

**EXPLANATORY MEMORANDUM TO  
THE STATEMENT OF CHANGES IN IMMIGRATION RULES  
PRESENTED TO PARLIAMENT ON 9 SEPTEMBER 2019 (HC 2631)**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Committee on the UK's exit from the European Union.

**2. Purpose of the instrument**

- 2.1 This instrument amends the Immigration Rules that are used to regulate people's entry to and stay in the United Kingdom. The detail of the changes being made is included in section 7 of this Explanatory Memorandum, but in summary, the changes will:

- Make revised provision for access to the EU Settlement Scheme for the family members of UK nationals returning from a European Economic Area (EEA) Member State or Switzerland, in line with a policy paper published in April 2019, and make other technical changes to the EU Settlement Scheme and EU Settlement Scheme family permit;
- Mandate an online route for applications for administrative review where the original application was made online;
- Replace references to the Dublin Arrangements which determine which member state is responsible for considering an asylum application;
- Expedite the grant of s67 'leave to remain' on children who have been transferred to the UK under section 67 of the Immigration Act 2016; and,
- Make a number of minor amendments to business sectors, employment, and talent categories listed in the rules.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Committee on the UK's exit from the European Union*

- 3.1 The EU Settlement Scheme is contained in Appendix EU to the Immigration Rules, and it provides the basis for various groups to apply for UK immigration status, which they will require in order to remain here permanently after the UK's withdrawal from the European Union. In particular, the scheme provides the basis for resident EEA and Swiss citizens and their family members, and the family members of certain UK nationals, to apply for UK immigration status.

- 3.2 The scheme is consistent with the draft Withdrawal Agreement with the European Union, published on 14 November 2018,<sup>1</sup> as regards EU citizens resident here before the end of the implementation period on 31 December 2020, and their family members. It is also consistent with the citizens' rights agreements reached with the other EEA countries (Iceland, Liechtenstein and Norway) and with Switzerland.
- 3.3 The EU Settlement Scheme will also be the basis on which EEA and Swiss citizens, resident in the UK by exit and their family members, will be able to obtain UK immigration status in order to remain here in the event of the UK leaving the EU on 31 October 2019 without a deal. This was reflected, with reference to a possible 'no deal' exit on 29 March 2019, in the policy paper on citizens' rights in a 'no deal' scenario, published on 6 December 2018.<sup>2</sup>
- 3.4 The Immigration, Nationality and Asylum (EU Exit) Regulations 2019 that will come into force on exit day in a no deal scenario will revoke the Dublin Arrangements described above in 2.1.
- 3.5 Also of interest to the Committee, will be the changes to references to WTO and EU free trade agreements. The UK has commitments under these agreements pertaining to the temporary entry of service suppliers; the changes reflect that the UK will be taking on these commitments in her own name.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.6 As this statement of changes in Immigration Rules is subject to the procedure set out under section 3(2) of the Immigration Act 1971, there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

#### **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**

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/756374/14\\_November\\_Draft\\_Agreement\\_on\\_the\\_Withdrawal\\_of\\_the\\_United\\_Kingdom\\_of\\_Great\\_Britain\\_and\\_Northern\\_Ireland\\_from\\_the\\_European\\_Union.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/756374/14_November_Draft_Agreement_on_the_Withdrawal_of_the_United_Kingdom_of_Great_Britain_and_Northern_Ireland_from_the_European_Union.pdf)

<sup>2</sup> <https://www.gov.uk/government/publications/policy-paper-on-citizens-rights-in-the-event-of-a-no-deal-brexit>

