

**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
PRESENTED TO PARLIAMENT ON 30 JANUARY 2020 (HC 56)**

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 To introduce a new Global Talent category for talented and promising individuals in specific sectors wishing to work in the UK, replacing the existing Tier 1 (Exceptional Talent) category.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

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)

- 3.2 As the instrument is subject to negative resolution procedure 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 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, which can be found under the visas and immigration pages of the GOV.UK website at:
www.gov.uk/government/collections/immigration-rules where there are also copies of all the Statements of Changes in Immigration Rules issued since May 1994.

- 6.3 The changes set out in this statement shall take effect on 20 February 2020. In relation to those changes, if any application for endorsement, entry clearance, leave to enter or leave to remain has been made before 20 February 2020, such applications will be decided in accordance with the Immigration Rules in force on 19 February 2020.

7. Policy background

What is being done and why?

Introduction of the new Global Talent category

- 7.1 These changes introduce a new Global Talent category 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. This category will replace the existing Tier 1 (Exceptional Talent) category.
- 7.2 These reforms follow an announcement by the Prime Minister on 8 August 2019, setting out the Government’s intention to develop a new fast-track immigration offer for the brightest and best within the science and research sector, to ensure the UK is the most attractive country to live in and develop new ideas – which also recognises the importance of science and research to the modern industrial strategy and the Government’s stated objectives to increase GDP to 2.4% by 2027. These changes represent the first phase of reforms to achieve these objectives.
- 7.3 Whilst specific provisions are made for the science and research sector, the Global Talent category is also open to talented and promising applicants within the digital technology and arts and culture (including film and television, fashion design and architecture) sectors.
- 7.4 Global Talent applicants must hold an endorsement from an organisation engaged by the Home Office to develop sector specific criteria and consider individual applications on its behalf. The existing Tier 1 (Exceptional Talent) endorsing bodies (the Royal Society, the British Academy, the Royal Academy of Engineering, Tech Nation and Arts Council England) will be joined by UK Research and Innovation (UKRI) under the new Global Talent category.
- 7.5 UKRI will consider applications from individuals operating in the scientific community who will be hosted or employed¹ at a UK research organisation deemed acceptable by UKRI. Applicants must provide critical contributions to work supported by a substantial research grant or award from a specific endorsed funder. Such endorsed funders are listed in Immigration Rules. The endorsed funder option will allow qualifying applicants to be fast tracked to the entry clearance/leave to remain application stage with minimal evidential requirements, where they meet the individual eligibility criteria. Unlike other endorsing bodies, in the first phase UKRI will not offer full peer review² criteria for applicants who do not qualify for a fast track option. Applicants who do not qualify under this option may still qualify under

¹ Within the science and research community, applicants may undertake research funded directly by a fellowship or award. As such they can be hosted by an approved UK research organisation rather than directly employed.

² A peer review is an evaluation of an applicant’s scientific, academic, or professional work by others working in the same field. Applicants who qualify under the fast track criteria have already been subject to a robust peer review process in obtaining their award or fellowship, so this is not repeated by an endorsing body. The Immigration Rules offer alternative full peer review criteria for applicants who have not previously been subject to an acceptable peer review.

different criteria within the Global Talent route relevant to science, engineering, humanities and medicine.

