

**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
PRESENTED TO PARLIAMENT ON 9 MARCH 2023 (HC 1160)**

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Home Office and is laid before Parliament by Command of His 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 Electronic Travel Authorisations (ETA), introduction of the Innovator Founder route, and updates to employment requirements in work routes.
- 2.3 This instrument also makes a series of minor changes to other policy areas, detailed (in paragraphs 7.69 to 7.79) of section 7 of this Explanatory Memorandum.

3. Matters of special interest to Parliament

Matters of special interest to the [Joint Committee on Statutory Instruments OR the Select Committee on Statutory Instruments OR the Sifting Committees]

- 3.1 None.

4. Extent and Territorial Application

- 4.1 The extent of this Statement of Changes in Immigration Rules (that is, the jurisdiction(s) which the statement forms part of the law of) is all of the United Kingdom.
- 4.2 The territorial application of this Statement of Changes in Immigration Rules (that is, where the statement produces a practical effect) 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
- 6.3. The changes represent a further step in implementing the Law Commission recommendations on Simplifying the Immigration Rules. Simplification is an ongoing process; we intend to publish further simplified rules in 2023 and hope to consolidate the Immigration Rules in 2024.
- 6.4. The changes will be implemented on different dates starting from 12 April 2023 as detailed in the implementation section of the accompanying Statement of Changes.

7. Policy background

What is being done and why?

Electronic Travel Authorisations (ETA)

- 7.1 One of the government's priorities is securing the UK's borders and keeping our people safe by ensuring that everyone wishing to travel to the UK (except British and Irish citizens) has permission to do so in advance of travel. To fill the current gap in advance permissions the government is introducing an Electronic Travel Authorisation (ETA) scheme. The ETA scheme will apply to third country national (i.e., not British or Irish) passengers visiting the UK or transiting the UK who do not currently need a visa for short stays, as well as those using the Creative Worker route for a short stay.
- 7.2 The Nationality and Borders Act 2022 provided the legislative foundation which allows the Secretary of State to introduce and operate an ETA scheme. It does so by giving powers to the Secretary of State to make Immigration Rules which will set out the detail of the ETA scheme.
- 7.3 These rules are in 'Appendix Electronic Travel Authorisation' which will set out: who is required to apply for and obtain an ETA prior to travelling to the United Kingdom; the form or manner in which an application for an ETA may be made, granted or refused and specifies the conditions which must be met before an application for an ETA may be granted. The Rules also stipulate how long an ETA will be valid for, the conditions under which it may be varied or cancelled and any exceptions to the requirement to obtain one.
- 7.4 In addition, there are several consequential amendments being made across the wider Immigration Rules that result from the introduction of the ETA scheme.

Introduction of the Innovator Founder route

- 7.5 These changes implement changes to the Innovator route which have previously been announced in the Department of Business, Energy and Industrial Strategy's document

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

“UK Innovation Strategy: leading the future by creating it” (published on 22 July 2021).

- 7.6 The changes replace the Innovator route, which makes provision for overseas nationals seeking entry for the purpose of establishing an innovative business with an Innovator Founder route.
- 7.7 The new route removes the £50k minimum funds requirement currently applied to those coming to the UK to establish an innovative business in order to make more flexible provision for those with a genuine proposal for an innovative business and sufficient funds to deliver it. The changes also relax existing restrictions on Innovator migrants engaging in employment outside the running of their business, provided such secondary employment is in skilled roles (i.e., at least skilled to RQF Level 3).
- 7.8 The changes also close the Start-up route to new initial applications except where they are supported by endorsements issued before 13 April 2023. With the removal of the £50k minimum funds requirement for Innovator Founders, it is no longer necessary to retain a separate route for start-up entrepreneurs that do not have access to this level of funds.

