

**EXPLANATORY MEMORANDUM TO  
THE STATEMENT OF CHANGES IN IMMIGRATION RULES  
PRESENTED TO PARLIAMENT ON 15 MARCH 2022 (HC 1118)**

**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. This instrument amends the Immigration Rules, made under sections 1(4) and 3(2) of the Immigration Act 1971, that are used to regulate people's entry to, and stay in, the United Kingdom.

2.2. The changes also represent a further step in the Home Office commitment to simplify the Immigration Rules, implementing the recommendations of the Law Commission to ensure we provide greater clarity to migrants, employers and all other users of the Rules.

2.3. The changes being made primarily deliver:

- Introducing Plan for Growth changes, including the launch of the High Potential Individual (HPI) route and Scale-up route and the new Global Business Mobility routes.<sup>1</sup>
- Introducing a new Appendix Settlement Family Life. This puts the rules for settlement by partners and parents who must complete a 10-year qualifying period in the UK into the new simplified format.
- Introducing a new Appendix Private Life which replaces the current private life rules in Part 7 and puts the rules into the new simplified format. In addition to simplification this new appendix introduces a number of changes for children and young people, including bringing the concession on early settlement, introduced on 20 October 2021, into the rules.<sup>2</sup>
- Introducing a new Appendix Relationship with a Partner, which will provide greater consistency in the way applicants prove a relationship with a partner. Initially it applies only to Appendix Settlement Family Life.

2.4. This instrument also makes a series of minor changes to other policy areas, detailed (in paragraphs 7.83 to 7.100) in section 7 of this Explanatory Memorandum.

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

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<sup>1</sup> <https://www.gov.uk/government/publications/build-back-better-our-plan-for-growth>

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1042405/Concession\\_on\\_longer\\_periods\\_of\\_leave\\_and\\_ILR.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1042405/Concession_on_longer_periods_of_leave_and_ILR.pdf)

## *Matters of special interest to the Joint Committee on Statutory Instruments*

3.1. None.

### **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**

- 6.1 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.<sup>3</sup>
- 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 2022 and hope to consolidate the Immigration Rules in 2023.
- 6.4 The changes will be implemented on different dates starting from 6 April 2022 as detailed in the implementation section of the accompanying Statement of Changes.

### **7. Policy background**

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

#### **Introduction of the New Global Business Mobility routes**

7.1 The Global Business Mobility routes are a new category of sponsored routes for overseas businesses seeking to establish a presence in, or transfer staff to, the UK for specific business purposes. There will be five routes that correspond to different assignment types which are set out below.

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<sup>3</sup> <https://www.gov.uk/guidance/immigration-rules>

- 7.2 The Global Business Mobility routes will replace four existing business mobility provisions and create a new provision for secondments. As well as rebranding to make these provisions more easily identifiable by businesses seeking to send workers to the UK, the requirements and conditions for the routes have also been simplified and where possible consolidated to remove inconsistencies between them. In doing this we seek to provide greater clarity to businesses and workers undertaking temporary business assignments in the UK.

#### Senior or Specialist Worker

- 7.3 The Senior or Specialist Worker route is for senior managers or specialist employees who are being assigned to a UK business linked to their employer overseas. This route replaces the Intra-Company Transfer route, and thus the Appendix Intra-Company Routes is being deleted.

#### Graduate Trainee

- 7.4 The Graduate Trainee route is for workers on a graduate training course leading to a senior management or specialist position and who are required to do a work placement in the UK. This route replaces the Intra-Company Graduate Trainee route: Appendix Intra-Company Routes is being deleted.

#### UK Expansion Worker

- 7.5 The UK Expansion Worker route is for senior managers or specialist employees who are being assigned to the UK to undertake work related to a business's expansion to the UK. This route replaces the Sole Representative provisions in the Representative of an Overseas Business route.

#### Service Supplier

- 7.6 The Service Supplier route is for contractual service suppliers employed by an overseas service provider and self-employed independent professionals based overseas, that need to undertake an assignment in the UK to provide services covered by one of the UK's international trade commitments. This route replaces the contractual service supplier and independent professional provisions in the Temporary Work – International Agreement route.

#### Secondment Worker

- 7.7 The Secondment Worker route is for workers being seconded to the UK as part of a high value contract or investment by their employer overseas. This is a new route in the Immigration Rules.

### **Update to the provisions in Appendix Representative of an Overseas Business**

- 7.8 The Immigration Rules for Representatives of an Overseas Business are being amended to remove provision for Sole Representatives to be able to apply for an initial period of permission in the route. The route will remain open for initial

applications by Media Representatives and extensions and settlement for Media Representative and Sole Representatives.

