

EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
PRESENTED TO PARLIAMENT ON 14 MARCH 2024 (HC 590)

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.
- 1.2 This Explanatory Memorandum contains information for the Joint Committee on Statutory Instruments and the Select Committee on Statutory Instruments.

2. Declaration

- 2.1 Tom Pursglove MP, Minister of State (Minister of State for Legal Migration and the Border) at the Home Office, confirms that this Explanatory Memorandum meets the required standard.
- 2.2 Sally Weston, Head of Simplification and Systems Unit at the Home Office, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

- 3.1 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.
- 3.2 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.¹
- 3.3 A copy of this Statement of Changes can be found on the visa and immigration pages of the GOV.UK website.²

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

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

¹ Available at <https://www.gov.uk/government/organisations/uk-visas-and-immigration>

² Available at <https://www.gov.uk/government/collections/immigration-rules-statement-of-changes>

4.1 The changes being made primarily concern:

Skilled Worker route

- Changes to reduce net migration by raising the general salary threshold from £26,200 to £38,700, while bringing salary requirements for individual occupations in line with median pay for resident workers in those occupations and replacing the Shortage Occupation List with a new Immigration Salary List. Together these changes aim to encourage businesses to invest in the resident workforce rather than over-relying on migration.

Minimum Income Requirement under the partner routes

- The minimum income requirement is being amended as it has not been increased for over a decade and no longer reflects the level of income required by a family to ensure they are self-sufficient and do not need to rely on public funds.

EU Settlement Scheme (EUSS)

- The changes expand the scope of the immediate settlement provisions in Appendix Victim of Domestic Abuse to include a spouse, civil partner or durable partner with pre-settled status under the EUSS (meaning that the relationship was formed before the end of the transition period on 31 December 2020), and their dependent children.

Immigration Salary List and Asylum

- Changes are being made relating to the right of asylum seekers to request permission to take up employment in line with the Home Secretary's announcement on 4 December 2023 to replace the Shortage Occupation List (SOL) with the Immigration Salary List (ISL). This will be in line with the Skilled Workers changes being made at the same time.

Appendix AR: Administrative Review EU

- The changes remove the scope to apply out-of-time for administrative review of a relevant EUSS decision taken before 5 October 2023.

4.2 This instrument also makes minor changes to other policy areas, detailed in paragraphs 5.62 to 5.71 of section 5 of this Explanatory Memorandum. These changes introduce minor drafting changes to improve clarity and ensure consistency of wording within the various routes and to correct incorrect paragraph references and correct minor drafting errors.

Where does the legislation extend to, and apply?

- 4.3 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.
- 4.4 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. Policy Context

What is being done and why?

Changes to the Skilled Worker route

- 5.1 As announced by the Home Secretary on 4 December 2023³, changes are being made to reduce net migration by encouraging businesses to invest in the resident workforce rather than over-relying on migration, while bringing salaries in line with the average full-time salary for eligible jobs.
- 5.2 Sponsoring employers must pay Skilled Workers at least a general salary threshold or the going rate for the individual occupation, whichever is higher. The general salary threshold is being raised from £26,200 (based on 25th percentile UK earnings in eligible occupations) to £38,700 (based on median UK earnings in eligible occupations). Going rates are also being raised from the 25th percentile to the median. The new thresholds and going rates are based on the latest Office for National Statistics (ONS) pay data⁴.
- 5.3 Workers sponsored for Health and Care visas, or in occupations where going rates are set using national pay scales, are exempt from the new median salary requirements. Instead, a general threshold based on the 25th percentile continues to apply, and is being updated from £26,200 to £29,000, based on the latest ONS pay data. Going rates are also being updated based on the latest ONS pay data and/or the latest available national pay scales. These updates also apply to Skilled Workers who are already in the route before these Rules take effect, if they are making applications to extend their stay, change employment or settle before 4 April 2030.
- 5.4 Additional Health and Care clarifications are being made to bring the existing criteria for this visa offer (originally launched on 4 August 2020) within the Immigration Rules. The criteria themselves are unchanged (other than updates to reflect SOC 2020 – see below). This addition to the Rules is necessary because the salary changes above mean that eligibility for the Health and Care Visa now goes beyond the previous service offer and reduced costs, and materially affects the outcome of an application.
- 5.5 The Shortage Occupation List is being removed and replaced by a new Immigration Salary List, to make clearer that the entries on the list are those where the Government