Updates to employment requirements in work routes

Skilled worker/Global Business Mobility/Scale-up/Seasonal Worker

- 7.9 Salary thresholds and going rates for individual occupations are being updated, based on the latest available UK salary data. Clarification is also being added to how salaries are considered where an applicant is working a pattern where the regular hours are not the same each week. These changes relate to the Skilled Worker, Global Business Mobility, Scale-up and Seasonal Worker routes.
- 7.10 A change is being made to all work routes which require an applicant to have a specific job offer. The change means applications will be refused if the decision maker has reasonable grounds to believe the job does not comply with the National Minimum Wage Regulations or the Working Time Regulations.
- 7.11 Jury service and attending court as a witness are being added to the list of reasons where absences from employment are permitted when making various considerations about continuity of employment under the Rules.
- 7.12 A minor technical correction is being made to confirm applicants in certain sponsored routes may change occupation code as part of a graduate training programme.

Skilled worker

- 7.13 In addition to the changes affecting multiple work routes (above), a minor amendment is being made to the Skilled Worker route to confirm the route applies to those working in UK waters, as set out in section 43 of the Nationality and Borders Act 2022^[1].

^[1] <https://www.legislation.gov.uk/ukpga/2022/36/section/43/enacted>

Global Business Mobility

- 7.14 A change is being made to the Immigration Rules for the Global Business Mobility UK Expansion Worker route to reflect commitments the UK has made in the UK-Australia Free Trade Agreement. Australian nationals and permanent residents coming to the UK to open a branch or subsidiary of their Australian employer will not need to demonstrate that they have worked for their overseas employer for 12 months prior to coming to the UK.
- 7.15 A change is being made to the Immigration Rules for the Global Business Mobility Secondment Worker route to correct a drafting error made to the financial requirements.

Changes to the EU Settlement Scheme (EUSS) and EUSS family permit

- 7.16 The EUSS enables EU, other European Economic Area (EEA) and Swiss citizens living in the UK by the end of the transition period on 31 December 2020, and their family members and the family members of certain British citizens returning with them from the EEA or Switzerland, to obtain the UK immigration status they need to continue living in the UK. The EUSS family permit enables relevant family members to travel to the UK.
- 7.17 The main changes in respect of the Immigration Rules for the EUSS in Appendix EU and for the EUSS family permit in Appendix EU (Family Permit) are as follows:
- Durable partners – to underline the original policy intent under the EUSS that it is only where they had another lawful basis of stay in the UK before the end of the transition period that a durable partner who was not documented as such under the EEA Regulations can rely on that residence.
 - Zambrano (the primary carer of a British citizen), Chen (the primary carer of a self-sufficient EU citizen child) and Ibrahim & Teixeira (a child in education in the UK of an EU citizen former worker or self-employed person in the UK and the child’s primary carer) – to bring within Appendix EU the current concession that relevant cases are not excluded from eligibility by having leave to enter arising from arrival in the UK with an EUSS family permit.
 - Cancellation – to clarify that, where the relevant threshold is met in respect of a person subject to a travel ban imposed by the UK or the United Nations Security Council, their EUSS leave is to be cancelled. This will be subject to a right of appeal.
 - Period of validity – to provide for an EUSS family permit issued from 12 April to be valid in all cases for six months from the date of decision.
 - Sponsor – to prevent a relevant EEA or Swiss citizen granted pre-settled or settled status under the EUSS in error from sponsoring an EUSS family permit.

Technical changes to Appendix AR (EU)

- 7.18 These are primarily technical changes to Appendix AR (EU) concerning administrative review of EUSS decisions. The change to AR(EU)1.2. makes it clear that where a person is refused on both eligibility and suitability grounds, there is no right to an administrative review. Such a person will still have a right of appeal against the refusal decision.
- 7.19 There is also a change to paragraph 34X, to provide clarity that an administrative review under Appendix AR (EU) will be withdrawn where another application is made under the EUSS, for an EUSS family permit, as an S2 healthcare visitor or as a Service Provider from Switzerland.

