners' Association
1 April 2011, FOR IMMEDIATE RELEASE**

HAPPY MOTHERS DAY? DOMESTIC VIOLENCE: UK BORDER AGENCY'S NEW IMMIGRATION RULES WHOLLY AT ODDS WITH HOME OFFICE VIOLENCE AGAINST WOMEN STRATEGY

The UK Border Agency yesterday laid new immigration rules before parliament, to come in to force on 6 April, that will make it more likely that victims of domestic violence remain trapped in abusive relationships. The rules contradict the wider Home Office Violence Against Women Strategy

New rules, laid before parliament on 31 March 2011, impose a requirement to be free of criminal convictions at the time of applying for settlement on those applying under the domestic violence rule. The Immigration Law Practitioners' Association has written to the Home Secretary and Equalities Minister, the Rt Hon Theresa May MP, urging her to amend the rules as a matter of urgency and withdraw the requirement before it comes into force.

The domestic violence rule exists to ensure that people who have come to the UK to join their spouses here and who are allowed to remain for two years initially before qualifying for permanent settlement do not remain trapped in abusive relationships because of fears about their immigration status. Where a person can demonstrate to the satisfaction of the UK Border Agency that their marriage or civil partnership has broken down because of domestic violence, so that they are no longer in a position to apply to remain in the UK on the basis of their relationship, they can be given permission to remain in the UK.

Alison Harvey, General Secretary of the Immigration Law Practitioners' Association, said:

“If the provision is brought into effect on 6 April 2011 as intended it will constitute an abandonment of the Government's aim to eliminate violence against women in respect of migrant women who have an unspent conviction. These women will be driven to remain subject to violence because by reason of the terms of the Rules and it will be apparent to them that their immigration status will be jeopardised by seeking to escape that violence.”

Parliament cannot amend a Statement of Changes in immigration rules; it can only accept or reject it whole. If parliament rejects this statement of changes because of the provisions relating to survivors of domestic violence, it will also be rejecting the rules the Government is seeking to introduce on student migration.

**For further information please get in touch with Alison Harvey, General Secretary, Immigration Law Practitioners' Association
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Notes to editors

1. On 16 March 2011 the Home Office laid Statement of Changes in Immigration Rules HC 863 before Parliament. That included changes to include, from 6 April 2011, requirements that individuals applying for indefinite leave to remain (settlement) under the Rules would be required to have no unspent criminal convictions. At the time, there were discrete errors in the Statement of Changes, which the Immigration Law Practitioners' Association drew to the attention of the UK Border Agency and which are now to be corrected by the Statement of Changes in Immigration Rules laid on 31 March HC 908 laid before Parliament. For example the 16 March rules had applied the requirement to have no unspent convictions to entry clearance applications for spouses rather than to applications for settlement as had been the intention. The 16 March rules, which introduce the requirement not to have any unspent convictions when applying for settlement, did not include any provision imposing new requirements on survivors of domestic violence.
2. The requirement to be free of unspent convictions when applying for settlement will be a mandatory requirement. The Immigration Rules already include a discretionary ground of refusal, which can be applied to any application, whereby a person can be refused settlement on the grounds of their unspent convictions.
3. The Home Secretary and Equalities Minister, the Rt Hon Theresa May MP, launched the UK's Action Plan on Violence Against Women on 8 March 2011. She stated:

"No level of violence against women and girls is acceptable in modern Britain or anywhere else in the world... My ambition is nothing less than ending violence against women and girls and our strategy document will outline our commitments to seeing this become a reality.

The Action Plan stresses the importance of victims being able to come forward, and indicated a hope that reporting rates would be improved. The Action Plan constitutes a response to the review undertaken by the Baroness Stern, which particularly focused on victims of rape (some of whom will be victims of domestic violence), and the International Day for the Elimination of Violence against Women. The Plan (point 40) expressly acknowledges migrant women victims of domestic violence and the importance of the domestic violence Rule, and identifies positive developments the Government intends to make to support these women while their indefinite leave to remain applications are pending.

4. A person applying for settlement in any category other than domestic violence has the option of making an application to extend their limited leave under the rules. That option is not open to survivors of domestic violence; the category in which they had limited leave was that of marriage/civil partnership and that has gone. They are unique among those applying for settlement in that respect.
5. There are examples in the field of domestic violence where women who have hit back in self-defence have then been convicted, and also of abusive partners falsely alleging that their victim has committed criminal offences.
6. The Statement of Changes in which the new provision is contained also includes the Government's new rules governing student migration to the UK, following a public consultation. It is not open to parliament to change a Statement of Changes; if it rejects the new Statement of Changes on the basis of the new provisions that affect survivors of domestic violence it will at the same time be rejecting all the Government's proposed changes as they affect women.

7. The Immigration Law Practitioners' Association (ILPA) is a professional association with some 900 members (individuals and organisations), the majority of whom are barristers, solicitors and advocates practising in all aspects of immigration, asylum and nationality law. Academics, non-governmental organisations and individuals with an interest in the law are also members. Established over 25 years ago, ILPA exists to promote and improve advice and representation in immigration, asylum and nationality law, through an extensive programme of training and disseminating information and by providing evidence-based research and opinion. ILPA is represented on numerous Government, including UK Border Agency, and other 'stakeholder' and advisory groups.