EXPLANATORY MEMORANDUM TO

THE IMMIGRATION (PASSENGER TRANSIT VISA) (AMENDMENT) ORDER 2012

2012 No. 116

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order amends the Immigration (Passenger Transit Visa) Order 2003 ("the 2003 Order"). The Order adds South Sudan to the list of countries whose nationals and citizens require a transit visa to pass through (without entering) the United Kingdom.

3. Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 This Order is made under section 41 of the Immigration and Asylum Act 1999 and amends the Immigration (Passenger Transit Visa) Order 2003. The 2003 Order requires, subject to certain exemptions, citizens and nationals of countries and territories specified within it, along with holders of specified travel documents, to obtain a transit visa when passing through the United Kingdom on their way to another country or territory.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 The Direct Airside Transit Visa (DATV) regime is an additional visa regime which governs the travel of passengers via the UK on their way to another country. Persons requiring a DATV visa are not able to pass through UK Immigration Control or collect any luggage on a journey through the UK. The UK "Securing the Border" Strategy was published by the Home Office in March 2007 and gave a commitment to conduct a review of the transit regime operated by the United Kingdom. This review was completed in June 2010 and contained a number of recommendations for

improving and simplifying the existing regime. It recommended that DATV should be assessed as part of the global review of our visitor visa regimes.

7.2 These changes reflect the fact that on 9 July 2011, Sudan divided into two separate independent states. The north is now the Republic of Sudan, and the southern part is the Republic of South Sudan. In the intervening months Sudan and South Sudan have had transitional arrangements in place allowing citizens of both countries to travel on their old Sudanese passports. Under these arrangements, UKBA has continued to accept citizens of both countries travelling on their old Sudanese passports, and citizens of both countries have been treated as those of the Republic of Sudan in regards to visas i.e. remaining visa/DATV nationals. On 9 January 2012 South Sudan was added to Appendix 1 of the Immigration Rules which sets out those countries whose nationals and citizens are required to obtain a visa in order to visit the UK. These changes will add South Sudan to the list of countries whose nationals and citizens will require a transit visa to pass through (without entering) the United Kingdom.

8. Consultation outcome

8.1 Visa regimes may be lifted or imposed depending on the level of threat to the UK. We are not required to consult with the countries concerned before making changes to our visa requirements.

9. Guidance

9.1 Information on this change will be made available in the UK and globally. This will be shared with UK Border Agency staff, passengers, and airlines through proactive media engagement, updates to websites, letters and briefing packs for airlines and internal UKBA instructions.

10. Impact

10.1 Following the introduction of the DATV regime, we believe there *might* be a short term economic impact in terms of loss of airfare revenue to UK carriers as the DATV may deter travellers from transiting through a UK airport. We do not believe that the impact on genuine transit passengers or airlines will be disproportionate. The impact is likely to be minimal towards South Sudanese citizens as they already need visas for the UK, the USA and Canada (the two most likely destinations for transit passengers). When considered against the cost of long haul flights necessitating transiting of the UK the DATV fee of £51 is negligible.

10.2 The impact on the public sector is related to the costs involved in processing DATV applications. However there will be a number of benefits around reduced risks of illegal immigration among the population of travellers coming from South Sudan.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small businesses.

12. Monitoring & review

12.1 As with all visitor visa regimes the imposition of the DATV requirement on South Sudanese citizens will be continuously monitored.

13. Contact

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