- 7.9 Provision for applicants establishing a branch or subsidiary of an overseas business is being moved to a new Global Business Mobility route.

### **Update to the provisions in Appendix Temporary Work – International Agreement**

- 7.10 The Immigration Rules for Temporary Work – International Agreement are being amended to remove provisions for contractual service suppliers and independent professionals. The route will remain open for private servants in diplomatic households and employees of overseas governments or other international organisations established under an international treaty signed by the UK.

- 7.11 Provisions for contractual service suppliers and independent professionals are being moved to a new Global Business Mobility route.

### **Introduction of the new Appendix High Potential Individual (HPI) and new Appendix Scale-up**

- 7.12 The introduction of further points-based routes was announced on 3 March 2021 in the Government’s Plan for Growth.<sup>4</sup>

#### The High Potential Individual route

- 7.13 The High Potential Individual route is a new route which delivers the commitment in the Plan for Growth to “introduce an elite points-based route to attract the brightest and best to the UK to maintain our status as a leading international hub for emerging technologies”.
- 7.14 Applicants in this route must have either a bachelor’s or postgraduate degree qualification from one of the top global universities outside the UK as published in the Global Universities List by the Home Office, awarded during the last 5 years from the date of application. The list will be compiled on an annual basis and consists of eligible non-UK institutions that are included in the list of the top 50 universities in at least two of the following ranking systems:
1. Times Higher Education World University Rankings
  2. Quacquarelli Symonds World University Rankings
  3. The Academic Ranking of World Universities.
- 7.15 Permission will be granted for a period of 2 years for applicants relying on a qualification equivalent to a UK Bachelor’s or Master’s level degree; or for 3 years where the applicant holds a qualification equivalent to a UK PhD.

#### The Scale-up route

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<sup>4</sup> <https://www.gov.uk/government/publications/build-back-better-our-plan-for-growth>

- 7.16 The Scale-up route is a new route which delivers the commitment in the Plan for Growth to “allow those with a job offer at the required skills level from a recognised UK scale-up to qualify for a fast-track visa”.
- 7.17 Applicants in this route must have a sponsored job offer from an authorised UK scale-up company. To register for this route, a company will need to demonstrate that they have an annualised growth of at least 20% for the previous 3-year period in terms of turnover or staffing. Companies will also need to have had a minimum of 10 employees at the start of this 3-year period. The Government will consider further ways in which scale-up companies may be able to register for this route in due course.
- 7.18 The job offer above must be skilled to graduate level (RQF 6 and equivalent) and be paid an appropriate salary – at least £33,000 per year or the going rate for the particular occupation, whichever is higher.
- 7.19 Permission will be granted for 2 years. To extend their permission to stay applicants must have PAYE earnings of at least £33,000 per year for at least 50% of their time in the route. Extensions will be granted for 3 years.
- 7.20 The route leads to settlement. Applicants will need to have PAYE earnings of at least £33,000 in 24 months of the 3-year period immediately prior to their application for settlement, as well as the standard settlement requirements relating to 5 years’ continuous residence and demonstrating knowledge of life in the UK.

#### The High Potential Individual route and The Scale-up route

- 7.21 Successful applicants in both routes will be permitted to work full time at any skill level. For those in the Scale-up route, this will be contingent on them continuing to work in a job skilled to graduate level, for their sponsoring employer, for the first 6 months. After that, their immigration status will no longer be tied to that employer.
- 7.22 The standard suitability requirements will apply in both routes. Criminality, misconduct, and breaches of immigration law will disqualify someone from being granted permission on either route, except where periods of overstaying can be disregarded in certain limited circumstances as set out in the Immigration Rules.
- 7.23 English language and finance requirements will apply as in other work routes. The level of English required will be B1 on the Common European Framework of Reference (CEFR), in common with the Skilled Worker route.
- 7.24 Study is subject to the Academic Technology Approval Scheme (ATAS) condition (a requirement to obtain an ATAS certificate before studying certain sensitive subjects at postgraduate level). Police registration will also apply to relevant nationals.
- 7.25 Successful applicants will be able to bring dependent family members (spouses/partners and children under 18), as in other work routes.
- 7.26 Consequential amendments are also being made to other parts of the Immigration Rules.