- 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, which can be found on the GOV.UK website at [www.gov.uk/government/collections/immigration-rules](http://www.gov.uk/government/collections/immigration-rules), where all the Statements of Changes in Immigration Rules issued since May 1994 are published.
- 6.3 The following sections shall take effect on 1 October 2019. If an application for entry clearance, leave to enter or leave to remain is made before 1 October 2019, they will be decided in accordance with the Immigration Rules in force on 30 September 2019:
- Part 6A – Paragraphs 6A.1, 6A.2, 6A.11, 6A.13, 6A.21, 6A.22 and 6A.27
  - Part 8 – Paragraph 8.1
  - Appendix A – Paragraphs A1 to A14, A27, A30, A33 to A35, A37 and A38
  - Appendix Armed Forces – Paragraph AF1
  - Appendix B – Paragraphs B1 to B4
  - Appendix FM-SE – Paragraphs FMSE1 and FMSE2
  - Appendix J – Paragraphs J1 to J5, J7
  - Appendix KOLL – Paragraphs KOLL1 to KOLL7
  - Appendix L – Paragraphs L1 to L11
  - Appendix O – Paragraph O1
  - Appendix W – Paragraphs W1 to W10
- 6.4 The following sections shall take effect on 6 October 2019. If an application for entry clearance or leave to remain is made using a Certificate of Sponsorship assigned by their Sponsor before 6 October 2019, the application will be decided in accordance with the Immigration Rules in force on 5 October 2019:
- Appendix A – Paragraphs A25, A26, A28, A29, A32 and A34
  - Appendix J – Paragraphs J6 and J8 to J12
  - Appendix K – Paragraphs K1 to K5
- 6.5 The following sections shall take effect on 1 January 2020. If an application for entry clearance, leave to enter or leave to remain is made before 1 January 2020, it will be decided in accordance with the Immigration Rules in force on 31 December 2019:
- Appendix G – Paragraph 1, Paragraph 2
- 6.6 The following section shall take effect on 1 October 2019. However, in relation to that section, where notice of an eligible decision under Appendix AR (EU) is received between 3 September 2019 and 30 September 2019, such applications will be decided in accordance with the Immigration Rules in force on 30 September 2019:
- Part 1 – Paragraph 34R(1A)
- 6.7 The other changes set out in this statement shall take effect on 1 October 2019.

## **7. Policy background**

### *What is being done and why?*

7.1 For different reasons explained further below, changes are being made to:

- The EU Settlement Scheme
- Application routes for administrative reviews
- The Dublin Arrangements (effective once the UK leaves the EU)
- Categories and descriptions within the various visa tiers

### *Amendments to the EU Settlement Scheme (EUSS)*

7.2 The changes make revised provision for access to the EU Settlement Scheme (EUSS) for the family members of UK nationals returning from an EEA Member State or Switzerland, in line with the announcement on such access made on 4 April 2019<sup>3</sup>. In particular, they provide:

- Access to the EUSS until 29 March 2022, in both ‘deal’ and ‘no deal’ scenarios, for existing close family members (where the relationship existed on exit day) of UK nationals returning with them from the EEA or Switzerland having lived there together while the UK national exercised their free movement rights. Close family members are children and grandchildren (including those born overseas after exit day), spouses, civil partners, durable partners, and parents and grandparents;
- Access to the EUSS until 31 December 2020, in both ‘deal’ and ‘no deal’ scenarios, for future spouses, civil partners and durable partners (where the relationship was established after exit), and other dependent relatives, of UK nationals returning with them from the EEA or Switzerland having lived there together while the UK national exercised their free movement rights; and,
- Some clarification of how the Immigration Rules for the EUSS in Appendix EU reflect the provisions of the Immigration (EEA) Regulations 2016 covering this route under EU law, and to make some further consequential changes following the inclusion of extended family members in that route under the Immigration (EEA) Regulations 2016 from 7 March 2019.<sup>4</sup>

7.3 The changes make some minor and technical changes to Appendix EU, and to the Immigration Rules for the EUSS family permit in Appendix EU (Family Permit), to improve their clarity and operation for applicants, caseworkers and entry clearance officers. In particular, they:

- Clarify the definitions relating to relevant dual nationals, i.e. EEA citizens who were exercising Treaty rights in the UK and have naturalised as a British citizen, whose family members can apply under the scheme. This includes allowing their child aged under 21 to apply for settled status under the EUSS on the basis that their parent would qualify for it if they could apply, which, as a British citizen, they cannot;

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<sup>3</sup> <https://www.gov.uk/government/publications/policy-paper-on-the-rights-of-uk-nationals-in-the-eu>

<sup>4</sup> By S.I. 2019/468.