³ <https://hansard.parliament.uk/commons/2023-12-04/debates/921A08A2-F615-48F2-8C56-423A29556F9F/LegalMigration>

⁴ Annual Survey of Hours and Earnings 2023, <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/datasets/occupation4digit2010ashetable14>

considers it sensible to offer a discounted salary threshold, rather than being a list of all occupations experiencing labour shortages. The contents of the new list have been informed by a review carried out by the independent Migration Advisory Committee (MAC). The MAC will carry out a full review of the list later in 2024. As with the previous list, included occupations have a 20% discount to the general salary threshold (to £30,960 or £23,200, depending on whether they would otherwise be subject to the £38,700 or £29,000 threshold); however, the previous 20% discount to the going rate requirement is being removed.

- 5.6 All other existing Skilled Worker salary discounts, relating to holders of relevant PhD qualifications, “new entrants” to the labour market, and national pay scale occupations, are being retained and updated, based on the latest ONS pay data.
- 5.7 Drafting changes are being made to simplify the rules, and provisions relating to previous changes and closed routes which are no longer required are being deleted.

Consequential changes to other work routes

- 5.8 The salary requirements for other work are being updated in line with the changes to the latest ONS pay data:
- For Senior or Specialist Workers in the Global Business Mobility routes, the general salary threshold is being updated from £45,800 to £48,500, and going rates are being updated using the latest ONS pay data.
 - For Graduate Trainees in the Global Business Mobility routes, the general salary threshold is being updated from £24,220 to £25,410, and going rates remain based on 70% of the 25th percentile, updated to the latest ONS pay data.
 - For the Scale-up route, the general salary threshold is being updated from £34,600 to £36,300, and going rates are being updated using the latest ONS pay data.
 - For certain poultry workers in the Seasonal Workers route, who must be paid in line with Skilled Workers, the salary requirement is being raised from £26,200 and £10.75 per hour to £38,700 and £15.88 per hour.
- 5.9 References to the Shortage Occupation List are being updated to refer to the new Immigration Salary List, or removed. In the case of supplementary employment in the Skilled Worker route, this is being broadened to encompass all occupations eligible for the route. In the case of the Creative Worker route, the exemption from resident labour market considerations for shortage occupations is being removed. Instead, applicants will need to demonstrate that they are making a unique contribution to creative life in the UK.

Update of the Standard Occupational Classification (SOC) code system

- 5.10 Changes are being made to update the Standard Occupational Classification (SOC) code system used in the immigration system from SOC 2010 to SOC 2020. Both systems were designed by the Office for National Statistics, which is now only publishing new data for SOC 2020.
- 5.11 Appendix Skilled Occupations is being replaced by a new version based on SOC 2020. Differences in the data mean the list of occupations eligible for Skilled Worker

and Global Business Mobility routes do not encompass all workers who may be in the routes before these Rules take effect. Additional tables are being included to enable these workers to make applications to extend their stay or (in the case of Skilled Worker) settle in these occupations. The Government intends to ask the MAC to review the longer-term approach to eligible occupations.

- 5.12 Consequential changes are being made across the Immigration Rules to replace other references to SOC 2010 occupation codes with SOC 2020 occupation codes (except where referring to historical situations in which references to SOC 2010 remain relevant). These include lists of occupations subject to the Overseas Criminal Records Certificate and Academic Technology Approval Scheme (ATAS) requirements.

