

**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
PRESENTED TO PARLIAMENT ON 20 JULY 2022 (HC 511)**

1. Introduction

1.1 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 instrument amends the Immigration Rules, made under the provisions of Section 1(4) and Section 3(2) in the Immigration Act 1971, that are used to regulate people's entry to, and stay in, the United Kingdom.

2.2 The changes being made primarily deliver amendments to the Ukraine Scheme Rules relating to children who are applying without their parents.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this Statement of Changes in Immigration Rules is all of the United Kingdom.

4.2 The territorial application of this Statement of Changes in Immigration Rules is all of the United Kingdom.

5. European Convention on Human Rights

5.1 As this Statement of Changes in Immigration Rules is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 The Immigration Rules, as laid before Parliament by the Secretary of State, constitute a statement of practice to be followed in the administration of the Immigration Act 1971 for regulating the entry into, and stay of, persons in the United Kingdom.

6.2 This Statement of Changes in Immigration Rules will be incorporated into a consolidated version of the Immigration Rules. This can be found on the GOV.UK website, where all the Statements of Changes in Immigration Rules issued since May 1994 are published.¹

¹ <https://www.gov.uk/guidance/immigration-rules>

- 6.3 The changes will be implemented on 10 August 2022, as detailed in the implementation section of the accompanying Statement of Changes.

7. Policy background

What is being done and why?

- 7.1 The Homes for Ukraine Sponsorship Scheme allows Ukrainian nationals and their immediate family to come to the UK where they have an Approved sponsor who has agreed to provide accommodation. The original Scheme did not allow children to apply unless they were applying with or joining their parent or legal guardian in the UK.
- 7.2 The UK government announced on 22 June 2022 that it is expanding the Homes for Ukraine Scheme to allow children who are not applying with or joining a parent or legal guardian in the UK, to be granted a visa where the requirements are met.
- 7.3 The change to the Homes for Ukraine Scheme will allow a child applying without their parent / legal guardian (who is not accompanying them to or joining them in the UK) to be granted a visa.
- 7.4 The child's sponsor will need to have been pre-approved by their Local Authority before the child makes their visa application. As part of this process, the child's parent will need to provide notarised parental consent. If the child is accompanied by or is joining an adult relative, the adult relative will need the same sponsor. These changes are included in the Immigration Rules.
- 7.5 Other elements of the Scheme, including the safeguarding procedures and assessment criteria for sponsors will be set out in the Sponsor guidance published by the Department of Levelling Up, Housing and Communities. There will be a clear requirement for parental consent to any sponsorship arrangement and an expectation that the sponsor should, except in exceptional circumstances, be someone who is personally known to the parents.
- 7.6 In recognition of the need to give these children greater security, sponsors in the UK will be asked to commit to hosting the child for up to three years, or until they are aged 18 (and the sponsorship placement has lasted for a minimum of six months) – whichever is soonest. In relation to minors who are due to turn 18 before the end of their three years leave, sponsors will need to consider from the outset how they will support that young person to move into independent accommodation. Alongside these changes the Government is publishing detailed guidance on how children will be supported in the UK.
- 7.7 Ensuring the wellbeing and safety of children on the scheme will be the Government's priority. As well as the parental consent requirements, councils will need to approve sponsorship arrangements before any visa is issued and in doing this, they will consider the individual needs of each child (as set out in the documentation required). Council approvals will be informed by the relevant DBS checks on sponsors as well as an in person visit to the prospective sponsor and accommodation checks. Councils will also be expected to undertake post-arrival and ongoing safeguarding checks.

- 7.8 The rules cater for children who are applying without their parents or legal guardians, whether they are applying alone or with other adult relatives (grandparents, uncles, aunts, or siblings in line with the definition in the Children Act 1989).
- 7.9 A number of children in these circumstances have already made an application under the Homes for Ukraine Scheme. On 15 July the Home Office published a concession to the existing immigration rules to allow those applications to be considered under the new Scheme and progressed. The Department of Levelling Up, Housing and Communities published updated guidance for sponsors at the same time.
- 7.10 The Immigration Rules relating to the new Scheme will come into force on 10 August. At this point the Scheme will open to new visa applications from children outside the UK.
- 7.11 To prioritise child safeguarding, we are introducing a requirement that a person sponsoring a child cannot have been refused sponsorship by a local authority. This will ensure that where a local authority has assessed that a sponsor is not suitable, they cannot circumvent this to sponsor the same child or another child. This change will commence on 10 August.
- 7.12 We are also making technical amendments to improve the drafting of the rules such as removing references to the Ukraine Extension Scheme launch date from the introduction to the rules, as that has already passed; and clarifying that where a non-Ukrainian national is applying under the Homes for Ukraine Sponsorship, their Ukrainian family member who qualifies must also be applying or have already applied.
- 7.13 A minor amendment is also being made to Appendix Private Life to add reference to the Nationality, Immigration and Asylum Act 2002 for private life applications made after 28 June 2022 and a minor change to the Article 8 eligibility ground at PL 8.1 to correct an administrative error and add the word ‘not’.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union or trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

- 9.1 The Government has committed to the consolidation of the Rules as part of its response to the Law Commission recommendations on simplifying the Immigration Rules.

10. Consultation outcome

- 10.1 The changes in this Statement have not been the subject of a formal public consultation, as this would be disproportionate given the nature of the changes. The changes have been co-designed by other government departments such as the Department for Levelling Up, Housing and Communities and the Department for

Education. The Local Government Association, the Association of Directors of Children Services, Solace and the devolved administrations have also been consulted

11. Guidance

- 11.1. Guidance relating to these Rules changes will be updated and placed on the GOV.UK website on the dates these changes take effect.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because the changes do not impact on businesses.

13. Regulating small business

- 13.1 There is no, or no significant, impact on activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The approach to the monitoring of these changes is to review the operation and effect of all of the relevant Immigration Rules, including any Rules amended or added to by the changes in this Statement, and lay a report before Parliament within five years of 6 April 2017, and within every five years after that. Following each review, the Secretary of State will decide whether the relevant Immigration Rules should remain unchanged, be revoked or amended. A further Statement of Changes would be needed to revoke or amend the relevant Rules.
- 14.2 A review provision is included in the instrument.

15. Contact

- 15.1 Specific written queries relating to this Statement of Changes should be directed to Robert Hayes-Walters at StateofChanges@homeoffice.gov.uk. Please note that this mailbox is only for Parliamentary use in relation to specific technical queries regarding the drafting of this Statement of Changes. It is not a contact point for general enquiries. Queries to this e-mail address from outside Parliament about other immigration issues, including how these changes affect applications, will not receive a response.
- 15.2 More general queries should be directed to the Home Office as per the 'Contact UKVI' section on the visas and immigration pages of GOV.UK website.²
- 15.3 A copy of this Statement of Changes can be found on the visa and immigration pages

² Available at <https://www.gov.uk/government/organisations/uk-visas-and-immigration>

of the GOV.UK website.³

- 15.4 Sally Weston, Head of Simplification and Systems Unit at the Home Office can confirm that this Explanatory Memorandum meets the required standard.
- 15.5 Kevin Foster MP, Parliamentary Under Secretary of State (Minister for Safe and Legal Migration) at the Home Office, can confirm that this Explanatory Memorandum meets the required standard.

³ Available at <https://www.gov.uk/government/collections/immigration-rules-statement-of-changes>