- Allow an applicant for an EUSS family permit to rely on the fact that their EEA citizen family member is a relevant dual national, who would qualify for status under the scheme if they could apply for it, which, as a British citizen, they cannot; or is an Irish citizen who would qualify for such status if they applied for it, which they are not required to do;
- Count offshore working, e.g. by North Sea oil workers, as permitted absence from the UK, so that such work can be included as UK residence for the purposes of an EUSS application;
- Confirm that a family member relying for their status on an EEA citizen who has ‘ceased activity’, e.g. retired early from employment in the UK, must have been resident in the UK as their family member at that point, consistent with the Free Movement Directive;
- Clarify requirements for evidence of family relationship. In particular, require an EEA citizen applicant (like a non-EEA citizen applicant) without documented permanent residence status to provide relevant evidence about their EEA citizen family member, where they are relying on their relationship to that person (rather than on their own residence as an EEA citizen, e.g. where they became an EEA citizen during their residence here);
- Require an applicant who relies on being the ‘dependent parent’ of an EEA citizen to evidence that dependence where their child is under the age of 18;
- Provide for a non-EEA citizen family member granted EUSS status, whose biometric residence card is then lost or stolen overseas, to apply free of charge for an EUSS travel permit to enable them to travel to the UK, where they can apply for a replacement biometric residence card; and,
- Provide discretionary grounds for refusing an application under the EUSS, or an application for an EUSS family permit or travel permit, where there has been a previous cancellation of EUSS leave or leave acquired having arrived in the UK with an entry clearance granted under Appendix EU (Family Permit), or a previous refusal of admission, and refusing the application is justified on the grounds of public policy, public security or public health (or on the grounds that the decision would be conducive to the public good as a result of the person’s post-exit conduct in a ‘no deal’ scenario or as a result of the person’s conduct after the end of the implementation period on 31 December 2020 in a ‘deal’ scenario).

7.4 We expect the vast majority of EUSS applicants to be genuine, and for there to be little need for status granted under the EUSS to be cancelled at the border or curtailed in-country. However, it is appropriate that, to safeguard the integrity of the EUSS, its status should be covered by some of the same powers as other forms of immigration leave, so that appropriate action can be taken where necessary. The changes therefore amend Part 9 of the Immigration Rules to provide additional grounds for the cancellation and curtailment of EUSS status and leave acquired having travelled to the UK with an EUSS family permit, e.g. on grounds this was obtained by deception (such as where the person had claimed to be the family member of an EEA citizen when they were not). The changes also amend Part 9 to provide discretionary grounds for EUSS

status and leave acquired having travelled to the UK with an EUSS family permit, to be cancelled at the border, in a ‘no deal’ scenario, on the grounds that cancellation is conducive to the public good, as a result of the person’s post-exit conduct.

### ***Administrative review***

- 7.5 In some circumstances, an applicant may challenge a decision on their application or in respect of their leave by applying for administrative review.
- 7.6 This instrument mandates online applications for administrative reviews where the original application was made on line. This is in line with the Government’s wider modernisation programme of ‘digital by default’. Paper applications for administrative review will remain possible for those who made their original valid application on paper.
- 7.7 The changes also provide a right of administrative review where status granted under EUSS is cancelled at the border because the person no longer meets the requirements for that status, e.g. where, as a non-EEA citizen granted pre-settled status under the EUSS, they have ceased to be the family member of an EEA citizen. Such cancellation could only occur where the person no longer met any of the bases for eligibility for status under the EUSS.
- 7.8 The changes also bring the time frame for applying for an administrative review under the EUSS in line with the time frame for all other administrative reviews in cases where the applicant is detained pending their removal from the UK, ensuring that detention is kept to a minimum.

### ***Amendments to the third country asylum inadmissibility policy***

- 7.9 Some of the existing Immigration Rules relating to the return of certain asylum applicants to safe third countries are drafted with specific reference to the Dublin Regulation and to EU membership. These Rules concern asylum applicants in the UK who have previously travelled through, claimed asylum or have been granted asylum in EU countries. In the event of a no-deal EU exit, these Dublin Regulation provisions will no longer apply to the UK. The Rules change addresses this but ensures continuity of approach, by widening the scope of other third country Rules to deal with these cases.

### ***Minor amendment to Tier 5 (Temporary Worker - International Agreement) of the Points-Based System***

- 7.10 The Tier 5 (International Agreement) sub-category gives effect to commitments in EU bilateral trade agreements concerning the temporary entry of contractual service suppliers. A minor administrative change to remove current references to the EU and replace them where needed with references to the UK is being made to ensure the Immigration Rules continue to implement these commitments following exit day.

