

**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
PRESENTED TO PARLIAMENT ON 15 MARCH 2018 (HC 895)**

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. The purposes of the main changes are to:

- Ensure that an asylum claim can be deemed inadmissible, and not be substantively considered by the UK, if another EU Member State has already granted the claimant international protection.
- Make changes and clarifications to the Immigration Rules relating to family life.
- Make the annual update to the list of Permit Free Festivals.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1. None.

Other matters of interest to the House of Commons

3.2. As this Statement of Changes has not been disapproved by a resolution of either House, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1. 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.

4.2. 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.

4.3. The changes to Part 11 and Appendix FM set out in this statement shall take effect on 6 April 2018 and will apply to all decisions made on or after that date.

4.4. The other changes set out in this statement shall take effect on 6 April 2018. However, in relation to those changes, if an application has been made for entry

clearance or leave to enter or remain before 6 April 2018, the application will be decided in accordance with the Immigration Rules in force on 5 April 2018.

5. Extent and Territorial Application

5.1. The extent of this Statement of Changes is all of the United Kingdom.

Other matters of interest to the House of Commons

5.2. None

6. European Convention on Human Rights

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

7. Policy Background

What is being done and why

Changes relating to asylum claims

7.1. The change to Part 11 is being made to provide that an asylum claim will be deemed inadmissible, and will not be substantively considered by the UK, if another EU Member State has granted either refugee status or subsidiary protection (known collectively as international protection). This change is in line with both the UK's established policy on safe third countries, and the EU's objective in reducing the secondary movements of those granted international protection.

7.2. Article 25(2)(a) of Council Directive 2005/85/EC on minimum standards on procedures in Member States for granting and withdrawing refugee status ("the Procedures Directive") permits a Member State to apply the principle of inadmissibility to asylum claims in certain circumstances.

7.3. The rule change is made further to the Procedures Directive, in line with the stated aim of the European Union to limit secondary movements of applicants for international protection.

7.4. The UK has operated a safe third country policy for many years. Broadly, this means the identification of circumstances in which an individual has arrived in the UK and sought international protection, but where there is an alternative country that would be regarded as capable of granting sufficient protection. This policy is a key element of the UK's asylum policy and allows the UK to prevent misuse of the asylum system.

Changes relating to family life

7.5. To clarify, in Appendix FM, that those on a 5-year route to settlement must meet all eligibility requirements, including the immigration status, financial and

English language requirements, at every application stage including where indefinite leave to remain is sought after five years, in order to be granted leave under these Rules.

Changes relating to visitors

7.6. Appendix 5 to Appendix V 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 2018/19.

8. Consultation

8.1. 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.

9. Guidance

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

10. Impact

10.1. The changes in this Statement will have limited or no impact on business, charities, the public sector or voluntary bodies, such that an impact assessment is unnecessary.

11. Regulating small business

11.1. Changes will have limited or no impact on small businesses.

12. Monitoring and review

12.1. There are no relevant Immigration Rules amended or added in this Statement of Changes.

13. Contact

13.1. 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>.

13.2. Specific written queries relating to this Statement of Changes should be directed to StatementofChanges@homeoffice.gsi.gov.uk. Please note that this mailbox is only for Parliamentary use and 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.

13.3. 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>.