

NEW IMMIGRATION REGIME FOR FULL TIME NON-EEA STUDENTS

Guidelines for Colleges offering courses to Full Time Non-EEA Students

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Introduction

Following on from the publication of the '*New Immigration Regime for Full Time Non-EEA Students*' on 22 September 2010 and the approval by Government of the recommendations in that document, new rules came into force on 1 January 2011. Some additional clarifications of these rules were made subsequently. All of the rules were published on the website of the Irish Naturalisation and Immigration Service (INIS).

However, it was felt that it would be useful to provide the colleges themselves with a summary of guidelines on working within the new regime, in particular in advance of the peak enrolment period in the autumn. Where more detailed information is required it should be available from the website.

This document aims to summarise the new rules as they impact on colleges and also reflects the experience of operating the new system in the first months of the year. It is also proposed to give colleges some guidance as to what they can expect from the inspection regime that will be in operation and what documentation they will need to be able to provide to inspection teams when they visit.

Definition of Courses and Time Limits

For colleges it is useful to re-state the definition of ‘Degree Programme’ and ‘Non-Degree Programme’ as outlined under ‘New Immigration Regime for Full Time Non-EEA Students’ which was approved by government and published on 22 September 2010.

With Effect from 1 January 2011

(R1) Student Immigration will in the future operate on a differentiated basis. The student regime will be divided into two categories. The Degree Programme will apply to students enrolled in a nationally accredited higher education programme at National Framework of Qualifications (NFQ) level 7 or above. The Language and Non Degree Programme will consist of students engaged in English language courses or academic courses below Level 7 in the National Framework of Qualifications (NFQ) with NFQ Level 5 being the minimum level of study allowable.

Degree Programme Courses

In that regard Degree programme courses are defined as courses which lead to an award of

- o Ordinary Bachelor Degree
- o Honours Bachelor Degree
- o Higher Diploma (after completion of an Honours Bachelor Degree)
- o Postgraduate Diploma (after completion of an Honours Bachelor Degree)
- o Masters Degree
- o Doctoral degree

The ‘award’ as set out above must be made by one of the following types of *awarding body*:

A recognised Irish awarding body i.e.

- o Dublin Institute of Technology
- o Higher Education and Training Awards Council
- o Institutes of Technology with delegated authority to make awards
- o Royal College of Surgeons in Ireland
- o Universities
- o Other bodies that have statutory powers under Irish law to make awards

Certain ‘awards’ offered by international universities which satisfy the above Definition and which lead to major awards of the type set out above will also be regarded as Degree Programme courses.

Degree Programme courses are required to be full-time, day-time academic courses leading to major awards of the type outlined below.

Language and Non-Degree Programme Courses

The definition of a Language Course is evident. For the purposes of this programme English language courses will be taken to have a maximum duration of 1 year. Students may enrol on three separate English language courses to a maximum of three years.

With regard to Non-Degree Programmes all courses on the internationalisation register which do not satisfy the criteria for Degree Programme courses as outlined above are deemed to be non-Degree Programmes. Non - Degree Programme courses will be deemed to have a maximum duration of two years.

Arrangements are being made with the National Qualifications Authority of Ireland to amend the Internationalisation Register so as to designate each course appearing on it as either Degree Programme or Language or Non-Degree. This will make it clearer for all concerned.

NOTE – Status of Vocational, Business and Other Courses from 1 July 2011

It emerged when the new regime came into force that there were certain courses in the vocational or business area and validated by overseas bodies such as ICM or ABE which, although they do not meet the criteria for inclusion on the degree programme, were not covered by the description of language or non degree programme either. These include courses described as Certificate, Diploma, Advanced Diploma, Graduate Diploma in a particular discipline or subject.

To avoid disadvantaging students or providers who had enrolled them in such courses in good faith a temporary arrangement was put in place that would allow students who had exceeded the 3 year time limit for language and non-degree programmes and whose registration was due to expire prior to 1 July 2011 to enrol for a course of this type for one year. This concession was subject to their not exceeding the overall 7 year time limit.

From 1 July these vocational and management courses will be dealt with in the same way as other non degree programmes and will be designated as such when the Register is updated on 18 July.

Full Time Accountancy Courses which prepare Full Time non-EEA Students to sit Professional Accounting Exams

The position with regard to Full Time Accountancy Courses which prepare Full Time Non-EEA Students to sit professional accounting exams is set out in detail in the section **Conditions for Colleges regarding permission to recruit International Students.**

Evening courses, distance education or part time study.