## **Introduction of the new Appendix Settlement Family Life and new Appendix Private Life**

- 7.27 Appendix Settlement Family Life and Appendix Private Life replace existing provisions. Changes are being made to how these routes deal with validity of applications. The requirements currently set out in paragraph 34 of the Immigration Rules will now be in part replaced by validity rules in Appendix Private Life and Appendix Settlement Family Life which state:
- The application must be made on the specified form on GOV.UK;
  - Any fee and Immigration Health Charge must have been paid;
  - The applicant must have provided any required biometrics;
  - The applicant must have provided a passport or other document which satisfactorily establishes their identity and nationality; and
  - A person applying for settlement must meet specified rules as to the current or previous permission held.
- 7.28 These validity rules do not represent significant policy change. Validity requirements for dependants are being aligned with other routes (see administrative changes in paragraph 7.43 and 7.44). Minor and technical changes are being made to ensure cross references are consistent with the new appendices.
- 7.29 Changes are being introduced which affect applications for settlement under Appendix Private Life and Appendix Settlement Family Life:
- Applicants will be able to combine time on family and private life routes towards the qualifying period rather than having to ‘reset the clock’ on the qualifying period if their circumstances change, though they will need to complete at least a year in their current route;
  - Applicants will be able to count time on other routes to settlement where certain conditions are met;
  - Individuals who have a criminal conviction leading to a custodial sentence of 12 months or more will not be able to qualify for settlement;
  - Individuals who have a criminal conviction leading to a custodial sentence of less than 12 months will not be able to qualify for settlement unless the applicant has completed a qualifying period of 10 years and has completed 5 compliant years with permission on family and private life routes since the end of that sentence;
  - Applicants who take part in a sham marriage / civil partnership, use false documents or provide false information in an immigration application, use deception, owe unpaid litigation debt to the Home Office or unpaid debt over £500 to the NHS, or who breach immigration conditions during their qualifying period will need to complete 10 years qualifying period, including 5 years continuous residence with permission since this came to the attention of the Home Office, before they qualify for settlement. Applicants who enter the UK illegally (except for children and young adults between the ages of 18-25 on the private life route) will need to complete a 10-year qualifying period before settlement;

- Applicants for settlement will be able to rely on GCSE, A Levels or equivalent Scottish Higher qualifications in English language or literature following education in a UK school to show they meet the English language requirement (these changes are reflected in Appendix English language).

7.30 In July 2012 Appendix FM introduced a 5-year qualifying period for settlement for those who met specified requirements (including immigration status, income, and English language requirements). Those who did not meet these requirements, but whose removal from the UK would be a breach of Article 8 of the ECHR or were granted permission under Appendix FM on an exceptional basis, had a 10-year qualifying period for settlement. In July 2022, people who had to complete this 10-year qualifying period will begin to be eligible for settlement. As this settlement route opens, the changes outlined will ensure these applicants benefit from simplified immigration rules.

#### Appendix Settlement Family Life

7.31 New rules are being introduced for those partners and parents on the family route who must complete a qualifying period of 10 years before they, and their dependent children, can settle.

7.32 Appendix Settlement Family Life replaces some of the current rules in Appendix FM which relate to settlement as a partner or parent after 10 years, so the equivalent rules are being deleted from Appendix FM. In addition, the rules for child dependants in Appendix FM are being updated so that where a parent is settled, but a child does not qualify for settlement at the same time, the child can be granted permission to stay.

7.33 As under the current rules, under Appendix Settlement Family Life applicants on the 10-year route to settlement will be required to show their English language ability and pass the Knowledge of Life in the UK test to qualify for settlement (unless an exemption applies). Partners and parents will be required to have completed a 10-year qualifying period with permission as a partner or parent.

Changes from the current rules which are made in Appendix Settlement Family Life include (as well as those listed in paragraph 7.30):

- Applicants will need to meet continuous residence requirements to qualify for settlement to show that they have established their family life in the UK;
- Clarifying that where a person has permission as a parent of a child under 18, they can qualify for settlement even where their child has turned 18;
- Dependent children will be able to qualify for settlement where their parent is legitimately accessing public funds;
- An applicant relying on a relationship as a partner must have had permission based on their relationship with their current partner for at least one year;
- Where a dependent child under 18 is applying, suitable care and accommodation arrangements must be in place which comply with UK laws.

#### Appendix Private Life

7.34 Appendix Private Life introduces new rules for children, bringing the concession that allows children and young adults to qualify for settlement in 5 years into the rules, and aims to ensure these applicants benefit from simplified immigration rules.

