

**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
PRESENTED TO PARLIAMENT ON 29 MARCH 2022 (HC 1220)**

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 being made primarily deliver:

- The Ukraine Family Scheme to allow immediate and extended family members of British citizens, UK settled persons and others to come from Ukraine to, or stay in, the UK.
- The Homes for Ukraine Sponsorship Scheme to allow Ukrainian nationals and their immediate family to come to the UK where they have an Approved sponsor who has agreed to provide accommodation.
- The Ukraine Extension Scheme to allow Ukrainian nationals with their partners and children in the UK with permission by 18 March 2022 to stay in the UK.
- Bringing forward the 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 the Ukraine Schemes.

2.3. This instrument also makes a series of minor changes to other areas detailed (in paragraphs 7.18 to 7.20) in section 7 of this Explanatory Memorandum.

3. Matters of special interest to Parliament

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.¹
- 6.3 The changes will be implemented on different dates starting from 30 March 2022 as detailed in the implementation section of the accompanying Statement of Changes.
- 6.4 The changes in relation to the Ukraine Family Scheme, the Homes for Ukraine Sponsorship Scheme and the minor technical changes will come into effect on 30 March 2022, and therefore depart from the usual convention that changes to the Immigration Rules come into force no earlier than 21 days after their being laid in Parliament.
- 6.5 With regard to the Ukraine Schemes, the Government considers this departure from convention to be necessary and proportionate to respond to the urgent crisis in Ukraine, including by providing a route for eligible family members to come to, or stay in, the UK. The Ukraine Family Scheme opened on 4 March 2022 outside the Rules, and the Homes for Ukraine Sponsorship Scheme opened on 18 March 2022 outside the Rules. It is appropriate to bring the whole Ukraine Scheme (including the Ukraine Extension Scheme) into the Rules promptly to provide certainty for applicants and clarity for decision-makers on how to manage applications.
- 6.6 The changes in relation to the Ukraine Extension Scheme will come into effect on 3 May 2022

7. Policy background

What is being done and why?

Introduction of the new Appendix Ukraine Scheme

- 7.1 Appendix Ukraine Scheme includes several routes in response to the crisis in Ukraine: the Ukraine Family Scheme, the Homes for Ukraine Sponsorship Scheme, and the Ukraine Extension Scheme.

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

The Ukraine Family Scheme

- 7.2 The Ukraine Family Scheme is a new fee-free route which allows a person who is a British citizen, is settled in the UK, has limited leave as a refugee or has been granted humanitarian protection, or is an EEA or Swiss citizen with pre-settled status under the EU Settlement Scheme based on residence in the UK before the end of the transition period (“UK-based sponsor”) to sponsor family members to come from Ukraine to, or stay in, the UK.
- 7.3 The Ukraine Family Scheme introduces the following requirements:
- The applicant must be a Ukrainian national or a relevant family member of a Ukrainian national. Family members who are eligible to apply for this scheme include:
Immediate family – married, civil or durable partner of the UK-based sponsor; child aged under 18 of the UK-based sponsor or of their partner; parent of a child aged under 18 who is the UK-based sponsor; or fiancé(e) or proposed civil partner of the UK-based sponsor.
Extended family - parent of a UK-based sponsor aged 18 or over or of their partner; grandparent of the UK-based sponsor or of their partner; grandchild of the UK-based sponsor or of their partner; sibling of the UK-based sponsor or of their partner; adult child (aged 18 or over) of the UK-based sponsor or of their partner; or aunt, uncle, cousin, niece or nephew of the UK-based sponsor.
Immediate family of extended family – married, civil or durable partner, child aged under 18, parent of a child aged under 18 or fiancé(e) or proposed civil partner of an extended family member.
- 7.4 An applicant for entry clearance must have been resident in Ukraine immediately before 1 January 2022, which recognises that some people may have left Ukraine immediately before the invasion.
- 7.5 People applying for entry clearance who have a valid Ukrainian passport will be able to start their application overseas, be permitted to travel to the UK and granted 6 months’ leave to enter at the UK border, and then complete their application in the UK by providing biometrics in the UK so they can be granted up to the full 36 months.