Under the immigration rules a person is permitted to come to Ireland as a student on the understanding that they are engaged in full time study or, in other words, that their chief daytime occupation is study.

For the purposes of this rule, daytime is defined as between 8am and 6 pm Monday to Friday. A person cannot be registered with the immigration service as a student if they are a night student, engaged in distance education or part time study.

Full time study is defined as 15 hours per week for 26 weeks per year

This does not preclude a foreign national who has a different immigration status (e.g. worker, dependent, refugee etc) from engaging in any of these forms of education.

Maximum length of Time

The maximum time a student may stay in Ireland for the purpose of attending courses at degree level is limited to seven years and students are responsible for managing their studies to ensure compliance with this time limit.

The maximum time a student may stay in Ireland for the purpose of attending courses at Language or Non Degree level is limited to 3 years and students are responsible for managing their studies to ensure compliance with this time limit.

It is not permissible for students who come to Ireland on a Language or Non Degree Programme course to enrol in such courses for longer than 3 years.

It is permissible for students who come to Ireland on a Language or Non-Degree Programme course to enrol on a course on the Degree Programme courses of the type outlined above and leading to major awards as outlined above subject to the overall limit of 7 years not being exceeded.

Under the New Immigration Regime for Full Time Non-EEA Students all courses must be listed on the Internationalisation Register¹.

¹ A limited number of students seeking to attend atypical courses not on the internationalisation register may be considered on a case by case basis but in all such cases these students will not be permitted to work.

Travelling to and Arriving in Ireland

Requirements for Colleges

There are conditions that all students (both visa required and non visa required) must satisfy before they will be granted permission to remain in Ireland as a student. As part of this colleges are required to provide potential students with certain information

In that regard colleges must provide to all students, both Visa required and Non-Visa required with the following information -

- A Letter of Acceptance from the college, confirming that the students has been accepted and enrolled on a course of full-time education. From 1 September 2011 the Letter must also state whether the Course is a Degree Programme Course or Language and Non-Degree Programme as recorded on the Internationalisation Register,
- The college must provide students with a receipt confirming that the student has paid the fees to the college,
- Where the college fees are below €6,000, a receipt confirming the full amount of the fees have been paid in advance must be provided by the college to the student,
- Where the college fees exceed €6,000 then a receipt indicating that at least this amount has been paid in advance must be provided by the college to the student,
- Students are required to have private medical insurance, either personally or through a group scheme operated by their college, at time of registration. Where a college provides a group private medical insurance scheme it is recommended that colleges confirm this to students in advance of their travel to Ireland.

Registration in the State

It is a requirement for non-EEA students who intend staying in Ireland for more than 90 days to register with the Garda National Immigration Bureau (GNIB). As part of this process Colleges are required to provide information to students to help them register in a timely and efficient manner and it should be noted that where a student fails to satisfy the requirements for registration then they will not be registered

To enable students to register colleges should provide students with details of their local Immigration Registration Office for example in Dublin colleges should direct students to the main Garda National Immigration Bureau Office at 13-14 Burgh Quay, Dublin 2.

First Registration

There are requirements that all students must satisfy before they will be registered in Ireland as a student. As part of this colleges are required to provide potential students with certain information as set out hereunder

- A Letter of Acceptance from the college, confirming you have been accepted and enrolled on a privately funded course of full-time day-time education which is included in Internationalisation Register administered by the National Qualifications Authority of Ireland;
- From 1 September 2011 the Letter of Acceptance should state clearly whether the Course is a Degree Programme Course or Language and Non-Degree Programme Course as recorded on the Internationalisation Register.
- The Letter of Acceptance should clearly state the duration of the course bearing in mind the Time Limits set out above.
- The college must provide students with a receipt confirming that the student has paid the fees to the college²,
- Where the college fees are below €6,000, a receipt confirming the full amount of the fees have been paid in advance must be provided by the college to the student,
- Where the college fees exceed €6,000 then a receipt indicating that at least this amount has been paid in advance must be provided by the college to the student,
- Students are required to have private medical insurance at time of registration. Where a student is participating on a Group Insurance Scheme operated by their college, the letter of enrolment from the college will be regarded as proof of private medical insurance cover where it indicates
 - that the student is part of the college group scheme;
 - that the student has paid the fees associated with the group scheme; and
 - where it provides a brief outline of the insurance coverage such as the name of the insurance provider, level of coverage etc.