Changes from the provisions in the current rules include:

- A person who arrived in the UK as a child and was subsequently granted permission to stay based on private life, as either a child who has been resident for 7 years, or a young adult who meets the half-life test (between the ages of 18 and 25), may be able to qualify for settlement after five years continuous residence on the private life route. This replaces the requirement for such a child or young adult to have permission under the private life rules for 10-years to qualify for settlement;
- Children and young adults will be able to be granted permission for an initial period of either 30 or 60 months rather than 30 months only at present;
- A child born in the UK who has lived in the UK continuously for 7 years can qualify for immediate settlement. Such a child may be eligible for citizenship at 10 years old, so the change will support their journey to citizenship;
- A child born in the UK who has been continuously resident in the UK for less than 7 years may be added as a dependant to a person on the private life route in certain circumstances, making it clearer how these children are able to regularise their immigration status;
- Where a dependent child born in the UK is being granted permission and both parents have permission in the UK (unless the parent on the private life route has sole responsibility, or the other parent is a British Citizen/ordinarily resident or there are compelling and compassionate circumstances), the child will be granted permission in line with the parent who has shorter leave. This is a change to the length of leave granted to children born in the UK under Part 8 family provisions but brings consistency with other simplified routes.
- Appendix Private Life is intended to comply with Article 8 of the European Convention on Human Rights (ECHR) and where a person does not meet eligibility requirements, we have clarified that they may still be granted on this route to ensure compliance with Article 8. This will provide transparency for all users.
- Applicants will need to meet requirements in Appendix Continuous Residence to qualify for settlement.
- Where a dependent child under 18 is applying, suitable care and accommodation arrangements must be in place which comply with UK laws.

7.35 As we are introducing a new Appendix Private Life, the current rules on private life in Part 7 are being deleted.

#### New Appendix Relationship with Partner

7.36 We are introducing a new cross-cutting Appendix that will include the requirements to show a relationship with a partner. Initially this Appendix will apply only to proof of relationship with a partner under Appendix Settlement Family Life, but in future it will be extended to other routes to apply consistent requirements.



- 7.37 A partner can be the applicant's spouse or civil partner or a person in a durable relationship similar to a marriage or a civil partnership of at least 2 years. The requirements are that the partners have met; are both aged over 18; are not related within the prohibited degrees that prevent marriage or civil partnership; any previous relationships must have broken down (with a limited exception for polygamous and polyandrous marriages); and the relationship must be genuine and subsisting.

### **Administrative policy changes including deletion and revisions**

- 7.38 Paragraph 31 and 31A of the Immigration Rules have been deleted as they are out of date; they no longer reflect current practice and paragraph 31A refers to already deleted Immigration Rules.

#### Applications for permission to stay made outside the UK

- 7.39 Paragraph 33A has been deleted, removing the ability of a person to vary an application for permission to stay when they are overseas. In practice, it is extremely difficult to make an application to vary or extend permission to stay from outside the UK and the rules on extending permission to stay generally require an applicant to be in the UK on the date of application. Paragraph 33A was also clear that the Secretary of State was not obliged to consider such applications and, in practice, rarely did so because of the practical difficulties.
- 7.40 Deleting paragraph 33A will create a more consistent approach to managing cases where a person is outside the UK at the time they need to vary or extend their permission; they can make an application for entry clearance and, if they do so within 14 days of the expiry of their current permission and that application is granted, Appendix Continuous Residence treats the period of permission as continuous.

#### Fees

- 7.41 Paragraph 34(3) of the Rules has been revised to make clear that, in routes where paragraph 34 applies, an applicant must pay the relevant application fees unless they have already applied for, and been granted, a fee waiver.

#### Multiple applications

- 7.42 Paragraph 34BB has been revised. The current Rules on multiple applications states that in most cases, where a person has an outstanding application on which they have not yet had a decision, and they make a further application, the latest application will be the only one considered, as it varies any earlier application. However, there are some exceptions which are not accurately reflected in the current rules, so they have been revised to better describe those exceptions, namely that:
- The rules on variation do not apply where one or more applications are made under Appendix EU;
  - Where a human rights application is submitted and then varied by a later application, any human rights claim that was part of the earlier application remains outstanding only if it was not considered as part of the later

application or that later application is not granted. The human rights claim will be considered at a time decided by the Secretary of State.

### Validity

7.43 The rules on validity for dependent applications have been amended to extend the circumstances in which an application can be rejected as invalid, with the application fee refunded minus a £25 administrative fee, instead of being refused. Where a person is applying as a dependent partner or child, their application will only be valid where the main applicant (or partner of the main applicant where relevant):

- Has made a valid application that has not yet been decided;
- Has already been granted entry clearance or permission in the relevant route; or
- Where the route provides for it, is already settled or a British Citizen and the applicant had permission as their dependant when they settled on the route under which the applicant is now applying.

