

This Explanatory Memorandum replaces the previous version laid before Parliament on 19 July 2023, which has been withdrawn. Copies will be provided free of charge to all known recipients of that version.

**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
PRESENTED TO PARLIAMENT ON 19 JULY 2023 (HC 1715)**

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 concern the imposition of a Visa Regime on Dominica, Honduras, Namibia, Timor-Leste, and Vanuatu.

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 to impose a visa regime on nationals of Dominica, Honduras, Namibia, Timor-Leste, and Vanuatu will come into effect at 1500 on 19 July 2023, and therefore depart from the usual convention that changes to the Immigration Rules come into force no earlier than 21 days after their being laid in Parliament.
- 6.4 The Government considers this departure from convention to be necessary and proportionate for reasons of safeguarding the operation of the national immigration system. It is anticipated that providing the customary 21-days' scrutiny period before implementing the visa regimes would trigger a substantial increase in nationals from these countries travelling to the UK, before the visa regime comes into force. This would place an unpredictable and potentially unmanageable strain upon the UK's Migration & Borders system. Controlling migration and tackling illegal migration are one of the Home Office's priorities, while continuing to respect our international obligations under the Refugee Convention.
- 6.5 We will also immediately suspend an existing Visa Treaty (1962) between Honduras and the UK, covering visa free travel between our countries, "on grounds of public policy", as allowed by the treaty.

7. Policy background

What is being done and why?

Imposition of a Visa Regime on Dominica, Honduras, Namibia, Timor-Leste, and Vanuatu

- 7.1 By applying the visa regime to a nationality which is assessed as requiring it, we can intervene before high-risk individuals travel to the UK by refusing to grant such persons a visa.
- 7.2 Careful consideration of Dominica's and Vanuatu's operation of a citizenship by investment scheme has shown clear and evident abuse of the scheme, including the granting of citizenship to individuals known to pose a risk to the UK. For Honduras and Namibia, there has been a sustained and significant increase in the number of UK asylum applications being made by these nationals, who have abused the provision to visit the UK for a limited period as non-visa nationals in order to claim asylum. As such, Namibians and Hondurans rank first amongst non-visa nationals for asylum claims. These high numbers are unsustainable, contributing significantly to operational pressures which have resulted in frontline resource being diverted from other operational priorities. Lastly, there has been a sustained increase in the number of Timorese nationals arriving at the UK border as non-genuine visitors, often with the intention to fraudulently claim EU Settlement Scheme status as dependants or to work illegally in the UK. Supporting public access data on asylum claims and refusal of entry at the UK border can be found at: [Asylum and resettlement datasets - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/asylum-and-resettlement-datasets) and [Managed migration datasets - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/managed-migration-datasets).

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

- 7.3 The imposition of these visa regimes will include a transition period for any nationals of these countries who are travelling to the UK without a visa. This period will commence at the same time as the visa regime is imposed and run until four weeks after the imposition date. During this period, those nationals who hold a confirmed booking to the UK made before the exact time of the imposition, and where arrival in the UK is no later than four weeks after the imposition, will be exempt from the visa requirement. Those booking on or after the imposition, or due to arrive in the UK four weeks after the imposition, will require a visa.
- 7.4 This transition period will prevent operational difficulties, general unfairness, and ensure that people who arranged travel before this announcement do not lose money. The length of the period (four weeks) has been chosen to give the nationals of these countries enough time to book and receive a visa. The current service-level agreement for processing times for visit visas is approximately 15 working days.
- 7.5 The visa impositions will also be accompanied by amendments to the Immigration (Passenger Transit Visa) Order 2014, to ensure that nationals from these countries will also require a visa when conducting airside transit travel. Airside transit passengers are those who do not need to change airports and do not need to pass through the UK border. If these amendments are not made, these nationals will be able to enter the UK, on the pretence of having booked onward travel, thus circumventing the visa regime.
- 7.6 We also need to terminate an existing Visa Treaty (1962) between Honduras and the UK, covering visa free travel between our countries. We will not observe the usual 30-day grace period between notifying and implementing, which is provided for by the treaty. Our data overwhelming suggests this would cause a significant increase in the number of Hondurans travelling to the UK before the visa imposition. The treaty allows for an immediate suspension, “on grounds of public policy”.

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 2018.

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.

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 These changes are estimated to have no, or no significant, impact on business, charities, or voluntary bodies.
- 12.2 These changes are estimated to have 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.²
- 15.3 A copy of this Statement of Changes can be found on the visa and immigration pages 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 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.

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

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