Changes to the Youth Mobility Scheme (YMS)

- 7.20 The Youth Mobility Scheme route implements the international commitments we take to provide cultural exchange programmes for young people. The UK's existing reciprocal, bilateral arrangement with New Zealand has been enhanced – the age range is being expanded from 18-30 to 18-35 and the length of stay is being increased from 2 to 3 years. The Rules changes bring these enhancements into effect.
- 7.21 The Youth Mobility Scheme has a quota for each participating country that limits the number of places available. This is updated annually. The Rules changes update this year's allocation with the year and number of places available.

Updates to the Seasonal Worker route

- 7.22 The National Minimum Wage and the National Living Wage are increasing from April 2023. It is necessary to amend the minimum rate of hourly pay for Seasonal Workers to reflect this change.
- 7.23 We are also introducing a minimum guaranteed hours requirement for Seasonal Workers working in Horticulture, bringing them in line with our requirements for seasonal poultry workers. For both groups this requirement will be set at 32 hours per week.

Updates to the Global Talent and Global Talent: Prestigious Prizes routes

- 7.24 The Global Talent category is for talented and promising individuals in the fields of science, digital technology and arts and culture wishing to work in the UK. 'Talent' applicants are already leaders in their respective field, while 'promise' applicants have shown the potential to become leaders in their field.

Global Talent

- 7.25 Changes are being made to the endorsement criteria and evidential requirements to reflect feedback and recommendations from the endorsing bodies for the route, and to clarify the consideration process for applications.
- 7.26 A number of pathways within the Global Talent visa route rely on expert endorsing bodies to assess an applicant's individual claim of exceptional talent or promise.

Rather than using purely objective requirements such as qualification level, which may exclude some highly talented individuals, subject-matter expert endorsing bodies consider the evidence provided by the applicant together with that applicant's skills and experience in the round to satisfy themselves that the applicant is an exceptional talent, or shows exceptional promise, in the relevant field. We are clarifying this principle within the Rules and ensuring that it is consistent across all relevant endorsing bodies.

7.27 At the request of Arts Council England, the evidential requirements for arts and culture endorsements are being amended to:

- include a CV to assist the endorsing body in understanding what stage the applicant is at in their arts and culture career to date; and
- include a requirement that exceptional promise applicants must be at an early stage in their career, to mirror a similar requirement in the endorsement requirements for applicants in digital technology and science, engineering, humanities, social sciences and medicine. This is to clarify that applicants at later stages of their careers should apply under the exceptional talent endorsement criteria.

7.28 As agreed with Arts Council England and their sub-endorsing body, Pact, the requirements for film and television applicants are being amended to clarify that an applicant who cannot evidence that they have won or been nominated for a "main award" (Academy Award, BAFTA, Golden Globe or Emmy) needs to evidence all of international distribution sales, media recognition and a combination of Notable Industry Recognition awards to be endorsed under the notable industry recognition pathway.

7.29 As agreed with Arts Council England and their sub-endorsing body, British Fashion Council, an error is being corrected which prevented the consideration of a nomination or place on a shortlist for an international award for excellence. This was erroneously removed during a previous amendment of the requirements.

7.30 As requested by the Global Talent science academies, the descriptions of the disciplines covered by the British Academy, Royal Academy of Engineering and Royal Society (the National Academies) have been amended in the Rules to clarify that these include social sciences as well as science, engineering, humanities and medicine fields.

7.31 At the request of the National Academies, the following evidential requirements for the full peer review pathway are being amended to:

- remove the option for an applicant to demonstrate they are a member of a UK or a foreign national academy. This change is in response to low numbers of applications that meet these criteria and reports of confusion among applicants who erroneously reference their membership of a professional body, subject association, or a learned society rather than an appropriate national or foreign academy; and

- remove the option for an applicant to demonstrate they have been awarded an internationally recognised prize. Applicants who hold a prize which would have met this requirement can already apply under the Prestigious Prize pathway, a simpler option where they would not be required to provide any additional evidence; and
- require all peer review exceptional talent applicants to provide an academic assessment of their skills and experience in the relevant sector. This document differs from the mandatory letter of recommendation as the contents should include an independent assessment of the applicant's work rather than a personal letter of recommendation from an individual with extensive knowledge of the applicant's work. The author, who must be a senior member of a UK organisation concerned with research in the applicant's field, should, as far as it is practicable, not have a personal relationship with the applicant and should only know the applicant through reputation in that given field; and
- remove the requirement that peer review exceptional promise applicants need to have been awarded or have held a UK based research fellowship, international fellowship or advanced post. The recent expansion of the fast-track route for those with a qualifying fellowship and alternative UKVI pathway have removed the necessity of this requirement in demonstrating exceptional promise.

