

**EXPLANATORY MEMORANDUM TO  
THE STATEMENT OF CHANGES IN IMMIGRATION RULES  
PRESENTED TO PARLIAMENT ON 18 OCTOBER 2022 (HC 719)**

**1. Introduction**

- 1.1 This Explanatory Memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

**2. Purpose of the instrument**

- 2.1 This instrument amends the Immigration Rules, made under the provisions of section 1(4) and section 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 Appendix Afghan Relocations and Assistance Policy ("Appendix ARAP") and Appendix Temporary Permission to Stay for Victims of Human Trafficking or Slavery, include the poultry sector in the Seasonal Worker route, update provisions regarding travel bans, extend the Ukraine Scheme and abolish the police registration scheme.
- 2.3 This instrument also makes a series of minor changes to other policy areas, detailed (in paragraphs 7.53 to 7.79) of 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 extent of this Statement of Changes in Immigration Rules (that is, the jurisdiction(s) which the statement forms part of the law of) is all of the United Kingdom.
- 4.2 The territorial application of this Statement of Changes in Immigration Rules (that is, where the statement produces a practical effect) 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. 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>1</sup>
- 6.3 The changes to include the poultry sector in the Seasonal Worker route will come into effect at 1600 on 18 October 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.
- 6.4 The Government considers this departure from convention to be justified and proportionate. There is a short time frame for workers to enter the UK to undertake work in the poultry sector. The closing date for applications for poultry work is 15 November 2022 and the workers are required to leave the UK by 31 December 2022. If the implementation date was later, the concern is workers might not apply as they could consider it not worthwhile for such a short period. This policy has already been communicated to the sector in the Defra Food Strategy, so they are prepared and working toward this change.
- 6.5 The other changes will be implemented on different dates starting from 9 November 2022, as detailed in the implementation section of the accompanying Statement of Changes.

## **7. Policy background**

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

#### **Introduction of Appendix Afghan Relocations and Assistance Policy (ARAP)**

- 7.1. The ARAP Immigration Rules have been simplified into the consolidated and simplified new style, in line with the recommendations of the Law Commission in its report “Simplifying the Immigration Rules” to which the Government responded on 25 March 2020.
- 7.2. The simplified rules clarify the Ministry of Defence makes an eligibility decision in an ARAP application before an application is made for entry clearance or settlement on behalf of the eligible Afghan citizen or their dependent family member.
- 7.3. The policy for additional family members of an eligible Afghan citizen or their partner has also been brought under the Immigration Rules.
- 7.4. The policy has been updated to remove references to the ex-gratia scheme, which closes on 30 November 2022.

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

- 7.5. Appendix Administrative Review has been updated to clarify that applicants under the Afghan Relocation and Assistance route do not have a right of administrative review.

### **Introduction of the new Appendix Temporary Permission to Stay for Victims of Human Trafficking or Slavery**

- 7.6. The Appendix Temporary Permission to Stay for Victims of Human Trafficking or Slavery establishes a route for a person who is a confirmed victim of Human Trafficking or Slavery, who is not a British Citizen and who is in the UK without permission to stay to be considered for stay.
- 7.7. Appendix Temporary Permission to Stay for Victims of Human Trafficking or Slavery introduces the following requirements:
- The individual must have been served with a positive conclusive grounds decision (as defined by section 69 (1) of the Nationality and Borders Act 2022), must not be a British citizen and must not already have permission to stay in another category in the UK.
  - The individual must be in the UK, and if applying for an extension under this route they must have permission to stay as a victim of Human Trafficking or Slavery, or as a child of a victim of Human Trafficking or Slavery; or they must have Modern Slavery Discretionary Leave as a victim of Human Trafficking or Slavery, or as their child dependents; they must have applied on the specified form on the gov.uk website: FLR (HRO); and any required fee must have been paid.
- 7.8. Temporary permission to stay will be granted if the Secretary of State considers it is necessary for the purposes, as set out in section 65 (2)(a) to (c) of the Nationality and Borders Act 2022, of:
- assisting the person in their recovery from any physical or psychological harm arising from the relevant exploitation,
  - enabling the person to seek compensation in respect of the relevant exploitation, or
  - enabling the person to co-operate with a public authority in connection with an investigation or criminal proceedings in respect of the relevant exploitation.
- 7.9. Temporary permission to stay will not be granted if it is considered that an individual's need for assistance is capable of being met in another country or territory or if it is considered that an individual is capable of seeking compensation from outside the UK, and it would be reasonable for them to do so in the circumstances.
- 7.10. Children of confirmed victims of Human Trafficking or Slavery may be eligible for a grant of temporary permission to stay provided their parent meets the requirements set out above. In addition, the child must be in the UK on the date of application /consideration, be under 18 and must not have permission to stay in the UK in another category.
- 7.11. Temporary permission to stay will not be granted, or may be cancelled, where:

