



Prime Minister

To note

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1/12

PRIME MINISTER

IMMIGRATION RULES: HUSBANDS AND FIANCES

see below

I have seen the Attorney General's minute of 22 November about the risks there would be at Strasbourg if we made the changes which I am proposing in the safeguards against marriages entered into for immigration reasons, or which break down within a certain period.

The changes which I propose to make in the rules relating to deportation would prevent a man from arguing that he should be allowed to settle here because he was an innocent party to the breakdown of his marriage, or because he had already spent a significant time here as a husband. These limitations are necessary to stop the immigration appellate authorities in effect going behind a decision to refuse a man permission to stay because he cannot satisfy the new tests. If no such limitations were imposed there would be extra work and dispute, but above all, the impact of the new safeguards would be weakened.

The rules on deportation would still allow all other relevant factors, including the fact that a couple had had children, to be taken into account. However, as now, these factors would have to be weighed against the presumption that deportation is the proper course when a man is here in defiance of immigration control. The Department's judgment on where the balance lay in a particular case would be reviewable (on the terms I have stated) by the immigration appellate authorities.

I do not think that in practice we could ordinarily allow a man whose marriage had broken down within the two years to stay, merely because he had children. In a number of the cases where we deport husbands now they have children. If the probationary period is extended for a further year there are likely to be more such cases. Naturally we would look very carefully at compassionate features which might exceptionally justify letting a man stay, taking account of our obligations under the Convention, but I could not offer a general undertaking.

I am copying this minute to the Attorney General, the Foreign and Commonwealth Secretary, members of H Committee, the Chief Whip and to Sir Robert Armstrong.

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November 1982



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IMMIGRATION

10 DOWNING STREET

From the Private Secretary

2 December, 1982

This is to record that the Prime Minister has now seen and noted the Home Secretary's minute of 29 November about the Immigration Rules and, in particular, the deportation of husbands whose marriage has broken down.

TIMOTHY FLESHER

Colin Walters, Esq.,
Home Office

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