The Homes for Ukraine Sponsorship Scheme

- 7.6 The Homes for Ukraine Sponsorship Scheme is a new fee-free route which allows a Ukrainian national and their immediate family to come to the UK where they have an approved UK sponsor.
- 7.7 The sponsor must be a person or organisation based in the UK. Where they are a person, if they are a person who has temporary permission to enter or stay in the UK, they must have at least six months remaining on that permission. The sponsor must provide accommodation for the Ukrainian national and (where relevant) their immediate family. They must meet the requirements for approval as a sponsor set out

in the guidance published by the Department for Levelling Up, Housing and Communities.²

- 7.8 A Ukrainian national can bring their immediate family: their married, civil or durable partner, child aged under 18, parent (if the Ukrainian national is a child aged under 18), or fiancé(e) or proposed civil partner.
- 7.9 An applicant must have been resident in Ukraine immediately before 1 January 2022, which recognises that some people may have left Ukraine immediately before the invasion.
- 7.10 People applying for entry clearance who have a valid Ukrainian passport will be able to start their application overseas, be permitted to travel to the UK and granted 6 months' leave to enter at the UK border, and then complete their application in the UK by providing biometrics in the UK so they can be granted up to the full 36 months.

The Ukraine Extension Scheme

- 7.11 The Ukraine Extension Scheme is a new fee-free route which allows a Ukrainian national who is in the UK and had permission in the UK on 18 March (including those who have overstayed by a short period) to stay in the UK.
- 7.12 A person who had such permission as a Ukrainian national's married, civil or durable partner or child can also stay in the UK under this route.

Common features of all Appendix Ukraine Schemes

- 7.13 Relevant refusal and cancellation grounds in Part 9: Grounds for Refusal will apply, including criminality provisions.
- 7.14 A person granted under these schemes will be granted permission for up to 36 months with the right to work, study and access to public funds.
- 7.15 A person will be able to re-apply if their application is refused and will not be required to pay a fee.

New Appendix Relationship with Partner

- 7.16 We are bringing forward the introduction of a new cross-cutting Appendix that will include the requirements on how to show a relationship with a partner. Initially, this Appendix will apply only to proof of relationship with a partner under the Ukraine Schemes, but on 20 June 2022 it will apply to Appendix Settlement Family Life, which commences on that date. In future it will be extended to other routes to apply consistent requirements.
- 7.17 A partner can be the applicant's spouse or civil partner or a person in a durable relationship similar to a marriage or civil partnership of at least 2 years. The

² <https://www.gov.uk/guidance/homes-for-ukraine-sponsor-guidance>

requirements are that the partners have met; are both aged 18 or over; are not related within the prohibited degrees that prevent marriage or civil partnership; any previous relationships must have broken down permanently (with a limited exception for polygamous and polyandrous marriages); and the relationship must be genuine and subsisting.

Minor policy or technical changes to the Rules

- 7.18 Minor changes are also being made to:
- the introduction – to define some family relationships under the Ukraine Schemes;
 - paragraph 28 - to allow applicants under the Ukraine Schemes to apply at any visa application centre overseas;
 - paragraph A34 - to clarify the validity of application rules that apply to the new Appendix Ukraine Scheme;
 - paragraph A39 - to clarify that applicants under the Ukraine Schemes are not required to provide a tuberculosis certificate;
 - Section 1 of Part 9 - to clarify which of the suitability grounds apply to the Ukraine Schemes; and
 - Appendix Administrative Review – to clarify that applicants under the Ukraine Schemes will not have a right of administrative review.
- 7.19 A changes is being made to paragraph 6.2 of the Introduction to exempt payments under the Energy Rebate Scheme 2022 from being classed as a public fund if distributed by Local Authorities under Section 1 of the Localism Act 2011.
- 7.20 Finally, this statement includes small technical amendments to correct minor errors made in the Statement of Changes to the Immigration Rules (HC 1118) laid on 15 March 2022.

7. 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 implementation of our obligations under the Withdrawal Agreement and equivalent agreements with the EEA EFTA states and Switzerland.

8. 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.

9. 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.

10. 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.

11. Impact

- 12.1. There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2. Impacts on the public sector have not been quantified.

12. Regulating small business

- 13.1. There is no, or no significant, impact on activities that are undertaken by small businesses.

13. 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.

14. Contact

- 15.1. Specific written queries relating to this Statement of Changes should be directed to Robert Hayes-Walters at StateofChanges@homeoffice.gov.uk. Please note that this mailbox is only for Parliamentary use in relation to specific technical queries regarding the drafting of this Statement of Changes. It is not a contact point for general enquiries. Queries to this e-mail address from outside Parliament about other immigration issues, including how these changes affect applications, will not receive a response.
- 15.2. More general queries should be directed to the Home Office as per the 'Contact UKVI' section on the visas and immigration pages of GOV.UK website.³
- 15.3. A copy of this Statement of Changes can be found on the visa and immigration pages of the GOV.UK website.⁴
- 15.4. Sally Weston, Head of Simplification and Systems Unit at the Home Office, can confirm that this Explanatory Memorandum meets the required standard.

³ Available at <https://www.gov.uk/government/organisations/uk-visas-and-immigration>

⁴ Available at <https://www.gov.uk/government/collections/immigration-rules-statement-of-changes>

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.