7.44 This change has been reflected in the following changes to the validity sections of the Rules:

- New paragraph 34D
- Appendix Student- ST 28.2.(d) and (e)
- Appendix Graduate- GR 9.2.(d) and (e)
- Appendix Skilled Worker- SW 26.2.(d); SW 37.2.(e)
- Appendix Innovator- INN 23.2.(d); INN 33.2.(e)
- Appendix Intra-Company routes- IC 14.2.(d) and (e)
- Appendix T2 Minister of Religion-MOR 18.2.(d); MOR 28.2.(e)
- Appendix International Sportsperson- ISP 20.2.(d); ISP 30.2.(e)
- Appendix Representative of an Overseas Business- ROB 20.2.(d); ROB 31.2.(e)
- Appendix UK Ancestry- UKA 18.2.(d); UKA 28.2.(e) (slightly modified)
- Appendix Global Talent- GT 16.2.(d); GT 25.2.(e)
- Appendix Start-Up- SU 13.2.(d)
- Appendix Domestic Worker in a Private Household- DW 14.2.(d); DW 23.2.(e)
- Appendix Hong Kong British National (Overseas)- HK 10.2.(d); HK 23.2.(d); (HK 32.2 and 45.4 also will now include a reference to a 'valid' application)
- Appendix Temporary Work- Creative Worker- CRV 10.2.(d)
- Appendix Temporary Work- Religious Worker- RW 9.2.(d)
- Appendix Temporary Work- Charity Worker- CW 9.2.(d)
- Appendix Temporary Work- International Agreement- IA 22.2(d); IA 32.2.(e) and (f)
- Appendix Temporary Work- Government Authorised Exchange- GAE 12.2.(d)
- Appendix Private Life – PL 19.2(d) and PL 26.2(d)
- Appendix Settlement Family – SETF 10.2(d)
- Appendix High Potential Individual- HPI 18.2.(d); HPI 28.2.(e)

- Appendix Scale Up- SCU 20.2.(d); SCU 30.2.(e)
- Appendix Global Business Mobility- Senior or Specialist Worker- SNR 14.2.(d) and (e)
- Appendix Global Business Mobility- Graduate Trainee- GTR 14.2.(d) and (e)
- Appendix Global Business Mobility- UK Expansion Worker- UKX 14.2.(d) and (e)
- Appendix Global Business Mobility- Service Supplier- SSU 14.2.(d) and (e)
- Appendix Global Business Mobility- Secondment Worker- SEC 12.2.(d) and (e)

### **Changes to settlement requirements for Appendix Innovator**

7.45 The form's name is being updated. Also, changes are being introduced so that people on the Innovator route who apply for settlement and do not meet the settlement requirements will no longer be refused if they appear to meet the requirements for permission to stay. These individuals will instead have their application varied, and as long as the applicant pays the requested Immigration Health Charge, they will be granted permission to stay. Should an applicant not pay the Immigration Health Charge, their application will be rejected as invalid on that basis. The fee paid for the settlement original application will be retained but no fee will be required for the permission to stay application.

### **Changes to the settlement rules on the Hong Kong BN(O) Route**

7.46 Changes are being introduced to Appendix Hong Kong British National (Overseas) so that people on the BN(O) route who apply for settlement and do not meet the settlement requirements will no longer be refused if they appear to continue to meet the requirements for permission to stay. They will instead have their application varied and as long as the applicant pays the requested Immigration Health Charge, they will be granted permission to stay. Should an applicant not pay the Immigration Health Charge, their application will be rejected as invalid on that basis. The fee paid for the settlement original application will be retained but no fee will be required for the permission to stay application.

7.47 Minor changes are also being made to correct a number of small errors in this Appendix.

### **Changes to provide further clarification to the Afghan Relocations and Assistance Policy (ARAP)**

7.48 Minor change to the eligibility criteria to resolve an oversight on the face of the ARAP Immigration Rules to refuse applicants employed by a Government department or Unit if dismissed for anything other than a minor offence.

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

7.49 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.

7.50 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:

- To bring within the Rules the current concession arrangements for an EUSS family permit to be issued in place of an EEA family permit (and relied upon in a subsequent EUSS application) where an EEA family permit would have been issued (including on appeal) to a dependent relative extended family member, or a person with a derivative right to reside, had the route not closed after 30 June 2021. This is consistent, where extended family members are concerned, with our obligations under Article 10(3) of the Withdrawal Agreement.
- To bring within the Rules the current concession arrangements enabling a person arriving in the UK with an EUSS family permit issued on the basis of the arrangements referred to in the previous bullet point to start their qualifying period of continuous residence in the UK after the end of the transition period. This is also consistent, where extended family members are concerned, with our obligations under Article 10(3) of the Withdrawal Agreement.
- To bring within the Rules the current concession arrangements for an appropriate letter to be issued by the Secretary of State in place of an EEA residence card (and relied upon in a subsequent EUSS application) where an EEA residence card would have been issued (including on appeal) to an extended family member had the route not closed after 30 June 2021.
- To enable a dual British and EEA citizen who exercised free movement rights in the UK before acquiring British citizenship and who has retained their EEA nationality of origin – known as a ‘Lounes dual national’, in line with EU case law – to sponsor relevant family members under the EUSS and the EUSS family permit notwithstanding the fact that they acquired British citizenship without having met free movement requirements to have held comprehensive sickness insurance in the UK as a student or self-sufficient person.
- To make bespoke provision concerning the variation of applications where a valid application has been made but not yet decided under Appendix EU.
- To make minor adjustments and clarifications to the Rules, including in respect of suitability provisions (consistent with primary legislation), requirements for ongoing UK residence and the deadlines for EUSS applications.