7.32 Changes are also being made to the letter of recommendation criteria for both the science, engineering, humanities, social and medicine fields and the digital technology peer review routes. As authors of these letters of recommendation cannot be definitive about what contributions an applicant will make in the UK in their chosen field, they will only be required to provide details of what impact the applicant will be expected to make.

7.33 An update of the Global Talent settlement requirements is being made to allow time spent as a Representative of an Overseas Business to be included as part of the 3 or 5 year continuous period.

Global Talent: Prestigious Prizes

7.34 Applicants who hold a qualifying prize are able to qualify without the need to obtain an endorsement from one of the Global Talent endorsing bodies. In the opinion of our expert bodies, the prizes listed demonstrate irrefutable evidence of prize holders being at the pinnacle of their profession.

7.35 To be eligible, prizes must be given to named individuals, and therefore the list does not include prestigious awards for specific works, such as an award-winning film, or to whole organisations. Prizes included must also be open to all nationalities and winners must be determined by experts or peers, rather than a public vote.

7.36 With agreement from Arts Council England, the Golden Globes have been renamed and reordered to reflect more accurately their formal titles and better align with the presentation of other awards in the same field, such as the BAFTAS, in this list. There have been no additional Golden Globe awards added to the Appendix.

- 7.37 As agreed with Arts Council England, an Olivier Award that was erroneously included in previous versions of the Appendix has been removed. Also, the Olivier Award for Best Original Score or New Orchestrations has been added. This award was introduced in 2014 and is the successor to the Oliver Award for Outstanding Achievement in Music. The Olivier Award for Outstanding Achievement in Music will still be accepted retrospectively. This awards list has also been reordered to better align with the presentation of other awards in the same field.
- 7.38 Other changes to the list of acceptable prestigious prizes as agreed with the Royal Society, British Academy and Royal Academy of Engineering are:
- The renaming of the Silver Award as the Princess Royal Silver Award. Any prizes awarded under the previous name remain acceptable under the route.
 - For clarity, the Robert Koch Medal and Award has been split into two distinct prestigious prizes.
- 7.39 The list will be kept under review and may be revised in future updates to the Immigration Rules.

Introduction of new Appendix Adult Dependent Relative

- 7.40 Appendix Adult Dependent Relative replaces existing provisions for Adult Dependent Relative in Appendix FM of the Immigration Rules.
- 7.41 Appendix Adult Dependent Relative is drafted in the simplified format, in line with the recommendations of the Law Commission in its report “Simplifying the Immigration Rules”, to which the Government responded on 25 March 2020.
- 7.42 The rules in Appendix Adult Dependent Relative (“ADR Rules”) have been updated to align with the wider approach to suitability at settlement on Article 8 human rights routes. Where the applicant is applying for entry clearance or permission to stay, they may be refused if they fail certain suitability grounds in relation to serious criminality. An applicant will also need to complete a longer qualifying period before being able to settle (in country) if they fail certain suitability grounds (e.g., have unpaid litigation debt or involvement in a sham marriage/civil partnership), but their removal would breach Article 8 of the European Convention of Human Rights.
- 7.43 The maintenance undertaking at paragraph 35 in Part 1 of the rules has been incorporated into the ADR Rules. We have clarified that the maintenance undertaking may be required to be signed by the sponsor at entry clearance, permission to stay and settlement for those applying under the ADR Rules.
- 7.44 The ADR Rules evidence requirements in Appendix FM-SE have been removed and where appropriate will be incorporated into guidance.