² In certain cases INIS may require colleges to provide further proof of receipt of fees in the form of bank lodgement details etc. Colleges must comply with any direction from the Immigration Authorities regarding the confirmation of fee payment.

Upon successful registration a student will be given a certificate of registration indicating that they have been given an immigration permission allowing them to study in the State.

The registration will be for one year and will be renewable on an annual basis, up to a maximum of 7 years.

There is currently a charge of €150 each time a student registers.

Second and Subsequent Registration – Degree Programme

At renewal of registration colleges are required to provide students with the following information:

- A letter from colleges to students confirming that a student has been engaging in full time daytime education on a Degree Programme Course as defined in this document;
- This college letter must show that a student has been making verifiable academic progress and that the student has progressed to the next year of the course. The letter should also clearly state what year of the course the student will be undertaking i.e. year 2 of 4;
- Colleges are also required to clearly outline the course fees for that year and the college letter must confirm that the student has paid the fees to the college³
- Colleges are required to provide students with a receipt showing that the course fees have been paid in full for the duration of the course. Where the course is longer than one year the receipt should show that full fees have been paid for the full year
- Where a student is participating on a Group Insurance Scheme operated by their college, the letter from the college will be regarded as proof of private medical insurance cover where it indicates
 - that the student continues to be part of the college group scheme;
 - that the student has paid the fees associated with the group scheme; and
 - where it provides a brief outline of the insurance coverage such as the name of the insurance provider, level of coverage etc.

NOTE: It is the responsibility of colleges and students alike to ensure that the student has the academic capacity and motivation to undertake their course. Academic progression is important and will be monitored. High levels of failure to pass or even take end of year examinations by students would be a cause of serious concern. The ongoing status of such courses as being acceptable for immigration purposes would have to be called into question.

³ In certain cases INIS may require colleges to provide further proof of receipt of fees in the form of bank lodgement details etc. Colleges must comply with any direction from the Immigration Authorities regarding the confirmation of fee payment.

Second and Subsequent Registration – Language and Non-Degree Programme

At renewal of registration colleges are required to provide students with the following information:

- A letter from colleges to students confirming that a student has been engaging in full time daytime education of at least 15 hours per week;
- That a student can demonstrate a level of at least 80% attendance at class via a letter from their education provider;
- Colleges are also required to clearly outline the course fees for that year and the college letter must confirm that the student has paid the fees to the college⁴
- Colleges are required to provide students with a receipt showing that the course fees have been paid in full for the duration of the course. Where the course is longer than one year the receipt should show that full fees have been paid for the full year
- Where a student is participating on a Group Insurance Scheme operated by their college, the letter from the college will be regarded as proof of private medical insurance cover where it indicates
 - that the student continues to be part of the college group scheme;
 - that the student has paid the fees associated with the group scheme; and
 - where it provides a brief outline of the insurance coverage such as the name of the insurance provider, level of coverage etc.

What is the position of Full Time Accountancy Courses which prepare Full Time non-EEA Students to sit Professional Accounting Exams?

Detailed guideline notes are available on the INIS website at www.inis.gov.ie outlining the rules with regard to Stamp 2 students attending Full Time Accountancy Courses.

⁴ In certain cases INIS may require colleges to provide further proof of receipt of fees in the form of bank lodgement details etc. Colleges must comply with any direction from the Immigration Authorities regarding the confirmation of fee payment.

Conditions for Colleges regarding permission to recruit International Students

What are the conditions attached to colleges being permitted to bring non-EEA Students to Ireland to study?

There are certain conditions a college must satisfy in order to maintain permission to bring full time Non-EEA students to Ireland to study a Degree Programme course.

- Colleges must have a clearly stated and understandable refunds policy available on the international student page of the college website. A refund policy must also be provided by colleges to students as part of their acceptance to study at a college;
- Colleges will only be allowed to bring Full-Time students to Ireland to attend courses listed on the Internationalisation Register⁵;
- Colleges are required to inform the Garda National Immigration Bureau where students are consistently failing to attend class or where students are consistently not making progress. Colleges are also required to inform the GNIB immediately where a student changes course in the college;
- Colleges are also required to immediately inform the Garda National Immigration Bureau when students leave the college before the completion of their courses;
- Colleges are required to fully comply with Inspections carried out by the relevant authorities i.e. GNIB Inspections, INIS inspections and inspections carried out by the relevant educational authorities.