### **Changes to improve clarity with regard to No Recourse to Public Funds**

7.51 In litigation challenging the No Recourse to Public Funds (NRPF) policy (ST (a child, by his Litigation Friend VW) & VW) the court held that paragraph GEN 1.11A of Appendix FM of the Immigration Rules and the NRPF guidance gave insufficient clarity on the compliance with children duty in section 55 of the Borders, Citizenship and Immigration Act 2009.

- 7.52 To reflect this judgment, paragraph GEN 1.11A and the relevant condition in Appendix Private Life have been amended to address the court’s ruling. In addition, the guidance has been amended.

### **Changes relating to Appendix Student, Appendix Short-term Student and Appendix Graduate**

#### Work conditions for Students

- 7.53 The Rules on work conditions for students are being amended to allow students switching to the Graduate route to begin working full time in a position that fills a permanent vacancy, provided they have successfully completed their course and made a valid application to the Graduate route. This will allow those students who make a valid application on the Graduate route to take up an offer of employment for a role they intend to continue during their Graduate permission at the point they have passed their course without needing to wait for their application to be decided.

#### Financial requirements for Students

- 7.54 A technical correction has been made to the financial requirement to clarify that students do not need to hold the specified level of funds for a 28-day period if they are being officially financially sponsored.
- 7.55 An amendment has been made to the financial requirement to clarify that if the funds held in the applicant’s account on the date of decision fall substantially below the level of funds required the difference must have been used to pay for outstanding course fees, a deposit for accommodation, or other costs associated with the proposed course of study in the UK. A corresponding amendment has been made to sections relating to dependents to remove the requirement the funds must have been used ‘in part’ to pay for a deposit on accommodation.

#### Changes to work placement requirements for Students

- 7.56 An amendment has been made to the work placement requirement to permit such a placement as part of a course at degree level or above (as recognised by Ecctis) where the student is enrolled at a higher education institution overseas and is undertaking a study abroad programme in the UK, in line with the longstanding policy position on such placements.

#### Changes relating to academic progression for Students

- 7.57 An amendment has been made regarding academic progression for students on integrated programmes who are considered to be moving onto a discrete, lower-level course when their sponsor decides they are not able to finish the higher master’s/PhD qualification based on progress to date. A previous update to this requirement allowed someone to be considered to still be academically progressing when leaving with the lower-level qualification of an integrated programme. This amendment aligns students whose sponsor considers them to now be on a different course at the lower level with that policy intention.

### Short-term Student

- 7.58 A technical amendment to clarify that a course has to be at least 6 months long has been made.

### Graduate

- 7.59 The study in the UK requirement has been amended to ensure it accurately reflects the policy intention that a Student is expected to hold Student permission for the relevant period of time rather than be undertaking study for a relevant period. The requirement has also been updated in light of the Covid-19 concessions on distance learning being extended to 06 April 2022. Students will not be prevented from being eligible for the Graduate route if they undertook remote learning between 21 June 2021 and 06 April 2022, which is in line with the guidance.
- 7.60 Graduate applicants used to have to provide a passport or other travel document to satisfactorily establish their identity and nationality. The rules have been updated to allow an applicant to provide a non-travel document, i.e. a Biometric Residence Permit, as proof of identity and nationality.

### **Changes to the Skilled Worker route to update minimum salary requirements**

- 7.61 The Skilled Worker route is for applicants with a specific job offer from an approved sponsoring employer.
- 7.62 The job offer for a Skilled Worker application must pay at least equal to the going rate for the occupation code (subject to reductions in some cases). The going rates for certain health and education occupations, which are taken from national pay scales, are being updated in line with the latest pay scales.

### **Changes to the endorsement criteria and requirements for the Global Talent route**

- 7.63 The Global Talent route 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.
- 7.64 Changes are being made to the endorsement criteria and evidential requirements to reflect feedback and recommendations from the endorsing bodies for the route.
- 7.65 The evidential requirements for digital technology endorsements are being amended to:
- include a requirement that exceptional promise applicants must be at an early stage in their career, to mirror a similar requirement for applicants in science, medicine and humanities. This is to clarify that applicants at later stages of their careers should apply under the exceptional talent endorsement criteria;
  - clarify that evidence of exceptional talent or promise should cover achievements in the 5 years directly prior to date of application. This mirrors similar

endorsement requirements in other sectors and is intended to make clear that applicants should have recent experience and achievements which support their claim of exceptional talent or promise;

- clarify, in line with requirements for other sectors, the details required within the letters of support from organisations within the digital technology field for applicants applying for a full peer review endorsement. This is to ensure that the letters of support provide sufficient information to allow Tech Nation to consider the applicant's claim of exceptional talent or promise.