### ***Amendments to s67 leave – relocation and support of unaccompanied refugee children***

- 7.11 In June 2018 we introduced ‘section 67 leave’. It ensures that children who are transferred to the UK under section 67 of the Immigration Act 2016, and who do not qualify for refugee status or international protection, are able to remain in the UK and build a life here. This form of leave allows them to study, work, access public funds and healthcare, and is a route to settlement.
- 7.12 Currently, the Immigration Rules only allow section 67 leave to be granted to those who have already had an application for refugee status or humanitarian protection refused. As well as the effect of the child of having to go through such a process, we think that the impact on Local Authorities of supporting a child during that process is a disincentive to them accepting children who arrive here under section 67.
- 7.13 The instrument removes the requirement for the child to complete that step first, permitting the grant of section 67 leave automatically upon the child’s arrival. Importantly, this change does not remove the entitlement of the child to apply for, or to continue with an application for, refugee status or humanitarian leave should they wish to do so.

***Minor amendments relating to the Start-up and Innovator categories***

- 7.14 The Start-up and Innovator categories were introduced in March 2019. They are for people seeking to establish an innovative, viable and scalable business in the UK, whose business ideas are supported by an authorised endorsing body. The following changes are being made to these categories:
- A change is being made to the Tier 4 (General) rules to allow students who have submitted a Start-up application supported by an endorsing body to commence their business activities whilst their application is being considered;
  - An exemption from the requirement for ‘start-up’ applicants not to have previously established a UK business is being added for Tier 4 (General) students on the doctorate extension scheme;
  - Changes are being made to bring Appendix W (which contains the rules for Start-up and Innovator) into line with changes to the definition of higher education providers in the rules for Tier 4;
  - Amendments are being made to clarify the requirements that an organisation must meet to become an endorsing body. It must have support from a core department led by a UK or devolved government minister, or a regionally-devolved authority led by a directly-elected mayor. It is also made clear that that requests to become an endorsing body may be refused due to criminality, actions or behaviour which are non-conducive to the public good. Requests may also be refused due to potential or actual conflicts of interest, or conflicts with the purpose of the categories or with wider immigration policy; and,
  - A correction is being made to confirm that a checkpoint between an applicant and their endorsing body is not required after 24 months in the Start-up category, only in the Innovator category.

### ***Minor amendments relating to the Tier 1 (Entrepreneur) category***

7.15 The Tier 1 (Entrepreneur) category is now closed to most initial applications but remains open to existing Tier 1 (Graduate Entrepreneur) and Tier 1 (Entrepreneur) migrants. Minor drafting corrections are being made to the rules for this category.

### ***Minor amendments to the Tier 1 (Investor) category***

7.16 The Tier 1 (Investor) category is for high net worth individuals making an investment of at least £2 million in the UK. The following changes are being made:

- The changes made in March 2019 to closing dates are being flexed to allow applicants to make extension or settlement applications after these dates, provided that they move their qualifying investments out of UK Government bonds before either 6 April 2023 in the case of extension applications, or 6 April 2025 in the case of settlement applications.
- Another change will allow investors who do not meet those deadlines to apply for further extensions and settlement if they meet certain conditions; i.e. invest the full £2 million in qualifying investments before they apply for further extensions and maintain the full £2 million investment for the qualifying period required for settlement.
- The changes in March 2019 also increased the period for which applicants must provide evidence of their available funds from 90 days to 2 years. Some references to three months were missed in March's rules changes and these are being corrected in line with the other references to 2 years.
- A drafting correction is being made to rectify an outdated reference to the definition of a regulated financial institution.

### ***Minor amendment to Tier 1 rules – Exceptional talent criteria***

7.17 The Tier 1 (Exceptional Talent) category is for talented individuals in the fields of science, humanities, engineering, the arts and digital technology to work in the UK without the need to be sponsored for employment in a specific post. Applicants must be endorsed by a Designated Competent Body.

7.18 At the request of one of the Designated Competent Bodies, Tech Nation, a number of changes have been made:

- There must be three, rather than just two, letters of support provided by established organisations in the digital technology sector to permit more in-depth consideration of an individual's skills and the contribution they would make to the sector;
- The phrase 'product-led' has been added to the requirements to ensure the route is used by migrants with the appropriate skill set; and,
- Minor changes have been made to ensure consistency between the Rules and guidance.