- the individual is a threat to public order, or
- the individual has claimed to be a victim of Human Trafficking or Slavery in bad faith.
- specified suitability grounds apply when Article 1F(a) of the Refugee Convention (exclusion from protection) applies to the person, there is a deportation order in place, serious criminality is present or false representations have been made.

7.12. Temporary permission to stay as a victim of Human Trafficking or Slavery, or a dependent child of a victim of Human Trafficking or Slavery, may be granted for a period not exceeding 30 months for each grant.

### **Seasonal Worker route – inclusion of poultry sector**

- 7.13. The Seasonal Worker route is being expanded to include roles in the poultry production sector for the period from 18 October to 31 December each year. This is to support the sector during a peak seasonal demand period in the run up to Christmas.
- 7.14. This expansion will set specific salary requirements for poultry workers, ensuring that for roles that would qualify for the Skilled Worker route, wages for workers in such roles are not less than they would be required to be paid under that route.

### **Changes to simplify the process for giving effect to travel bans**

- 7.15. Currently, applications from individuals subject to travel bans, also known as immigration sanctions, are refused under primary legislation (the Immigration Act 1971). However, the legislation does not refer to entry clearance and therefore cancellation of an entry clearance is on the grounds that the person's presence in the UK is not conducive to the public good.
- 7.16. Non-conducive covers a broad range of factors and assessments can be complex and time consuming. This technical change will simplify processes for caseworkers to give effect to travel bans imposed by the United Nations Security Council or the UK Government.

### **Changes to the Ukraine Extension Scheme**

- 7.17. The Ukraine Extension Scheme enables Ukrainian nationals who held permission to enter or stay in the UK on 18 March 2022 (or who held permission which expired on or after 1 January 2022) to continue their stay in the UK.

#### Extension of the eligibility period

- 7.18. This change extends the scheme to allow Ukrainian nationals who obtain permission to enter or stay in the UK for any period between 18 March 2022 and 16 May 2023 to

apply to the Ukraine Extension Scheme and obtain 36 months' permission to stay in the UK.

- 7.19. Ukrainian nationals who travelled to the UK without making an application to one of the Ukraine Schemes were granted six months' Leave Outside the Rules at the border. If these individuals wish to stay in the UK, they need to make an application for further permission to stay. Extending the eligibility period of the Ukraine Extension Scheme will provide a route for these individuals, as well as other Ukrainian nationals who arrived with permission to enter or stay on another route after 18 March 2022, to obtain a longer period of permission to stay and therefore greater certainty in respect of their immigration status.

#### Introduction of an application deadline

- 7.20. We are introducing a new requirement to apply to the Ukraine Extension Scheme by 16 November 2023.
- 7.21. Under the current rules, there is no deadline for Ukrainian nationals who qualify for the scheme to apply to the Ukraine Extension Scheme. As a result, some individuals may allow their permission to enter or stay to lapse for a significant period before subsequently regularising their stay by switching into the Ukraine Extension Scheme. During that period, they would have no permission to be in the UK and may be subject to the compliant environment.
- 7.22. Introducing an application deadline is intended to encourage people to apply for leave under the Ukraine Extension Scheme to ensure they maintain a lawful immigration status. This will provide greater certainty and clarity for the individual, the Home Office and other Government Departments and organisations who require evidence of immigration status to confirm entitlement to services.
- 7.23. The last date that a Ukrainian national granted six months' Leave Outside the Rules at the border would have valid leave is 16 November 2023. As a result, this was chosen as the appropriate deadline for applications to the Ukraine Extension Scheme. In line with our broader approach to immigration, it is right that those who have permission to enter or stay in the UK seek to regularise their stay before their permission expires.

