



Home Office

Concession to the Immigration Rules for Ukrainian nationals on family routes

Version 1.0

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About this guidance

This guidance tells you about the concessions made to the Immigration Rules for Ukrainian nationals applying as a family member under Appendix FM. These concessions also apply to their dependants.

These concessions are authorised under the Equality (Ukrainian nationals – changing immigration routes and evidential requirements) Authorisation 2022 which came into operation on 24 February 2022. As a result of it the Home Secretary has personally approved more favourable treatment for some Ukrainian nationals in the UK, and some outside the UK, when they apply for entry clearance, or leave to remain under Appendix FM.

This guidance applies to all decisions made from 24 February 2022.

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the Family Policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

Publication

Below is information on when this version of the guidance was published:

- version **1.0**
- published for Home Office staff on **25 February 2022**

Changes from last version of this guidance

New guidance

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Criteria for all applications made under the concession

This section sets out the criteria an applicant must meet in order to have their application considered under the Ukrainian concession.

To be eligible to be considered under this concession an applicant must be a Ukrainian national seeking leave to remain under Appendix FM or Part 7 or 8 of the Immigration Rules and either:

- a)
- in the UK
 - with either limited leave to enter or remain, or an overstayer and paragraph 39E of the Immigration Rules applies
 - have paid the appropriate fee and Immigration Health Charge (if required)
 - have provided a passport or other travel document which satisfactorily establishes their identity and nationality
 - meet the requirements in Appendix FM or Parts 7 or 8 of the Immigration Rules for the route they are applying under, including eligibility and suitability requirements, subject to the concessions contained in this guidance

Or, in respect to document flexibility,

- b)
- be outside the UK
 - have made a valid application for entry clearance including providing biometrics
 - have paid the appropriate fee and Immigration Health Charge (if required)
 - have provided a passport or other travel document which satisfactorily establishes their identity and nationality
 - meet the requirements in Appendix FM or Part 8 of the Immigration Rules for the route they are applying under, including eligibility and suitability requirements, subject to the concessions contained in this guidance

Applications which do not meet the above criteria, (for example if they do not meet the requirements of the Immigration Rules not waived by this concession) may be refused or rejected following consideration as to whether exceptional circumstances apply as set out in sections GEN.3.1 to 3.3, Section EX.1. or consideration outside the Immigration Rules.

If an applicant meets these criteria, they will be granted permission to enter or stay on the route applied for and for the length of time normally allowed under the route in which they are applying and on the same conditions.

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Switching

This section sets out when some Ukrainian nationals can apply for permission to stay under the family Immigration Rules when the Rules would not usually permit it because of the leave they currently hold (often called 'switching'). This concession recognises that the situation in Ukraine may mean that some Ukrainian nationals may be in the UK and eligible for other immigration routes, but may face challenges if they are required to return to Ukraine in order to make an out of country application for entry clearance as would normally be required. This concession is intended to facilitate those who have come for a visit or on a temporary route but who meet the requirements of the family Rules to continue their stay in the UK, including on routes to settlement where those requirements are met, and where UKVI are satisfied that it would not be appropriate to require them to return to Ukraine.

It covers those who meet the [general requirements above](#) and meet the following relevant requirements:

- the applicant holds valid leave as a visitor or valid leave granted for a period of 6 months or less, unless that leave is as a fiancé(e) or proposed civil partner, or was granted pending the outcome of family court or divorce proceedings, or has been granted exceptional assurance
- the applicant has confirmed in writing that they wish to be considered under this concession and has explained their reasons for applying in-country, rather than returning to Ukraine to make an entry clearance application

If an applicant meets the above criteria, they can apply to switch from their existing leave into the family Immigration Rules. They must still meet all other, non-switching related, requirements of the rules of the route they wish to switch into. Applicants may also be eligible for the document flexibility concession below.

The concession works by waiving specific requirements of the family Immigration Rules for switching (as detailed in the table below) for those to whom the concession applies (such as those who meet the criteria set out above). The switching provisions waived relate to the following routes under the family rules:

Applying switching to	Waived requirement
Family life with a partner	The switching restrictions in paragraph E-LTRP.2.1. do not apply.
Family Life as a parent	The switching restrictions in paragraph E-LTRPT.3.1. do not apply.
Adult Dependent Relative	The restrictions in paragraph EC-DR.1.1.(a) requiring an applicant to be outside the UK does not apply.

Applicants who meet the requirements of the concession will be considered as if the immigration status requirements of the family rules are met. Therefore, if an applicant applies for leave on a 5-year route and otherwise meets all the requirements, they will be granted leave on a 5-year route to settlement.

If an applicant is unable to meet all the suitability and eligibility requirements of their route (not including the immigration status requirement) but instead relies on paragraph GEN.3.1. to GEN.3.3. of Appendix FM or leave outside the rules, because there are exceptional circumstances which could or would render refusal a breach of ECHR Article 8, leave to remain should be granted on a 10-year route to settlement.

If the applicant does not meet the requirements of a 5 or 10-year route it should be refused.

The following provisions are not waived as part of this concession:

Not applying switching to	Requirement
Family life with a fiancée or proposed civil partner	Applicants applying for FLR as a fiancée must have arrived on a visa as a fiancée or proposed civil partner

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Document flexibility under the concession for Ukrainian nationals and their dependents

This section sets out the concession on document flexibility for Ukrainian nationals applying for entry clearance, or permission under a family route.

For family applications, Appendix FM must be read together with Appendix FM-SE, which sets out the specified evidence which must be submitted with an application for entry clearance or limited leave to remain as a partner or parent. An applicant must provide documentary evidence relating to the relationship requirements specified in Appendix FM-SE, such as evidence that the marriage or civil partnership is valid in the UK.

Due to the current situation in Ukraine, an applicant may be unable to provide the full range of documents required for the family route under which they are applying. If so, an applicant must explain why they cannot provide a normally required document when they make their application.

The decision maker does not require detailed evidence as to why a document is not available. They can instead be satisfied with a reasonable written explanation provided with the application as to why the document cannot be obtained.

A sufficient and reasonable explanation may for example be that it is not possible to obtain a document from an institution as it is not functioning or is not offering its full range of services due to military conflict.

Another sufficient and reasonable explanation may, for example, be that the document can only be obtained in person, no one else in Ukraine can reasonably be expected to obtain it on the applicant's behalf, and it is not reasonable to expect the applicant to travel to the location in Ukraine as it may be unsafe.

If the Home Office is satisfied that due to the situation in Ukraine a document required by the Immigration Rules cannot reasonably be obtained, the requirement to provide that document may be waived. All applications will be considered on a case by case basis, taking into account all of the circumstances.

The Home Office must take a reasonable approach to what an applicant could be expected to provide. If the Home Office feels sufficient information has been provided in order to make an accurate and well-informed decision, they do not need to request or insist on all documentary evidence listed in Appendix FM-SE.

TB testing

The requirements for a TB test certificate, in paragraph A39 of the immigration rules, have been temporarily waived. TB test facilities in Kyiv are closed and screening for

TB cannot reasonably take place and the relevant certificate cannot be reasonably obtained.

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