7.19 At the request of The Royal Society, The Royal Academy of Engineering, and The British Academy, the following changes have been made to increase the number of applicants in science, engineering, and humanities to take advantage of a simpler process under the Tier 1 (Exceptional Talent) route. We have:

- Expanded the list of peer-reviewed fellowships to include fellowships awarded by the National Institute for Health Research;
- Expanded the criteria to include applicants who have held a peer-reviewed fellowship in the 12 months immediately prior to date of application; and,
- Expanded the application criteria to allow a wider range of eligible senior academic or research positions to qualify.

***Changes relating to the Tier 2 (General) category***

7.20 Tier 2 of the Points-Based System caters for migrant workers with an offer of a skilled job from a licensed employer. There are four categories: General, Intra-Company Transfer (ICT), Minister of Religion and Sportsperson. Changes have been made to each of these as described below.

***Minor amendment to Tier 2 (General) category – To remove PhD level occupations from the Tier 2 Cap***

7.21 The Tier 2 (General) category is the main immigration route for UK employers seeking to recruit non-EEA skilled workers. It is subject to an annual limit of 20,700 places, divided into monthly allocations.

7.22 Changes are being made to exempt PhD level occupations from the Tier 2 (General) limit. Announced in the Chancellor’s 2019 Spring Statement, this is to signal that the UK welcome researchers and other highly skilled individuals and will free up places in that tier for other key roles that contribute to the UK economy.

7.23 Also, as announced in the Spring Statement, amendments are being made to ensure that applicants whose occupations are at PhD level, and who undertake research overseas directly related to their Tier 2 employment, may do so without that absence being ‘counted’ when any application for settlement is assessed. Corresponding amendments are also being made to benefit partners who accompany them in these circumstances.

***Minor amendment to Tier 2 (General) category – Changes to Shortage Occupation List***

7.24 The Shortage Occupation List (SOL) is being amended following a review by the independent Migration Advisory Committee published 29 May 2019. There is one list covering the whole of the UK and an additional list for Scotland.

7.25 The SOL means that (i) listed jobs are exempt from the Resident Labour Market Test requirement and are given higher priority within the Tier 2 (General) annual limit; and, (ii) jobholders whose occupations are on the list are exempt from the relevant Tier 2

earnings threshold when they apply for indefinite leave to remain, although they must still be paid the appropriate rate for the occupation. The changes are that:

- Some new occupations have been added, such as 2112 Biological scientists and biochemists, and 2216 Veterinarians, and a small number removed, such as 1123 Production Manager and directors in mining and energy;
- A significant number of Standard Occupational Classification (SOC) codes already on the Shortage Occupation List (SOL) but only for limited types of jobs, have been extended to cover all jobs in that occupation code;
- The qualifying company criteria applying to digitech occupations has been amended/removed; and,
- The restriction preventing chefs from working for a sponsor that provides a takeaway service has been removed.

7.26 Two further changes arise from the Migration Advisory Committee's review:

- Re-classifying from Regulated Qualifications Framework Level 4 to Level 6 the occupation of chartered architectural technologist. This means that employers may sponsor overseas applicants where no suitable resident worker is available.
- Allowing overhead lines workers, at Linesman Erector 2 (LE2) level and above (SOC 5249) to qualify for Tier 2 (General) with a Resident Labour Market Test if the jobholder's pay is at least £32,000 per year. Having been removed from the shortage occupation list, this RQF level 4 occupation would not ordinarily meet the minimum skill level for Tier 2 (General), however the MAC recommended they remain eligible to prevent the occupation returning to shortage.

***Minor amendment to Tier 2 (General) category – Addition of the ‘Teaching Vacancies’ service on GOV.UK to the list of acceptable sources of advertising***

7.27 The Department of Education ‘Teaching Vacancies’ service on GOV.UK, allows schools based in England to advertise teaching positions to the resident labour market. The Immigration Rules now include this as an acceptable form of advertising.

***Minor amendment to Tier 2 (General) category – To correct Tier 2 pay scale errors***

7.28 Appendix J to the Immigration Rules, which sets out appropriate salary rates in the codes of practice for Tier 2/5 was updated in March to reflect the latest available salary data for each occupation. Minor amendments are being made to Appendix J to correct salary rates for a small number of occupational codes. These rates apply to applications made with a certificate of sponsorship assigned on or after 6 October 2019.