Although colleges are not required to provide group private medical insurance for students the Irish Naturalisation and Immigration Service recommends that where possible colleges should put in place such group schemes.

What is meant by Refunds Policy and why does a college have to outline a refunds policy?

From 1 October 2011 all colleges on the Internationalisation Register will have to have a clearly stated refunds policy on their website dealing with cases where the student is unable to take up their course as a result of having being refused their visa. The refunds policy must contain a clear statement to the effect that

- (a) Students who have paid some or part of their fees to the college but are subsequently unsuccessful in their visa application will be refunded the cost of the course within a specified timeframe [**NOTE : It is the view of the Immigration Authorities that this timeframe should not exceed 60 days**]
The student must provide documentary evidence of refusal. The college may

⁵ A limited number of students seeking to attend atypical courses not on the internationalisation register may be considered on a case by case basis but in all such cases these students will not be permitted to work.

also request confirmation from the Irish Naturalisation and Immigration Service (Visa Section) that the visa has been refused.

- (b) Where the college is deducting a portion of the advance fee as an administration charge the amount (if fixed) or percentage must be clearly stated in its refund policy.

Colleges that do not have this policy in place by 1 September 2011 (or some other date to be determined) or who do not comply with the terms of their stated policy will not be able to obtain visas for their students until the matter is rectified.

It is the responsibility of all colleges to have their refund policy in place by 1 September 2011.

How does a College get listed on the Internationalisation Register?

The Internationalisation Register is administered by the National Qualifications Authority of Ireland. A new internationalisation register will be available. It will indicate clearly for each eligible course whether it is classified as a Degree Programme course or Language and Non-Degree Programme course.

The criteria for inclusion on the internationalisation register are available on the NQAI website at www.nqai.ie. In addition some Frequently Asked Questions regarding the operation of the Internationalisation Register are available at www.nqai.ie.

A listing of courses on the Internationalisation Register is available at www.nqai.ie and www.inis.gov.ie.

Why are Colleges required to inform the GNIB where students are not attending courses, when they have changed courses or where they leave the college?

This is an important requirement for the Immigration Authorities. The new immigration regime has been designed to encourage genuine non – EEA students to come to Ireland. In order to ensure the integrity of the new immigration regime the co-operation of colleges is a key requirement.

In that regard, where students are consistently failing to attend class colleges are required to report this to the Garda National Immigration Bureau. Similarly, where a student changes course within the college it is important that the GNIB be informed to ensure that the student's history is recorded correctly.

Where a student leaves a college that college should immediately report this to the GNIB.

The immigration authorities recognise that many colleges have already provided such information to the GNIB, however in order to ensure that the effective implementation of the new immigration regime it is considered important that all colleges should share this information with the immigration authorities.

Inspection of Colleges

As outlined above colleges may be inspected by the GNIB and INIS. Inspections carried out by the immigration authorities will generally be without notice. Colleges are required to co-operate fully with such inspections.

The central purpose of an immigration related inspection is to ensure compliance with the immigration conditions by the student and the education provider. In particular the immigration authorities need to be satisfied that a student granted permission to reside in Ireland and permitted to work here is attending the classes in respect of which immigration permission was granted.

The inspection team, which may consist of GNIB officers, civilian staff of the INIS investigations unit or both and will aim to satisfy themselves that

- There is a register of all non-EEA students enrolled with the college
- That each student is enrolled on a specific course
- That that course has a timetable that would allow the team to identify those students who should be in attendance at that time of the inspection and where they should be.
- That the college is keeping appropriate attendance records
- That the register of students enrolled with the college is a good match with the immigration register held by GNIB. This primarily to prevent the use of false enrolment or attendance records
- That the college has the necessary facilities to accommodate the number of students on its books
- That there is an acceptable level of progression for students (in other words that where a course has a very high failure rate it may suggest that students are enrolling on it merely as a means of securing immigration permission and not with any aspiration to pass the examinations⁶ .

As part of the investigation the team will need to speak to an appropriate manager. The team may also speak to students or other staff but would be mindful of the need not to disrupt the study programme.

