



COP

QUEEN ANNE'S GATE LONDON SW1H 9AT

22 July 1985

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Dear Sir Michael

IMMIGRATION AND THE EUROPEAN CONVENTION ON HUMAN RIGHTS

The Immigration Rule changes agreed at the Prime Minister's meeting on 2 July have now been laid before Parliament and will be debated in the House of Commons on 23 July.

As agreed the rules contain the necessary saving for the admission of wives of Commonwealth citizens settled here on 1 January 1973 in accordance with the protection afforded by section 1(5) of the Immigration Act 1971. You made it clear at the meeting that the Government would have to give an undertaking to change this provision if this element of discrimination in the new rules was not to fall foul of the European Court again.

I have considered how to present this issue in Tuesday's debate carefully with David Waddington and officials and attach a copy of what I intend to say.

Copies go to those who attended the Prime Minister's meeting,

Yours sincerely

Approved by the Home Secretary
and signed in his absence.

Sir Michael Havers, QC, MP

"The Immigration Rules must of course be framed in accordance with the Immigration Act. Section 1(5) of the Act preserved certain entitlements which Commonwealth immigrants and their dependants had when the 1971 Act was passed. Reflecting the principles on which immigration and nationality legislation prior to 1971 were founded the protection provided by section 1(5) distinguishes between the sexes in the benefits it accords. This is inevitably reflected in the Immigration Rule changes. The saving is confined to Commonwealth citizens settled on 1 January 1973 and their dependants. This is designed to be transitional in character and effect. [Hon Members opposite have argued that these benefits constitute a further breach of the European Convention.] The Government believes that there is an objective and reasonable justification for a saving for those settled here before the 1971 Act came into force as allowed under Article 14 of the Convention and that this covers the distinctions in the provisions for the admission of wives and husbands in the Rules. But the framing of the 1971 Act provision is indeed sexually discriminatory and the Government intends as part of its response to the European Court judgment to introduce legislation in due course to put an end to this anachronistic anomaly.