Amendments to Appendix Visitor - Cabotage at Sea

- 7.45 Appendix Visitor: Permitted Activities is being amended to allow visitors who are working on ships transporting goods and/or passengers between ports in the UK and

an overseas destination to perform cabotage operations (collecting and delivering goods and passengers within the UK as part of an international journey).

- 7.46 This will allow individuals working on ships to be able to undertake cabotage activities at sea in the UK territorial waters in addition to international point to point services, without being required to apply for permission under the Points Based System.
- 7.47 Changes are also being made to Appendix V: Visitor, to enable individuals working on ships transporting goods and/or passengers between the UK and an overseas destination, or undertaking cabotage operations, to receive payment from a UK source.

Simplification of the deportation Immigration Rules

- 7.48 The rules on deportation (Part 13) have been revised into a more simplified format.
- 7.49 In addition, there have been changes to the Article 8 thresholds in this Part to correct inconsistencies and reflect legal judgments.

Routine update to the Permit Free Festival List

- 7.50 Appendix Visitor: Permit Free Festival List comprises a list of events that are Permit Free Festivals. Permit Free Festivals are events that are assessed as contributing to the cultural heritage of the UK and at which performers can, exceptionally, be paid for their participation as visitors. Visitors cannot normally receive payment from a UK source for any permitted activities they undertake here. The list has been updated for 2023.

Changes to Temporary Work routes

Government Authorised Exchange (GAE)

- 7.51 Updates to Appendix Government Authorised Exchange schemes that will:
- remove schemes that are redundant and to ensure remaining scheme names and descriptors are accurate.
 - ensure overarching bodies only sponsor individuals within the scope of their approved scheme.
 - clarify the grant periods permitted within the Government Authorised Exchange route.

Charity Worker

- 7.52 Amendment to clarify the grant conditions for Charity Workers, making clear that supplementary voluntary work is permitted provided it is the same type of role as the one specified on the worker's Certificate of Sponsorship.

International Agreement

- 7.53 A correction to reflect the correct name for the statement of terms and conditions, a mandatory document required to support applications from the private servants of diplomats.

Changes to improve clarity regarding asylum interviews for unaccompanied children

- 7.54 Part 11 of the Immigration Rules (at paragraphs 352 and 352ZA) relating to children is being updated to assist with the government's commitment to eradicate the backlog of asylum claims. Updating these paragraphs will provide more clarity as to when an asylum interview can be omitted for asylum-seeking children. It will be clearer to asylum decision makers that decisions can be made for children without the requirement for an asylum interview where there is enough information to grant protection status.

Introduction of new Appendix Family Reunion (Protection)

- 7.55 Appendix Family Reunion (Protection) replaces the existing provisions for leave to enter and remain as a partner and child of a person with protection status in the UK under paragraphs 352A to 352FJ of Part 11 of the Immigration Rules.
- 7.56 The new appendix is drafted in the simplified format, in line with the recommendations of the Law Commission in its report "Simplifying the Immigration Rules", to which the Government responded on 25 March 2020.
- 7.57 These Rules introduce a four-stage decision-making process which includes: validity, suitability, eligibility and decision. No policy changes have been made; rather, the Rules have been reformatted for accessibility, readability, and consistency with the wider Immigration Rules.
- 7.58 Paragraph 6.2. of the Immigration Rules Introduction sets out definitions which must be referred to when applying Immigration Rules to applications. The definitions of 'protection status' and 'refugee leave' have been added as these terms are referenced in Appendix Family Reunion (Protection).
- 7.59 Transitional provisions have been added to Part 11 of the Immigration Rules to redirect individuals to the new appendix.