For immigration purposes the colleges must show at the time of inspection the following information

- Full listing of courses including type of courses/duration of courses/length of time student stays at college/ course fees;
- Full attendance records, timetable and location of classrooms;
- Details of accreditation including most recent site visit report from accrediting body;
- Affiliations with other colleges (Nationally and Internationally);
- The overall number of students and the top five nationalities of students. The number of Irish and EEA students;

⁶ Colleges clearly have a duty of care to ensure that those enrolling on their classes have a reasonable capacity to undertake the study

- Registration Letters (GNIB and Re-Entry Visas);
- Quota of students per academic year;
- All college facilities including classrooms
- Details of staff employed by the college and details of the registered owners of the college.

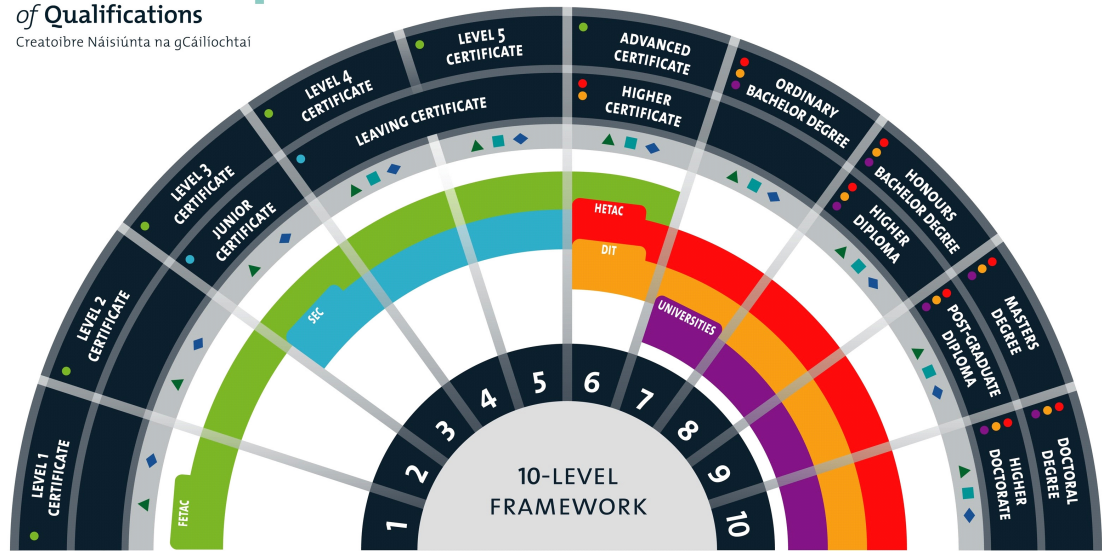
Note : This is not an exhaustive list of requirements. Colleges should be aware that immigration officers may require colleges to furnish them with additional information.

What is required of colleges in the event of closure?

In the event that a college ceases trading the management of the college must immediately inform INIS and GNIB as well as the relevant education authorities of the closure. The management must furnish the immigration authorities with a list of all non-EEA students enrolled with the college at the time of closure.

Colleges must also immediately inform students of the closure and must liaise with the education authorities with regard to completion of courses.

Appendix 1 – National Framework of Qualifications



KEY

- FETAC - Further Education and Training Awards Council
- SEC - State Examinations Commission (Department of Education & Science)
- HETAC - Higher Education and Training Awards Council
- DIT - Dublin Institute of Technology
- Universities

AWARDS IN THE FRAMEWORK

There are four types of award in the National Framework of Qualifications:

- Major Awards: are the principal class of awards made at a level
- ▲ Minor Awards: are for partial completion of the outcomes for a Major Award
- Supplemental Awards: are for learning that is additional to a Major Award
- ◆ Special Purpose Awards: are for relatively narrow or purpose-specific achievement

Appendix 2 – Non Visa Required Countries

Citizens of certain countries require an entry visa for Ireland.

If you are a citizen of a country that is on schedule 1 below, you do NOT require an entry visa for Ireland. Citizens of countries which are not on the list must apply for a visa before they travel to Ireland.

Please note that a Schengen or UK visa or residence permission is NOT valid for travel to Ireland. If you are a national of a visa-required country you will need to apply for an Irish visa in advance of travel to Ireland.

Transit Visas ARE required by citizens of the countries listed in schedule 2 below.

All citizens of non-EU countries, whether they require a visa or not, are subject to immigration control at the point of entry to Ireland.

