

## **Frequently Asked Questions**

### **What is section 67 leave?**

It is a grant of 5 years leave that can be granted to children who have entered the UK under section 67 of the Immigration Act 2016.

### **What was the previous process?**

Up until 30 September 2019, children arriving under section 67 would claim asylum upon arrival in the UK. Their asylum claim would then be considered in the normal way. Section 67 leave would only be granted if the child did not qualify for asylum or humanitarian protection.

### **What is the change that has come into effect from 1 October?**

From 1 October 2019, children arriving under section 67 will be granted section 67 leave on arrival, providing them with certainty at the earliest possible opportunity. The process to grant section 67 leave will begin as soon as a child transferred under section 67 arrives in the UK. We will continue with this procedure unless the child expressly states that they wish to make a claim for asylum at this time. The granting of section 67 leave does not prevent the child from claiming asylum at a later stage, should they wish to do so. If the child wishes to claim asylum at a later date after being granted section 67 leave, they can contact the Asylum Intake Unit on 0300 123 4193. This information will be provided to the child and the social worker.

### **What does this mean for the child?**

When the child arrives at the port of entry, they will need to be complete a very short and simple application form in order to be granted 'section 67 leave'. A grant of section 67 leave means that they will be given permission to stay in the UK for 5 years and at the end of that period they can apply to settle in the UK.

This means that they do not have to claim asylum on arrival in the UK or go through the normal asylum process which can take a number of months – for example, they will not have to attend an interview where they would be asked questions about why they left their home country. Instead, UK officials can grant them 5 years leave to remain in the UK shortly after they arrive and in the presence of their social worker. In doing so, they can still claim asylum if they want to do so.

### **What will happen at the port of arrival?**

First, the child will be fingerprinted and photographed in line with normal procedures. They will also undergo a welfare interview which asks them some basic questions. They will be granted temporary entry to the UK for a period of 6 months by UK Border Force. When they have been allowed to pass through immigration, they will be taken to their local authority representative (who will

be responsible for their care) in the arrivals area. At this point they will make an application for section 67 leave (specific arrangements may vary depending on the port of arrival).

### **What does the application process involve?**

The application form to grant the leave is very quick and simple. It is shown and explained to the child in a language the child can understand during the arrivals process. The child will need to sign and date a form stating that they wish to apply for section 67 leave.

### **What happens then?**

Upon completing this very short application form to grant the leave, the child will be given a letter confirming that they have been granted section 67 leave for 5 years from their date of arrival in the UK. Under this process, the child will leave the port of arrival knowing that they have already been granted leave in the UK without having to go through the lengthier asylum process. They will also be given a letter to explain how to make an appointment to enrol their biometrics to receive a biometric residence permit. This biometric residence permit is proof of their immigration status in the UK.

### **Will those transferred under section 67 be able to apply for settlement?**

Yes – this remains unchanged from the previous process. Subject to meeting our standard security and criminality checks, and deception checks, individuals granted leave under section 67 will be able to apply to settle in the UK permanently after five years.

### **How do they apply for settlement?**

Section 67 leave is valid for a period of 5 years. Before that period of leave ends, they will need to either apply for an extension of stay or leave the United Kingdom if they wish to return to their country of origin. At the end of their leave, they will be eligible for indefinite leave to remain as long as they qualify for leave under paragraph 352ZN of the Immigration Rules.

### **How is this form of leave different to Refugee Leave?**

Section 67 leave does differ from Refugee Leave in some ways. For example, by virtue of not being a refugee, we are unable to extend the same travel document (“Convention Travel Document”) to those granted section 67 leave. However, those with section 67 leave will be eligible to apply for a Certificate of Travel providing they are unable to obtain a national passport. More information can be found at <https://www.gov.uk/apply-home-office-travel-document>. Furthermore, those granted section 67 leave can only access student loans and home fee status for higher education after three years’ ordinary lawful residence in the UK. Those with refugee status are exempt from the three-year ordinary lawful residence rule.

## **Why haven't all of those transferred under section 67 been granted Refugee Leave?**

The 1951 Refugee Convention is an international treaty which sets the global definition of who is a refugee. Due to the strict international legal definition of a refugee, the Government cannot grant this form of leave to individuals who do not meet the criteria set out in the Convention. It has been decided (in the best interests of the child) to give these children certainty about their immigration status as soon as possible. They still have the option to claim asylum.

## **Can the child still claim asylum?**

Yes, being granted section 67 leave does not affect the child's right to make an asylum claim at any stage. If they do claim asylum they will retain their section 67 leave. If their asylum claim is successful they will then be granted refugee leave to replace their section 67 leave. However, if the asylum claim is unsuccessful, they will still keep their section 67 leave.

## **What about children transferred to the UK under section 67 before 1 October 2019?**

We will be writing to children transferred to the UK under section 67 before 1 October 2019, who have yet to have their asylum claim concluded in order to establish whether they wish to continue with their asylum claim.

## **Do I get access to education?**

Any child under the age of 18 is entitled to free education in the UK. Those with section 67 leave are exempt for the residency rule for further education funding and can therefore access further education including A-levels and diplomas.