7.66 The evidential requirements for science, humanities, engineering and medicine endorsements are being amended to make technical amendments for clarity, including re-inserting the word "eligible" when discussing roles which qualify under the appointments fast track route.

### **Update to the list of prizes in Appendix Global Talent: Prestigious Prizes**

7.67 Following advice from the relevant endorsing bodies, the list of prizes in Appendix Global Talent: Prestigious Prizes has been expanded to cover a slightly wider range of prizes. Additionally, reference to a prize which was erroneously included in two tables has been deleted from the incorrect table, as well as some minor corrections to names of awarding bodies.

7.68 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.

7.69 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.

7.70 The list will be kept under review and may be revised in future updates to the Immigration Rules.

### **Expansion and updates to the Seasonal Worker Route**

7.71 The Seasonal Worker route is being expanded to include roles in ornamental horticulture. Ornamental horticulture includes, but is not limited to, those growing daffodils, Christmas trees, and also forest nursery workers.

7.72 A new minimum hourly pay requirement has been added to the route to require that all workers will be paid at least £10.10 per hour. This will be equal to the minimum hourly rate that those applying on the Skilled Worker route are required to meet.

7.73 All references to poultry production work, haulage driving work involving transportation of food goods, or specified pork butchery work have been deleted as the deadlines for applications on this route to work in these roles have now expired.

## **Changes to the Youth Mobility Scheme**

7.74 Technical changes are being made to the way we explain the eligibility requirements based on nationality to provide greater clarity to applicants. The main changes to the Youth Mobility Scheme (YMS) are as follows:

- Removing the outdated use of the term ‘sponsorship’ and ‘deemed sponsorship’ from the route as it no longer serves its purpose, while the rules and processes for application remain the same;
- To further clarify, the YMS route previously referred to those with ‘deemed sponsorship’ as being those nationals who by virtue of their nationality alone and the length of time a bilateral youth mobility agreement had been in place, did not require further assurances from their home government in the form of any sponsorship of their application;
- Re-formatting the Rules to make clearer to applicants of eligible nationalities the documents required to be submitted to support their application, in line with the bilateral Memorandum of Understandings negotiated with partner countries.

## **Update to provide clarity in Part 1**

7.75 Changes are being made to paragraph 34X to make it clear when an administrative review under Appendix AR (EU), and certain eligible decisions under Appendix AR, is treated as withdrawn.

## **Consequential changes to Appendix AR**

7.76 Consequential changes are being made to Appendix AR to add decisions under Appendix Private Life, Appendix Settlement Family Life, Appendix Settlement Protection to the list of decisions which do not have an administrative review.

7.77 Changes are also being made to Appendix AR to provide a right of administrative review where a relevant decision is made on an application as:

- a Scale-Up Worker,
- a High Potential Individual,
- a Senior or Specialist Worker,
- a Graduate Trainee,
- a UK Expansion Worker,
- a Secondment Worker,
- a Service Supplier,
- or as the partner or child of any of the above.

## **Routine update to the Permit Free Festival List**

7.78 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 2022-2024.

### **Changes to Appendix Continuous Residence**

- 7.79 The permitted absences policy is being expanded to include absences of a partner of an individual who is absent from the UK on Crown Service, and to allow applicants on the family route to be absent for work, study or care reasons as long as they have maintained a family life in the UK and the UK remains their place of permanent residence. Transitional measures are also being introduced to allow absences to be discounted on family and private life routes where a grant was made before 20 June 2022 despite the absence.

### **Changes to the introduction**

- 7.80 Changes are being made to the definition of ‘Certificate of Sponsorship’ to reflect changes to the sponsorship IT system. The changes facilitate use of the first private beta test of the new system.
- 7.81 The definition of present and settled is also being updated to include an updated definition of Crown Service. This is relevant to the family rules under Appendix FM and the continuous residence requirements for settlement. It means partners of individuals employed on Crown Service will not be prevented from meeting the settlement requirements due to absences if they are accompanying their spouse or partner who is posted overseas.
- 7.82 A definition of “Fee Waiver” has been added to paragraph 6.2.

