

INDEFINITE LEAVE TO REMAIN UNDER THE HIGHLY SKILLED MIGRANT PROGRAMME

The High Court has recently ruled on an application for Judicial Review brought by the Highly Skilled Migrant Programme Forum in relation to the increase in the qualifying period for indefinite leave to remain.

Prior to 3 April 2006, the requirement for ILR under the HSMP was proof of four years continuous residence in the UK. The qualifying period was then increased to five years on 3 April 2006. The change affected those in various immigration categories, but this decision relates only to HSMP visa holders.

The Judicial Review was brought against the Home Secretary on the basis that those who entered the HSMP before the qualifying period increase should be eligible for ILR after four years on the scheme. The judge found in favour of the HSMP Forum on this point, meaning that the increased qualifying period should not apply to those who were already on the HSMP before 3 April 2006.

The UK Border Agency have not yet implemented the decision but will be publishing details of the remedies available for migrants who have been affected by the judgment.

If you have any queries, please get in touch with your usual Parker & Co contact.

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