- 7.6 As announced in December, the changes significantly expand the number of fellowships that qualify for fast track consideration by the Royal Society, British Academy or Royal Academy of Engineering, allowing a larger number of applicants to qualify without the need for a full peer review.
- 7.7 Applicants endorsed by the endorsing bodies responsible for science, engineering, humanities and medicine will be able to apply for settlement after 3 years regardless of whether the applicant is granted under “promise” criteria, “talent” criteria or the new endorsed funder option. The qualifying period to apply for settlement under “promise” criteria for digital technology and arts and culture applicants will remain as 5 years (as was previously required under Tier 1 (Exceptional Talent)).
- 7.8 Global Talent applicants who have been endorsed by the endorsing bodies responsible for science, engineering, humanities and medicine who undertake research overseas directly related to their grant of leave, 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. This expands a similar exception for Tier 2 (General) PhD level applicants introduced in 2019.
- 7.9 Unlike its predecessor, the Global Talent category will not be subject to a cap on the number of applicants, ensuring migrants who can meet the qualifying criteria will be able to secure entry subject to successful visa checks.
- 7.10 Applicants will be able to choose how much leave, in whole years, up to a maximum of 5 years they wish to be granted in a single application. This means that Global Talent applicants who only wish to come to the UK for 2 years in this category will not need to pay the maximum 5-year Immigration Health Surcharge payment.
- 7.11 Global Talent grant periods differ from those in place for Tier 1 (Exceptional Talent), where entry clearance applicants – those applying from outside the UK – were previously given an extra 4 months than those applying from within the UK. Previous changes to how the qualifying period for settlement is calculated make the additional 4-month period obsolete. Standardising grant periods simplifies the Immigration Rules and will additionally prevent Global Talent migrants from being liable for an additional 6 months of Immigration Health Surcharge.
- 7.12 The new Global Talent category is set out in Appendix W to the Immigration Rules. The category does not form part of the Points-Based System and does not include points-scoring tables. Appendix W is designed to be clearer and easier to read than existing Rules and is already used by applicants in the Start-up and Innovator work categories.
- 7.13 The new category includes many similar provisions to the Points-Based System regarding evidential flexibility, switching categories, and the ability for dependants (partners and children under age 18) to apply.
- 7.14 The new Global Talent category and the addition of the new endorsed funders option will be kept under close review.

Changes to Tier 1 (Exceptional Talent)

- 7.15 As stated above, the Tier 1 (Exceptional Talent) category is being replaced by the new Global Talent category.
- 7.16 Tier 1 (Exceptional Talent) applicants apply on the basis of endorsement letters from an endorsing body. These letters are valid for 3 months and may continue to be issued after 19 February 2020. Applicants with a valid Tier 1 (Exceptional Talent) endorsement letter will be able to use this to apply for entry clearance or leave under the Global Talent category. The Global Talent category does not impose any additional entry clearance or leave to remain requirements or conditions.
- 7.17 Applicants who already hold Tier 1 (Exceptional Talent) leave and who wish to extend their leave, will be able to do so under the Global Talent category. As with initial applications, the extension requirements for Global Talent do not generally differ from Tier 1 (Exceptional Talent). The only exception to this is that the Rules do not specify exactly what documents must be supplied to demonstrate that an applicant meets the criteria. This allows a wider range of evidence to be supplied.
- 7.18 Settlement applications from Tier 1 (Exceptional Talent) Migrants will continue to be accepted, without the need for applicants to first switch into the Global Talent route. We expect that the last Tier 1 (Exceptional Talent) settlement application would be submitted in 2025, but these Rules do not impose a closure date for such applications.
- 7.19 As with the exemption for Global Talent migrants, absences from the UK for research purposes related to the grant of Tier 1 (Exceptional Talent) leave will not be counted when considering a Tier 1 (Exceptional Talent) settlement application. This applies only where the applicant was endorsed by the endorsing bodies responsible for science, engineering, humanities and medicine. As with Global Talent, this exemption extends to their dependants.

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

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

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 These changes have been subject to consultation from a number of bodies, including the existing Tier 1 (Exceptional Talent) endorsing bodies, UKRI and the wider scientific community and other Government departments including the Department for Business, Energy and Industrial Strategy and the Government Office for Science.
- 10.2 The changes in this Statement have not been the subject of a formal public consultation. Due to the highly specialised and technical nature of the changes, engagement has been focused on sector representatives and experts.

11. Guidance

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

12. Impact

- 12.1 The closure of the Tier 1 (Exceptional Talent) category and launch of the new Global Talent category increases the eligible pool of people who would be able to apply for the new route. Consequently, these changes are expected to increase the number of researchers that come to the UK, although the scale of this increase is uncertain. This is expected to bring fiscal benefits and wider economic benefits that greater investment in research and development brings, such as improved productivity.
- 12.2 Adding UKRI to the list of endorsing bodies may increase the burden on them as they are expected to check and endorse future applications, although this extra burden is uncertain and UKRI are eager to support the new route. In addition, UK businesses, charities or voluntary bodies may benefit if they use the new Global Talent route instead of the existing Tier 2 routes. This is because the Global Talent route does not require sponsorship or the payment of the Immigration Skills Charge.
- 12.3 An Impact Assessment will be shortly published alongside the laying of these Rules.

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 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. 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 Paul Regan at the Home Office can confirm that this Explanatory Memorandum meets the required standard.
- 15.5 Kevin Foster MP at the Home Office can confirm that this Explanatory Memorandum meets the required standard.