Changes to the Seasonal Worker route

- 5.13 The National Minimum Wage and the National Living Wage are increasing from April 2024. It is necessary to amend the minimum rate of hourly pay for Seasonal Workers to reflect this change.

Increase to the Minimum Income Requirement for those in the five-year partner and child routes under Appendix FM

- 5.14 The minimum income requirement has not been increased for over a decade and no longer reflects the level of income required by a family to ensure they are self-sufficient and do not need to rely on public funds.
- 5.15 This change imposes a minimum income requirement of £29,000 for new applicants to the routes that is the 25th percentile of earnings for jobs which are eligible for Skilled Worker visas.
- 5.16 Article 8 (the right to respect for private and family life) of the European Convention on Human Rights (ECHR) is a qualified right. This means that the rights of the individual can be lawfully outweighed by measures which are necessary in the interests of the economic well-being of the country. Maintaining immigration control constitutes such an interest.
- 5.17 These rules provide a clear basis for considering immigration cases in compliance with ECHR Article 8, reflecting the qualified nature of Article 8, setting requirements which properly balance the individual right to respect for private or family life with the public interest in safeguarding the economic well-being of the UK by controlling immigration, in protecting the public from foreign criminals and in protecting the rights and freedoms of others.
- 5.18 The new minimum income requirement has been set at a level which is based on earnings as well as benefit levels to help ensure that migrants are more likely to make a net positive contribution to the public finances. This includes supporting the aim to reduce the overall level of net migration, which is too high. This change will also support the Government's wider ambition for the UK to be a high-wage, high-productivity, high-skill economy.

- 5.19 There will no longer be a separate child element to the minimum income requirement. This is to ensure that British nationals are not treated less favourably than migrants who are required to meet the General Skilled Worker threshold as a flat rate, regardless of any children being sponsored.
- 5.20 There are transitional arrangements for those who, before 11 April, already have a Family visa within the fiancé(e) or proposed civil partner or five-year partner route, or who applied before 11 April and are being granted. Once a minimum income requirement (MIR) has been met, the same MIR must be met through to settlement on the route, provided the applicant is applying to stay with the same partner. This will also be the case for children seeking to join or accompany a parent. These arrangements provide certainty for those already within the route, or who apply before the increase comes into force.
- 5.21 Existing exceptional circumstances and the need to safeguard and promote the welfare of children continue to apply. Those unable to meet the minimum income requirement may still be granted leave where: there are insurmountable obstacles to family life with their partner continuing outside the UK; it would not be reasonable for their child to leave the UK; or there are exceptional circumstances which would render refusal of the application a breach of ECHR Article 8 because it would result in unjustifiably harsh consequences for the applicant or their family. Those granted on this basis are placed on a longer 10-year route to settlement, granted in four tranches of 30-month periods.
- 5.22 As a result of these changes there are consequential changes being made to the Part 8 rules.

Changes to relationship requirements under Appendix Victim of Domestic Abuse to include all partners with pre-settled status under the EU Settlement Scheme

- 5.23 The EU Settlement Scheme (EUSS) in Appendix EU 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 relevant family members, to obtain immigration status. Appendix Victim of Domestic Abuse provides access to immediate settlement for victims of domestic abuse who meet its relationship requirements. They currently include, together with their dependent children, any partner sponsored under Appendix FM by an EEA or Swiss citizen with settled status or (based on their residence in the UK before the end of the transition period) pre-settled status under the EUSS.
- 5.24 The changes expand the scope of those immediate settlement provisions to include a spouse, civil partner or durable partner with pre-settled status under the EUSS (meaning that the relationship was formed before the end of the transition period), and their dependent children. We will also include them within the scope of the Migrant Victims of Domestic Abuse Concession (outside the Immigration Rules) so that they can obtain leave outside the rules with access to public funds pending the outcome of an application in the UK under Appendix Victim of Domestic Abuse. This will ensure that partners of EEA and Swiss citizens with EUSS status are treated equally under these domestic abuse provisions, regardless of whether the relationship was formed before or after the end of the transition period.