Introduction of new Appendix Child joining a Non-Parent Relative (Protection)

- 7.60 Appendix Child joining a Non-Parent Relative (Protection) replaces the existing provisions for leave to enter or remain in the UK as the child of a relative with limited leave to enter or remain in the UK as a refugee or beneficiary of humanitarian protection under paragraphs 319X to 319Y of Part 8 of the Immigration Rules.
- 7.61 The new appendix is drafted in the simplified format, in line with the recommendations of the Law Commission in its report "Simplifying the Immigration Rules", to which the Government responded on 25 March 2020.

- 7.62 These Rules introduce a four-stage decision-making process which includes: validity, suitability, eligibility and decision. No policy changes have been made; rather, the Rules have been reformatted for accessibility, readability, and consistency with the wider Immigration Rules.
- 7.63 Paragraph 6.2. of the Immigration Rules Introduction sets out definitions which must be referred to when applying Immigration Rules to applications. The definitions of ‘protection status’ and ‘refugee leave’ have been added as these terms are referenced in Appendix Child joining a Non-Parent Relative (Protection).
- 7.64 Transitional provisions have been added to Part 8 of the Immigration Rules to redirect individuals to the new appendix.

Changes to the Long Residence rules

- 7.65 The current definition of what constitutes lawful residence in the long residence rules is not clear, and this has led to confusion for customers and a broader interpretation than intended. These changes will make the definition easier to understand and better represent the purpose of the long residence route.
- 7.66 The rules are changing to not allow any period on immigration bail to count towards the qualifying period for long residence in any circumstances. This creates a simple expectation that people cannot count time with precarious status towards settlement on the basis of long residence.
- 7.67 The changes will also not allow time as a visitor, short-term student and on the seasonal worker routes to count towards long residence. This makes it clear that time spent on a route which both allows for a maximum grant of permission of 12 months, and where switching is generally not allowed (so there is the strongest possible expectation that the person will leave the UK at the end of a short stay), cannot count towards settlement on the basis of long residence.
- 7.68 A person who has spent a period of time on immigration bail or as a visitor (or other temporary permission) who is later granted permission on another basis will still be able to qualify for long residence settlement, but they will need to wait longer to do so.

Minor policy or technical changes to the Rules that will:

- 7.69 Make minor amendments in Appendix FM to the entry clearance requirements for partner, parent and child to clarify that an application can be refused if the applicant cannot satisfactorily establish their identity and nationality via a passport or other documentation.
- 7.70 Make changes to Appendix FM and Appendix Private Life to clarify the circumstances when consideration should be given to removing the condition which prohibits access to public funds to better reflect exceptional circumstances, such as a disability, which may affect the applicant’s income or expenditure.

- 7.71 Reinsert the definition of Higher Education Institution into the Introduction to the Immigration Rules, which had previously been removed from the rules in error.
- 7.72 Amend the High Potential Individual Rules to enable entry clearance to be granted from a date in the future, which will enable individuals who need to undertake activities such as serving notice periods to benefit from the full period granted in the route.
- 7.73 Bring forward the annual period start date for Poultry Workers in the Seasonal Worker route from 18 October to 2 October.
- 7.74 Update the Returning Resident rules as currently they do not allow someone whose indefinite leave (settlement) has lapsed to apply to resume their settlement as a returning resident if they have subsequently returned to the UK as a visitor. To avoid this situation, the rules are being changed to allow someone in this position to resume their settlement in the UK, although they must still make their application from outside the UK.
- 7.75 Delete Appendix F, which contains a selection of obsolete immigration routes dating between 2008 and 2013. These rules will continue to be available via published archives and ensuring the archive is in one place will avoid confusion.²
- 7.76 Make a series of technical changes to apply Appendix Relationship with Partner to the following routes: Student, Graduate, Skilled Worker, Global Business Mobility - Senior or Specialist Worker, Global Business Mobility - Graduate Trainee, Global Business Mobility – UK Expansion Worker, Global Business Mobility - Service Supplier, Global Business Mobility - Secondment Worker, Scale-up, High Potential Individual, Global Talent, Start-up, Innovator, International Sportsperson, Temporary Work - Creative Worker, Temporary Work - Religious Worker, Temporary Work - Charity Worker, Temporary Work - International Agreement, Temporary Work - Government Authorised Exchange, T2 Minister of Religion, Representative of an Overseas Business, UK Ancestry. This ensures there is a single consistent set of partner requirements across these routes and reduces repetition across the rules.
- 7.77 Correct an oversight in the rules to reflect that the International Sportsperson route should allow applicants to choose to prove their English language ability using a GCSE/A-level in English (awarded from a UK school and started when they were under-18).
- 7.78 Introduce minor drafting changes to improve clarity and ensure consistency of wording within the various routes and to correct incorrect paragraph references.
- 7.79 Correct minor drafting errors, including those made in the Statement of Changes in Immigration Rules (HC 719) laid on 18 October 2022.³