LIST OF COUNTRIES WHOSE PASSPORT HOLDERS DO NOT REQUIRE VISAS TO ENTER IRELAND:

ANDORRA
ANTIGUA and BARBUDA
ARGENTINA
AUSTRALIA
AUSTRIA
BAHAMAS
BARBADOS
BELGIUM
BELIZE
BOLIVIA
BOTSWANA
BRAZIL
BRUNEI
BULGARIA
CANADA
CHILE
COSTA RICA
CROATIA
CYPRUS
CZECH REPUBLIC
DENMARK
DOMINICA
EL SALVADOR
ESTONIA
FIJI
FINLAND
FRANCE

GERMANY
GREECE
GRENADA
GUATEMALA
GUYANA
HONDURAS
HONG KONG (Special Administrative Region) (*See further information below).
HUNGARY
ICELAND
ISRAEL
ITALY
JAPAN
KIRIBATI
LATVIA
LESOTHO
LIECHTENSTEIN
LITHUANIA
LUXEMBOURG
MACAU (Special Administrative Region)
MALAWI
MALAYSIA
MALDIVES
MALTA
MEXICO
MONACO
NAURU
NETHERLANDS
NEW ZEALAND
NICARAGUA
NORWAY
PANAMA
PARAGUAY
POLAND
PORTUGAL
ROMANIA
SAINT KITTS & NEVIS
SAINT LUCIA
SAINT VINCENT & THE GRENADINES
SAMOA
SAN MARINO
SEYCHELLES
SINGAPORE
SLOVAK REPUBLIC
SLOVENIA
SOLOMON ISLANDS
SOUTH AFRICA
SOUTH KOREA
SPAIN
SWAZILAND
SWEDEN

SWITZERLAND
TAIWAN
TONGA
TRINIDAD & TOBAGO
TUVALU
UNITED KINGDOM & Dependent Territories (noted below)
UNITED STATES of AMERICA
URUGUAY
VANUATU
VATICAN CITY
VENEZUELA

BRITISH DEPENDENT TERRITORIES

ANGUILLA
BERMUDA
BRITISH ANTARCTIC TERRITORY (South Georgia, South Sandwich Islands)
BRITISH INDIAN OCEAN TERRITORIES (Chagos Archipelago, Peros Banos, Diego Garcia, Danger Island)
CAYMAN ISLANDS
FALKLAND ISLANDS and DEPENDENCIES
GIBRALTAR
MONTSERRAT
PITCAIRN (Henderson, Ducie and Oneno Islands)
St. HELENA and DEPENDENCIES (Ascension Island, Tristan Da Cunha)
The SOVERIGN BASE AREAS of AKROTIRI and DHEKILA
TURKS and CAICOS ISLAND
BRITISH VIRGIN ISLANDS

***HONG KONG SAR**

A person in possession of a Hong Kong certificate of identity requires an entry visa for the State.

Persons who are holders of a **British Hong Kong Passport** who have a right of abode in Great Britain do not require entry visas.

Persons who are holders of a **British Hong Kong Passport** who have a right of abode in Hong Kong only do not require entry visas but they are subject to full foreign national controls in respect of registration, permission to remain, work permits etc.

CONVENTION TRAVEL DOCUMENTS

Visas are not required by persons who are holders of Convention travel documents issued by the following countries:

BELGIUM
CZECH REPUBLIC

DENMARK
FINLAND
GERMANY
ICELAND
ITALY
LIECHTENSTEIN
LUXEMBOURG
MALTA
NETHERLANDS
NORWAY
POLAND
PORTUGAL
ROMANIA
SLOVAKIA
SPAIN
SWEDEN
SWITZERLAND.

Applicants who are holders of Convention travel documents issued by EEA states should refer to Article 3 of the **Immigration Act 2004 Order 2009 (PDF 109kb)** (Short visits only).

SCHEDULE 2

TRANSIT VISAS ARE REQUIRED BY CITIZENS OF THE FOLLOWING:

AFGHANISTAN
ALBANIA
CUBA
DEMOCRATIC REPUBLIC OF THE CONGO
ERITREA
ETHIOPIA
GHANA
IRAN
IRAQ
LEBANON
MOLDOVA
MONTENEGRO
NIGERIA
SERBIA
SOMALIA
SRI LANKA
ZIMBABWE