#### **Abolition of the police registration scheme**

- 7.24. Section 3(1)(c)(iii) of the Immigration Act 1971 provides for a grant of leave to enter or remain to be subject to a condition to register with the police within seven days of arriving in the UK. This requirement to register with the police is provided for in the Immigration Rules.
- 7.25. However, the scheme has not changed for many years, and the same data collected by the police is now already captured electronically by the Home Office at the visa application stage. Changes to the Immigration Rules and the wider immigration system since the scheme was introduced mean that more individuals are screened before travel to the UK so those of concern can be identified earlier in their interaction with the Home Office. There is therefore little need for the police to collect the same data after a person has already entered the UK. As well as creating duplication, once

this information is captured by the police, it is held indefinitely and not looked at again in the vast majority of cases.

- 7.26. Abolition of the police registration scheme is supported by the police, who are able to access Home Office data via other means. It will also reduce costs and the administrative burden on both the police and the Home Office.
- 7.27. As the provisions for police registration are no longer required, these deletions to Part 10 and Appendix 2 of the Immigration Rules reflect the government commitment to reducing regulation that no longer fulfils its intended purpose.
- 7.28. Consequential amendments will be made throughout the Immigration Rules where police registration is referenced.

#### **Changes to grant non-visa national status to Colombia, Guyana, and Peru.**

- 7.29. Citizens of Colombia, Guyana, and Peru are being made non-visa nationals. This means they will no longer have to obtain a visit visa before coming to the UK and can be examined and granted entry on arrival.
- 7.30. The risk of immigration abuse and criminality from these countries has consistently fallen in the last five years. Additionally, there are significant potential rewards for granting these nationalities non-visa national status, such as improved trade, diplomatic relations, and tourism.

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

- 7.31. 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.
- 7.32. 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 clarify in certain cases when a family member arriving in the UK after the end of the transition period can start a continuous qualifying period of residence in the UK under the EUSS.
  - to bring within the Rules the current concessions, where family members of a qualifying British citizen returning to the UK from the EEA are concerned, for a relevant child to have been born or adopted after the end of the transition period and before the family's return to the UK; for the qualifying British citizen to have returned to the UK ahead of the family member; and for the Sovereign Base Areas on Cyprus to be treated as part of the EEA where an accompanying family member of a member of HM Forces, who was posted

there before the end of the transition period, otherwise meets the requirements of the route.

- to uncouple from reliance on the Immigration (European Economic Area) Regulations 2016, and to reflect the Court of Appeal judgments in *Akinsanya and Velaj* in, the EUSS definitions for certain derivative rights cases under EU law: *Zambrano* (the primary carer of a British citizen), *Chen* (the primary carer of a self-sufficient EU citizen child) and *Ibrahim & Teixeira* (a child in education in the UK of an EU citizen former worker in the UK and the child's primary carer).
- to provide that, where a joining family member arrives in the UK with other limited leave (e.g. a work or study visa) or as a person exempt from immigration control, the deadline for them to apply to the EUSS is linked to the end of that status, rather than within three months of their arrival in the UK.

### **Changes to Visit policy to facilitate visits from midwifery students and sports officials**

- 7.33. Changes made to Appendix V: Visitor will allow midwifery students who are studying degree level equivalent courses overseas to come to the UK as a visitor and undertake electives with a UK higher education provider, providing these are unpaid and involve no treatment of patients.
- 7.34. Changes made to Appendix Visitor: Permitted Activities will remove the requirements for sports officials supporting sports tournaments or events in the UK to be attending the same event as a sports person who is undertaking permitted sporting activities.

### **Changes to the provisions for adult children within the Hong Kong British National (Overseas) route**

- 7.35. The changes being made to Appendix Hong Kong British National (Overseas) (HK BN(O)) include provision to enable children of BN(O) status holders to apply to the BN(O) route independently (that is, without needing to form part of their parents' household or apply at the same time as them). This change will apply to those who:
- have at least one BN(O) parent;
  - are aged 18 or over;
  - were born on or after 1 July 1997; and
  - reside in Hong Kong, the UK or the Crown Dependencies.
- 7.36. Partners, dependent children, and adult dependent relatives of the adult child may also apply with them.

### **Changes to endorsement and evidential requirements for the Global Talent category**

- 7.37. The Global Talent category 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.