- 5.25 A person granted immediate settlement under Appendix Victim of Domestic Abuse will still be able to apply for settled status under the EUSS at the point at which they would otherwise have been eligible for it, based on their continuous residence in the UK. However, in line with Article 18(1)(h) of the Withdrawal Agreement, the changes also require a person resident in the UK before the end of the transition period – where they seek to obtain settled status under the EUSS in place of indefinite leave to enter or remain granted to them under another route – to have held their existing indefinite leave at the end of the transition period.

Immigration Salary List and Asylum

- 5.26 Changes are being made relating to the right of asylum seekers to request permission to take up employment. This is in line with the Home Secretary's announcement on 4 December 2023 to replace the Shortage Occupation List (SOL) with the Immigration Salary List (ISL). This will be in line with the Skilled Workers changes being made at the same time.

Changes to the Hong Kong British National (Overseas) (BN(O)) route

- 5.27 Changes are being made to the route that will:
- Enable applicants to be granted further permission to stay on the route with access to public funds where they have previously varied their permission to remove the no access to public funds condition and continue to meet the eligibility requirements to be granted access to public funds.
 - Allow decision makers to add up to 28 days of existing permission under the BN(O) route onto an applicant's further permission to stay where the applicant has applied for a 30-month visa. This will assist them in completing a five-year qualifying period required for settlement, without having to make a further temporary permission application.
 - Ensure eligible family members of an individual who holds both BN(O) status and British citizenship can apply on the BN(O) route.
 - Allow Adult Dependent Relatives on the BN(O) route to apply later to join the main applicant in the UK where there has been a change in their circumstances, and they can no longer live independently.
 - Remove the requirement for partners and adult dependent relatives to have their permission end on the same date as the main applicant where they can apply to join them later in the UK. This will allow UKVI caseworkers to grant family members the full length of permission they apply for.
 - Enable those who are on immigration bail solely because they have claimed asylum in the UK to apply on the BN(O) route.

Appendix Administrative Review

- 5.28 Appendix Administrative Review has been redrafted in line with the Law Commission recommendations on simplification of the Immigration Rules. There are no policy changes.

Appendix AR (EU)

- 5.29 Appendix AR (EU) has been redrafted in line with Appendix Administrative Review. It has also been amended to remove the scope to apply out-of-time for administrative review of a relevant EUSS decision taken before 5 October 2023. The scope to apply for administrative review of a decision taken from that date has already been removed by HC 1780. Individuals will have had more than five months to apply out-of-time for administrative review in respect of an affected decision. They will still have a right of appeal in relation to a relevant decision, and the First-tier Tribunal will continue to have a discretion to admit such an appeal out-of-time.

Appendix Continuous Residence

- 5.30 For greater consistency across immigration routes, the standard requirements of Appendix Continuous Residence are being applied to Appendix Long Residence and Appendix HM Armed Forces (only in relation to settlement as a Partner or Child).
- 5.31 Applying Appendix Continuous Residence to Appendix Long Residence aligns the approach to permitted absences, including time periods and reasons for absences, with other routes.
- 5.32 We are making amendments to Appendix Continuous residence such that;
- those applying under Appendix Long Residence cannot count time spent in the Channel Islands or Isle of Man.
 - those applying under Appendix Long Residence will not break their continuous residence period if, on or after 24 November 2016, they had left the UK with permission and returned with permission (even if on a different route), provided they did not exceed the absence period of 180 days in any 12 month period, or 184 days at any one time if these absences were taken before 11 April 2024 as a transitional arrangement.
 - those applying under Appendix Long Residence will break their continuous residence if they are subject to removal directions under section 10 of the Immigration and Asylum Act 1999.
 - An applicant will break their continuous residence where they are removed from the UK or deported or leave the UK after their permission had expired and were refused permission.
 - to reflect policy relating to the Coronavirus Extension Concession, time spent in the UK between 1 August 2020 and 31 August 2020 counts as lawful residence where the applicant had permission immediately before that date.