8. European Union Withdrawal and Future Relationship

² <https://www.gov.uk/government/collections/archive-immigration-rules>

³ <https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc719-18-october-2022>

- 8.1 This instrument is not being made under the European Union (Withdrawal) Act but relates to the withdrawal of the United Kingdom from the European Union because it supports further implementation of the EUSS.
- 8.2 For all other changes, 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 Home Office consulted on the implementation of the ETA scheme as part of a wider New Plan for Immigration consultation on the New Plan for Immigration (NPI) policy statement published in March 2021.⁴
- 10.2 Stakeholders and members of the public were invited to participate via an online questionnaire, focus groups, and targeted engagement sessions with invited stakeholders. The consultation focussed on several different areas of the NPI and therefore did not relate specifically to ETA. One key area which was subject to consultation included disrupting criminal networks behind people smuggling and deterring illegal migration.
- 10.3 The NPI consultation covered a range of propositions structured into seven ‘pillars’ or chapters. ETAs fell under chapter seven, which is focused on ‘Disrupting Criminal Networks Behind People Smuggling’. In addition to the introduction of the ETA scheme, this chapter sought views on overhauling the Clandestine Civil Penalty Regime process and providing Border Force with additional powers.
- 10.4 The consultation showed that most respondents opposed the seven reforms. Respondents questioned whether the proposals would deter illegal entry and suggested that making it more difficult to enter the UK by illegal means could prevent asylum seekers in need of protection from seeking help. Moreover, in public focus groups, participants welcomed a focus on those who facilitate illegal migration and people smuggling.
- 10.5 The government committed to set out further details during the passage of the Nationality and Borders Act 2022 to further develop the reforms in these areas, including around operational processes and explaining the ETA scheme.
- 10.6 The other 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.

⁴ Available at

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005042/CCS_207_CCS0621755000-001_Consultation_Response_New_Plan_Immigration_Web_Accessible.pdf

11. Guidance

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

12. Impact

- 12.1 The direct impact on business, charities or voluntary bodies as a result of the ETA changes is likely to be small, however any impacts are set out in the Impact Assessment noted below. The main impact on the public sector is an increase in processing costs for the Home Office that results from the changes. The impacts on the public sector are also set out in the Impact Assessment noted below.
- 12.2 A full Impact Assessment has been produced in response to the ETA changes but is not published here alongside this Statement of Changes.
- 12.3 There may be an impact on the public sector, and an indirect impact on businesses, as a result of the potential behavioural response to the salary changes, but no direct impacts on business, charity, or voluntary bodies have been identified. An Impact Assessment relating to salary thresholds changes has been prepared to support this.
- 12.4 For all other changes there is no, or no significant, impact on business, charities or voluntary bodies.
- 12.5 For all other changes there is no, or no significant, impact on the public sector.

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, or 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.⁵
- 15.3 A copy of this Statement of Changes can be found on the visa and immigration pages of the GOV.UK website.⁶
- 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 Rt Hon Robert Jenrick MP, Minister of State (Minister for Immigration) at the Home Office, can confirm that this Explanatory Memorandum meets the required standard.

⁵ Available at <https://www.gov.uk/government/organisations/uk-visas-and-immigration>

⁶ Available at <https://www.gov.uk/government/collections/immigration-rules-statement-of-changes>