- 7.38. Changes are being made to the endorsement criteria and evidential requirements for consistency of language between sections of the Rules, make amendments for clarity and reflect feedback and recommendations from the endorsing bodies for the route.
- 7.39. The evidential requirements for arts and culture applications are being amended to require applicants to provide letters of support from organisations or individuals who have directly worked with the applicant and can therefore comment on their skills through personal experience rather than via reputation. This is intended to ensure that the authors have first-hand knowledge of the applicants work and prevent the submission of more generic letters which do not adequately support a claim of exceptional talent or promise.
- 7.40. The evidential requirements for digital technology applications are being amended to require applicants to provide letters of support from individuals who have detailed knowledge of applicant’s work over a period of at least 12 months. This is intended to ensure authors are able to comprehensively consider the applicants work in a way which will support a claim of exceptional talent or promise.

#### **Amendments to Appendix Continuous Residence to reflect recent changes relating to settlement and custodial sentences**

- 7.41. On 20 June 2022, Appendix Settlement Family Life and Appendix Private Life of the Immigration Rules came into force. It is now a requirement of both Appendix Settlement Family Life and Appendix Private Life that 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 five years’ continuous residence since the end of that sentence. Both the 10-year qualifying period and the five years’ continuous residence must have been spent with specified permission on the basis of family and private life.
- 7.42. Minor changes are being made to Appendix Continuous Residence to reflect that, where an applicant applying for settlement under Appendix Settlement Family Life or Appendix Private Life has been convicted and sentenced to or detained for a period of 12 months or less, the period will not break their continuous residence during the qualifying period of 10 years. However, the time spent in prison or in detention will not count towards the period of continuous residence.

#### **Changes to improve clarity regarding refusal of entry on arrival to the UK**

- 7.43. Rule 24 of the Immigration Rules sets out the sanction for failure to have a required entry clearance (visa) on arrival to the UK as a mandatory refusal of leave to enter, and this is duplicated in Part 9 grounds for refusal. However, asylum seekers or those seeking humanitarian protection are in practice admitted to the UK but are then detained or granted bail pending the consideration of their application and a subsequent decision to either grant or refuse leave to enter.



- 7.44. To avoid confusion, the Government is clarifying the Rules regarding the consequences of failing to provide a current entry clearance where required on arrival in the UK.

### **Changes to provide further clarity to the Youth Mobility Scheme**

- 7.45. Changes are being made to clarify the quota setting and ballot processes, and to reflect agreed amendments to bilateral arrangements.

### **Changes to employment conditions to permit eligible migrants to fill elected posts in local or devolved government**

- 7.46. Individuals in various routes under these Rules have conditions attached to their permission which restrict their ability to work. A change is being made so such conditions will not prevent migrants standing for or filling an elected post in local or devolved government. Many of those subject to immigration control would not meet the eligibility criteria to stand for election, regardless of these Rules, but this change ensures the UK meets its commitments to countries with which we do have reciprocal agreements around candidacy. Before this change, any such cases would have to be handled on a discretionary basis.
- 7.47. The change allows those with existing leave to remain who are eligible to stand for and fill elected posts (including any associated work around running for election) where they are eligible to do so. It does not, however, alter the candidacy rules, which are subject to separate regulation. It also does not create any provision for someone to remain in the UK on the basis they are standing for or filling an elected post. Candidates who are subject to immigration control must have a separate basis for stay. For example, a Skilled Worker or Student would need to continue doing the job or course they had been sponsored to do, to maintain their existing status, or they would have to switch to any other immigration route for which they are eligible.

### **Changes to the Creative Worker route**

- 7.48. An amendment is being made to remove the ability for those on the Standard Visitor and Permitted Paid Engagement routes to switch into the Temporary Work – Creative Worker route as this is incompatible with the requirements of the Visitor route.
- 7.49. Updates are being made to the Appendix Creative Worker Codes of Practice to:
- separate the Performers in theatre or opera section to reflect their differing reliance on overseas talent
  - amend the outdated references to advertising media for posts in opera and theatre.

### **Changes to the Domestic Workers in a Private Household route**

- 7.50. Updates are being made to Appendix Domestic Workers in a Private Household to:
- move the requirement for the applicant to have entered the route before 6 April 2012 from the eligibility section to the validity section to ensure that

applicants are aware that individuals entering the UK under Appendix Overseas Domestic Worker are not permitted to switch to this route.