Introduction of new Appendix Long Residence

- 5.33 Appendix Long Residence replaces existing provisions in Part 7 (rules 276A-276D) of the Immigration Rules. Appendix Long Residence is drafted in line with the recommendations of the Law Commission.

- 5.34 For greater consistency across immigration routes, the standard requirements within Appendix Continuous Residence, Appendix English Language and Appendix KOL UK (Knowledge of life in the UK) have been applied to the Long Residence route.
- 5.35 Appendix Long Residence includes a policy change whereby applicants must have had their current permission for one year (or have been exempt from immigration control within the 12 months immediately before their application) to qualify for settlement on this route. This aligns the requirements of this route with wider requirements for settlement.
- 5.36 Appendix Long Residence also includes changes to standardise the conditions for grants of temporary permission to stay on the Long Residence route.

Changes to Appendix Armed Forces

- 5.37 The Armed Forces Rules are being re-structured and simplified in line with the wider simplification of Rules. In 2023 Appendix Gurkha and Hong Kong military unit veteran discharged before 1 July 1997 was laid. The current changes separate the current Appendix Armed Forces into Appendix HM Armed Forces and Appendix International Forces and Civilian Employees to make it more transparent to whom the provisions apply.
- 5.38 The minimum income requirement (MIR) to be met for HM Armed Forces personnel to sponsor a partner or dependent child(ren) is being increased, as announced on 21 December 2023, within a package of measures to reduce net migration. The MIR under Appendix HM Armed Forces will be increased to £23,496, which is the 2023/4 salary threshold for an Army (including the Brigade of Gurkhas) Private and their Royal Navy, Royal Marines and Royal Air Force equivalents on completion of training. There will be no separate child element to the MIR.
- 5.39 The change to the MIR takes into account the unique role played by members of HM Armed Forces, the nature of their service, and the sacrifices, dangers and risk of injury or death they face, and recognises the UK Government's moral obligations to service personnel and their families under the Armed Forces Covenant. The Covenant sets out a political commitment between the Government and those who serve or have served in HM Armed Forces and their families that they are not disadvantaged because of that service. It recognises that families play a vital role in supporting the operational effectiveness of the Armed Forces and the lack of choice that service personnel and their families have over deployment.
- 5.40 The increased MIR under Appendix HM Armed Forces of £23,496 is different to that under Appendix FM, which will increase to £29,000 (the 25th percentile of earnings for jobs which are eligible for Skilled Worker visas), increasing incrementally to the 40th percentile (currently £34,500), and finally to the 50th percentile (currently £38,700, and the level at which the General Skilled Worker threshold is set) by early 2025. There will, under both Appendix FM and Appendix HM Armed Forces, no longer be a separate child element to the MIR, regardless of any children being sponsored. Other aspects of the MIR will remain unchanged, such as the various

ways in which it can be met and the consideration of exceptional circumstances where it may not be met.

- 5.41 This change will not be applied to those who already have a permission under Appendix Armed Forces, or who apply before the MIR is increased and are being granted, who will continue to have their applications assessed against the current MIR where it is advantageous. This will also be the case for children seeking to join or accompany a parent under Appendix Armed Forces.
- 5.42 Other minor changes to Armed Forces appendices include:
- Applying Part 9: Grounds for Refusal to both Appendix HM Armed Forces and Appendix International Forces and Civilian Employees.
 - For transparency, including a requirement to consider whether refusal would breach Article 8 of the European Convention on Human Rights for partners and children in Appendix HM Armed Forces in certain circumstances.
 - Applying cross-cutting provisions in Appendix Continuous Residence, Appendix Relationship with Partner and Appendix Children to provide a consistent approach.
 - Those applying for settlement in the UK under Appendix HM Armed Forces will be able to combine time spent on other routes to settlement to meet the qualifying period under Appendix HM Armed Forces. Where the applicant is applying as a partner, they must have had at least one year with permission on Appendix HM Armed Forces.