### **Minor policy or technical changes to the Rules that will:**

- 7.83 Introduce minor drafting changes to improve clarity and ensure consistency of wording within the various routes and to correct incorrect paragraph references.
- 7.84 Update the Introduction of the Rules to replace the outdated references to “Creative or Sporting Worker” in the definition of consecutive engagements.
- 7.85 Update Part 1 of the Rules to replace the outdated references to “Appendix T5 (Temporary Worker) Creative or Sporting Worker” and “Appendix T5 (Temporary Worker) Youth Mobility Scheme”.
- 7.86 Remove a duplicate CAH code in Appendix ATAS for subjects allied to Medicine.
- 7.87 Update paragraph 245AAA and paragraph 319E as they currently point to the deleted Appendix J. The relevant data has therefore been copied to a new paragraph to enable the proper function of the policy.

- 7.88 Update paragraphs A277C, A277D and A280B in Part 8 to replace the references to the deleted private life provisions in Part 7 and refer to the new Appendix Private Life.
- 7.89 Make a minor amendment to paragraph 9.8.3A. in Part 9 to ensure the ground for refusal applies to applications for entry clearance and permission to enter as well as permission to stay.
- 7.90 Update paragraph 26A(b) of Appendix FM-SE for the updated definition of Crown Service in the Introduction of the Rules.
- 7.91 Update Part 10 of the Rules to replace the outdated references to “seasonal agricultural worker”, “Tier 5 (Temporary Worker) Migrant” and “Tier 2 (Minister of Religion) Migrant”.
- 7.92 Update Appendix English language to refer to new routes as they commence; bring the exemption for those applying for settlement who can only show a lesser level of English after 15 years into the new Appendix; and expand the routes that can rely on GCSEs, A Levels and Scottish Highers taught in a UK school to include Family settlement based on a qualifying period of 10 years and Private life routes.
- 7.93 Update Appendix KOL UK to replace the outdated reference to “Appendix T2 Sportsperson”; refer to new routes as they commence; and update the exemptions in line with paragraph 7.92.
- 7.94 Update Appendix Continuous Residence to replace the outdated reference to “Appendix T5 (Temporary Worker) International Agreement Worker”; and refer to new routes as they commence.
- 7.95 Update Appendix Finance to refer to new routes as they commence.
- 7.96 Introduce changes to Appendix T2 Minister of Religion to ensure consistency of wording and align the relationship requirements for dependants with those across the various work routes.
- 7.97 Update Appendix Temporary Work – Creative Worker to clarify that the relationship and financial requirements for dependants also apply to those applying for permission to enter.
- 7.98 Amend Appendix Creative Worker Codes of Practice to:
- replace a reference to UKBA with the Home Office to align with the updated name for the body responsible for notifying BECTU under the Codes of Practice
  - correct drafting omissions that were made when the Rules were simplified in the Statement of Changes in Immigration Rules (HC 813) laid on 22 October 2020<sup>5</sup>.

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<sup>5</sup> <https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc-813-22-october-2020>

7.99 Update Appendix Sports Governing Bodies to reflect the correct territories covered by the governing body “British Swimming”, the name change of “The Royal Automobile Club Motor Sports Association Ltd” to “Motorsport UK”, and add “Swim Ulster” and “Scottish Volleyball” to the list of governing bodies.

7.100 Update Appendix Government Authorised Exchange schemes to:

- add the new Diplomatic Missions Interns Scheme, on which individuals from countries that have an agreement with the FCDO can complete a short-term work experience placement in a UK-based diplomatic mission or consular post
- change the reference to “Higher Education England” under the Jamaican Nurses Scheme to “Health Education England” to correct a drafting error.
- change the scheme description for the UK Research and Innovation – Science, Research and Academia scheme.

## **8. European Union Withdrawal and Future Relationship**

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 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 on the dates these changes take effect.

## **12. Impact**

12.1. There is no, or no significant, impact on business, charities or voluntary bodies.

12.2. There is no, or no significant, impact on the public sector.

## **13. Regulating small business**

- 13.1. The introduction of the Scale-up route will provide small businesses who meet the Scale-up criteria with an alternative option for recruiting workers from overseas. This change will not have a negative impact on small businesses and may have a positive impact.
- 13.2. For all other changes 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](mailto: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.<sup>6</sup>
- 15.3. A copy of this Statement of Changes can be found on the visa and immigration pages of the GOV.UK website.<sup>7</sup>
- 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. Kevin Foster MP, Parliamentary Under Secretary of State (Minister for Safe and Legal Migration) at the Home Office, can confirm that this Explanatory Memorandum meets the required standard.

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<sup>6</sup> Available at <https://www.gov.uk/government/organisations/uk-visas-and-immigration>

<sup>7</sup> Available at <https://www.gov.uk/government/collections/immigration-rules-statement-of-changes>