***Minor amendment to Tier 2 rules – to ensure migrants are not penalised for certain absences from employment***

7.29 Changes are being made to Part 6A and Appendix A to ensure that Tier 2 migrants are not penalised if they are absent from work due to sickness, statutory parental leave, assisting in a national or international humanitarian or environmental crisis or engaging in legal strike action. The changes mean, for example, that a Tier 2 migrant will not be refused indefinite leave to remain if such absence causes their salary to fall below the

required threshold. The Rules already contain exemptions for migrants who are on maternity, paternity, shared parental, or adoption leave.

***Minor amendment to update the accepted English language test providers and Exemptions to the English language testing requirement.***

- 7.30 An amendment is being made to Appendix B and Tier 2 (General) requirements to exempt doctors, dentists and nurses and midwives, when making a Tier 2 (General) application, from having to sit an approved English Language Test if they have already passed an English test accepted by the relevant professional regulatory body<sup>5</sup>. A corresponding amendment is also being made to provide that Tier 2 doctors, dentists nurses and midwives who have passed such a test are treated as having demonstrated sufficient knowledge of the English language for the purpose of settlement.
- 7.31 An amendment is being made so that the list of approved English language test providers will no longer appear in Appendix O and will instead be published on the gov.uk website. Appendix O is being removed as a result. Consequential changes are being made to Appendix A, Appendix Armed Forces, Appendix B, Appendix FMSE, Appendix KOLL and Appendix W to remove references to Appendix O.
- 7.32 Amendments are being made so that applicants are no longer required to provide documents showing that they have sat an approved English Language Test but need only to provide the English Language Test unique reference number for checking.

***Minor amendment to Knowledge of language and Life (KOLL)***

- 7.33 Amendments are being made to Appendix KOLL so that applicants are no longer required to provide original documents as proof of passing the ‘Life in the UK’ test but need instead only to provide the unique reference number for checking.

***Changes relating to Tier 4 of the Points-Based System***

- 7.34 Tier 4 of the Points-Based System is the route used by non-EEA nationals wishing to study in the UK. Tier 4 is comprised of two categories: Tier 4 (General) and Tier 4 (Child). Changes are being made to each of these as described below.

***Tier 4: The ‘Professional Sportsperson’ definition and Tier 4 (General) Students***

- 7.35 The ‘Professional Sportsperson’ definition in the Introduction is being amended to clarify that Tier 4 (General) Students studying at degree level or above at a higher education provider are permitted to play or coach sport as an Amateur (also defined in the Introduction) whilst in receipt of a sports scholarship, or if doing so as part of a work placement being undertaken as an integral and assessed part of their course.

***Tier 4: Switching into Tier 2***

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<sup>5</sup> General Medical Council for Doctors, General Dental Council for dentists and the Nursing and Midwifery Council for Nurses and midwives

- 7.36 Tier 4 students studying at degree level or above are now permitted to apply to switch into the Tier 2 route within 3 months of the expected end date of their course, to facilitate such students taking up skilled work in the UK following the successful completion of their studies. A corresponding change is being made to the Tier 4 conditions of leave to allow such students to commence work with their Tier 2 sponsor if they have applied to switch into the Tier 2 route within 3 months of the expected end date of their course.

***Tier 4: Minor amendment – Masters’ and PhD students changing subject***

- 7.37 A change is being made to allow Tier 4 students studying at masters’ and PhD level to commence a different course of study with their current sponsor during a period of leave, provided the other requirements for commencing such a course are met. This will also address an issue around instances of doctoral research qualifications changing focus and the student being unable to obtain leave to remain to complete their course, as they would not meet the requirement for academic progression. This change will remove the need for these students to make an application overseas.

***Tier 4: Minor amendments***

- 7.38 A reference to ‘higher education institution’ in the Tier 1 Investor rules in Part 6A is being changed to “higher education provider” to match the other similar substitutions made in HC1779. Another minor correction is being made to insert the word ‘of’ after the words ‘track record’ in places where it was inadvertently omitted in HC1779.