- remove the requirement to demonstrate continuous employment as a domestic worker throughout the applicant's time on the route. This reflects the practical challenges domestic workers may face in the event they are forced to leave unsuitable employment at short notice and recognises there may be a short gap until new employment is secured.

### **Changes to the Global Business Mobility Routes to reflect commitments in recent trade agreements**

- 7.51. A new rule is being added to enable permanent residents of Australia and New Zealand to qualify under the Service Supplier route where the services they provide are covered by the free trade agreements with those countries. In addition, Australian nationals and permanent residents of Australia providing services under the free trade agreement with Australia will be able to stay for up to 12 months at a time in the Service Supplier route. These changes are required to implement commitments the UK has now taken in those free trade agreements.
- 7.52. New rules are being added to the Service Supplier route to ensure provisions that enact commitments the UK has taken in trade agreements can only be used where an agreement is in force or has been provisionally applied by the relevant parties to the agreement.

### **Minor policy or technical changes to the Rules**

- 7.53. Minor amendments are being made to the Skilled Worker route, to:
- correct an error in the going rate for specialty registrars at CT3/ST3-5 in England;
  - clarify treatment of additional pay which is treated exactly the same as basic gross pay for tax, pension and national insurance purposes;
  - clarify the maximum length of permission.
- 7.54. The Retired Persons of Independent Means route was for people over 60 with close connections to the UK and at least £25,000 income to make the UK their main home. The route led to settlement and was closed to new applicants in 2008. The remaining provisions for extension of stay and settlement applications, and applications by dependants, are being deleted as there are no longer any individuals in the route, and so these provisions are no longer needed. This will also avoid any confusion around whether the route is still open to new applicants.
- 7.55. A cross-cutting change is being made to work routes, to allow temporary reductions in pay related to a temporary reduction in hours for individual health reasons or a phased return to work. This must be supported by an occupational health assessment and any hourly rate requirements must continue to be met.
- 7.56. Minor updates to the Global Talent Prestigious Prize list:

- Following advice from Arts Council England and the British Fashion Council, the list of prizes in Appendix Global Talent: Prestigious Prizes has been amended to include an additional British Fashion Council Award.
  - Additionally, the Grammy Lifetime Achievement Award which was erroneously included in the Film and Television table has moved to the Arts and Culture table.
- 7.57. Minor update to the Global Talent requirements:
- To allow time spent as a Representative of an Overseas Business to be included as part of the 3 or 5 year continuous period for settlement.
- 7.58. Update references to in-country application forms to reflect AUK2 Integration for the Government Authorised Exchange route (in-country).
- 7.59. Update Appendix Government Authorised Exchange schemes to:
- remove schemes that have been identified as redundant
  - change the reference to “Higher Education England” under the Jamaican Nurses Scheme to “Health Education England” to correct a drafting error.
- 7.60. Update Appendix Temporary Work – International Agreement to:
- change the grant periods for the route,
  - delete the legacy settlement provisions for private servants who arrived in the UK before 6 April 2012 as they are no longer needed.
- 7.61. Paragraph 39E(2) “Exceptions for Overstayers” has been revised to reflect that the rule applies to applications that have been rejected as well as those that have been refused.
- 7.62. A rule has been added to provide greater clarity for applicants about the circumstances in which an application is treated as void and not considered. This was previously only set out in policy guidance.
- 7.63. Paragraph 34G(4) “Date of application (or variation of application) for permission to stay” has been revised to reflect that the applicant has to submit a completed application within 10 working days of receipt of the decision on the fee waiver application.
- 7.64. The definition of “date of application” in paragraph 6 of the rules is being amended to reflect the changes to 34G(4).
- 7.65. A change is being made in the Representative of an Overseas Business route to correct an error where the word “principle” is incorrectly used instead of “principal”.
- 7.66. A minor amendment is being made to paragraph 9.8.3A. in Part 9 to make clear that 9.8.1. is the prevailing, mandatory ground and should be considered first.

- 7.67. A change to remove obsolete references to a transition period for Salvadoran nationals to travel without a visa.
- 7.68. An update is being made to Appendix Sports Governing Bodies to:
- reflect the correct territories covered by the governing body “England Squash”,
  - change the name of “Welsh Netball Association” to “Wales Netball”,
  - add “Scottish Squash” to the list of governing bodies.
- 7.69. Update references to the new paragraphs of Appendix Visitor: Permitted Activities in the validity section of Appendix International Sportsperson.
- 7.70. Minor changes are being made in the Global Business Mobility Routes to correct drafting errors:
- For both Senior or Specialist Workers and Graduate Trainees, the rules for sponsors certifying the financial requirement do not state that the sponsor must be A-rated. In addition, the rules for sponsors certifying the financial requirement in all relevant Global Business Mobility routes are being changed to make it clear the amount of finance stated is the minimum the sponsor must agree to provide. Correcting these omissions will make the routes consistent with other routes that permit the sponsor to certify the finance requirement.
  - For both Service Suppliers and Secondment Workers, the sponsor is not responsible for ensuring the worker meets the overseas work requirement, but the rules contain a requirement for them to confirm this on the certificate of sponsorship. A change is therefore needed to remove this requirement.
  - For both Service Suppliers and Secondment Workers, the sponsor is not paying the applicant’s salary and it is therefore not appropriate for the sponsor to confirm this or that their pay complies with the National Minimum Wage. A change is therefore needed to remove these references.
  - For Secondment Workers there is an incorrect reference to “the sponsor group” that should instead refer to the overseas business for whom the applicant works.
- 7.71. A minor change is being made to Appendix Private Life, to align with Appendix Continuous Residence. This clarifies that continuous residence does not include any period spent detained in an institution (including a prison).
- 7.72. A minor change to delete paragraph 276A0(2) in Part 7 to correct an administrative oversight.
- 7.73. A minor change is being made in Appendix Graduate to the study in the UK requirement to reflect the past tense as relevant covid concessions ended on 30 June 2022.

- 7.74. A clarification is being made to Appendix Finance on the ability of applications on the Short-term Student (English Language) route to rely on financial sponsorship for their studies as this was not added previously when requirements of the route were brought in line with evidential requirements of the Student route in December 2020.
- 7.75. The Majority English Speaking Country list has been updated to include the British Overseas Territories.
- 7.76. A correction and minor updates are being made to the Student route to:
- reflect changes to Student sponsorship guidance which set out permitted elements of remote delivery of course material by sponsors.
  - clarify restrictions for probationary sponsors to redraft without the use of double negatives.
  - correct the academic progression requirement to properly link two clauses which allow students to demonstrate academic progression where they are studying a new course at the same level that represent the applicant’s genuine career aspirations.
  - bring financial requirement for dependants in line with those for main applicants where funds used to meet the financial requirement have been spent between the date of application and date of decision, should the caseworker request further information relating to financial evidence provided.
- 7.77. Minor changes relating to Asylum are being made that will:
- clarify that where an asylum applicant with indefinite leave to remain is granted humanitarian protection, their leave to remain will not be varied.
  - clarify that parents with humanitarian protection in the UK may also be eligible to sponsor an adult child in exceptional circumstances.
  - clarify that a specific provision only applies to those who are seeking leave to enter or remain in the United Kingdom as the partner of a person who was granted humanitarian protection as a result of an asylum claim made on or after 28 June 2022.
  - clarify that those granted humanitarian protection as a result of a claim made on or after 28 June 2022 will be treated the same as ‘Group 2’ refugees under the differentiated asylum system brought in by Section 12 of the Nationality and Borders Act 2022 and therefore will be unable to sponsor their family members to come to the UK unless a refusal would breach the UK’s international obligations.
  - insert a new rule to define ‘refugee leave’.
- 7.78. A minor change is being made in the Introduction and Appendix Finance to amend “Her Majesty’s” to “His Majesty’s”.

7.79. Changes are being made to correct minor drafting errors made in the Statement of Changes to the Immigration Rules (HC 17) laid on 11 May 2022.

## **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 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, 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>2</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>3</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 Tom Pursglove MP, Minister of State (Minister for Immigration) at the Home Office, can confirm that this Explanatory Memorandum meets the required standard.

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<sup>2</sup> Available at <https://www.gov.uk/government/organisations/uk-visas-and-immigration>

<sup>3</sup> Available at <https://www.gov.uk/government/collections/immigration-rules-statement-of-changes>