***Minor amendments to Tier 5 rules – Sports governing bodies***

- 7.39 Amendments have been made to the list of sports governing bodies in Appendix M to change the names of ‘National Ice Skating Association’ to ‘British Ice Skating’, and ‘England Squash and Racketball’ to ‘England Squash’.

***Minor amendments to Tier 5 rules appendix N***

- 7.40 The Foreign & Commonwealth Office Government Authorised Exchange Scheme (GAE) has been deleted at the request of that Department.
- 7.41 The list of organisations permitted directly to sponsor researchers under the ‘UK Research & Innovation – Science, Research & Academia’ scheme has been expanded.

***Minor amendments to Tier 5 rules – update to South Korea deemed sponsorship status***

- 7.42 In Appendix G, South Korea is added to the list of countries with deemed sponsorship status having gone through the requisite 5-year qualifying period for eligibility.

***Minor amendments to family rules***

- 7.43 Amendments have been made to the introduction section of the Immigration Rules and Appendix FM to replace references to Immigration (EEA) Regulations 2006 with references to the Immigration (EEA) Regulations 2016, which revoked and replaced those from 2006. This is to ensure that the Immigration Rules applicable to EEA and

Swiss citizens and their family members refer to the current EEA legislations applicable to them.

7.44 However, references to the 2006 Regulations are retained, and to predecessor instruments are added, to allow those holding valid residence permits issued under them to be considered ‘present and settled in the UK’.

7.45 An amendment clarifies that beneficiaries of the EU Settlement Scheme as implemented within Appendix EU of the Immigration Rules, are not required to have been documented under the 2016 Regulations or its predecessor instruments to be regarded as ‘present and settled in the UK’ for the purposes of Appendix FM.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

8.1 This Statement of Changes in Immigration Rules is not being made under the European Union (Withdrawal) Act, but it relates to the withdrawal of the United Kingdom from the European Union because it supports implementation of the EU Settlement Scheme.

## **9. Consolidation**

9.1 The Immigration Rules were last consolidated in 1994. Consideration will be given in due course to the nature and timing of any further consolidation.

## **10. Consultation outcome**

10.1 The Government has not undertaken a public consultation on the EU Settlement Scheme, but the overall policy and approach have been discussed with internal and external stakeholders, such as groups representing EU citizens in the UK, Consulates and community organisations, and account has been taken of those discussions.

10.2 The changes relating to ‘inadmissibility’ have not been the subject of public consultation, as there is no change to our overarching approach. We will keep under review whether any further public consultation is needed post implementation.

## **11. Guidance**

11.1 Guidance relating to these rules changes will be updated and placed on GOV.UK website.

## **12. Impact**

12.1 An impact assessment on the EU Settlement Scheme was published on 20 July 2018 to support the Immigration and Nationality (Fees) (Amendment) (EU Exit) Regulations 2018. This was updated and published on 7 March 2019 to support the Immigration and Nationality (Fees) (Refund, Waiver and Amendment) (EU Exit) Regulations 2019 and is available alongside that measure on the legislation.gov.uk website. The EU Settlement Scheme has no, or no significant, impact on business, charities or voluntary bodies, but it provides clarity for employers and others as to the basis on which resident EEA and Swiss citizens and their family members can remain here.

12.2 For all other changes there is no, or no significant, impact on business, charities or voluntary bodies.

12.3 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 undertaken by small businesses.

### **14. Monitoring & review**

14.1 The review clauses at the beginning of this Statement of Changes require the Secretary of State to review the operation and effect of all of the relevant Immigration Rules, including any rules amended or added 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 as they are, be revoked or be amended. A further Statement of Changes would be needed to revoke or amend the relevant rules.

### **15. Contact**

15.1 Specific written queries relating to this Statement of Changes should be directed to Richard Short at [StatementofChanges@homeoffice.gov.uk](mailto:StatementofChanges@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 at <https://www.gov.uk/government/organisations/uk-visas-and-immigration>.

15.3 A copy of this Statement of Changes can be found on the visa and immigration pages of the GOV.UK website at <https://www.gov.uk/government/collections/immigration-rules-statement-of-changes>.

15.4 Emily Weighill at the Home Office can confirm that this Explanatory Memorandum meets the required standard.

15.5 Seema Kennedy MP at the Home Office can confirm that this Explanatory Memorandum meets the required standard.