Changes to Appendix Global Business Mobility

- 5.43 The changes to the Global Business Mobility rules as they relate to service suppliers are intended to ensure that the Rules make provision for specific commitments arising from the UK's accession to the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTTPU) as and when those commitments become binding as a result of other parties' ratification of the agreement.

Changes to Appendix Finance

- 5.44 The Home Office converts foreign currencies into pound sterling using the exchange rate on www.oanda.com for the date of the application. However, there are some circumstances where this is not possible. Syrian Pounds are unavailable on OANDA and Iranian Rials are subject to a significant discrepancy between the conversion rates on OANDA and the rate of exchange genuinely available to members of the public (for example, through a bureau de change). These changes make provisions that, in such circumstances, the exchange rate to be used is the monthly FCDO Consular rates of exchange for the date of the application.

Changes to Temporary Worker routes

- 5.45 An update is being made to Appendix Temporary Work – International Agreement to:
- Require private servants of diplomats to provide evidence of salary in the UK.

- Introduce an English language requirement to align with longer term work routes.
 - Clarify the position on sub-contracting overseas government employees to third party organisations.
- 5.46 An update is being made to Appendix Temporary Work – Creative Worker to:
- Remove reference to Appendix Shortage Occupation Lists and resident labour market testing.
 - Clarify the position that if the Certificate of Sponsorship associated with an application is declared part of a group by the sponsor and the work of an applicant is directly related to the employment of an entertainer or a cultural artist whose application has been refused, all applications within the group will be refused.
 - Ensure sponsors provide details of any expenses paid to the applicant and whether they will seek to recoup these costs.
- 5.47 An update is being made to Appendix Government Authorised Exchange schemes to add the “Future technology research and innovation scheme” and remove schemes that are redundant.
- 5.48 An update is being made to Appendix Sports Governing Bodies to add “Scottish Canoe Association” as the governing body for canoeing in Scotland.

Changes to Appendix Electronic Travel Authorisation

- 5.49 ETAs are a key element of delivering the universal ‘permission to travel’ requirement. Broadly, all Non-Visa National (NVN) visitors and transit passengers (including EEA nationals) who do not require a visa, entry clearance or immigration status prior to coming to the UK for short stays (up to six months) should apply for and obtain an ETA prior to travel. The requirement would also apply to those seeking entry under the Temporary Work – Creative Worker concession in advance of their travel to the UK.
- 5.50 Appendix Electronic Travel Authorisation sets out the detailed provisions relating to ETA. On 25 October 2023, nationals of Qatar became the first to be able to apply for an ETA. The scheme was then rolled out to nationals of Bahrain, Kuwait, Oman, Saudi Arabia, United Arab Emirates and Jordan on 01 February, and will continue to be rolled out to other non-visa nationals in 2024.
- 5.51 From the application of Appendix Electronic Travel Authorisation to these nationals, the need for a number of amendments has been identified to give better effect to the original policy intention, including: defining what constitutes an ‘overstay’ in line with the current approach to visitors, clarifying that an ETA is linked and valid only to the passport used in the application process, and providing for cancellation of an ETA where the validity requirements set out in ETA 1.1. and ETA 1.2. are not met at the time of application or subsequent to this.
- 5.52 In addition, another change being made includes provisions for an exemption to the ETA requirement for British Overseas Territories Citizens.

Update to the Appendix Visitor: Permit Free Festival List

- 5.53 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 2024.
- 5.54 The Permit Free Festival (PFF) list has been in place for several years, to enable festivals to continue to showcase international performers. Exceptionally, these performers can be paid for their work, without a requirement for them to be sponsored under the points-based system.
- 5.55 New festivals are given the opportunity to apply for inclusion on the PFF list. The Immigration Rules must be amended in order to implement the updated list.

Changes to Appendix English Language

- 5.56 Appendix English Language has been updated to reflect that International GCSEs are accepted as evidence of English language ability and to extend the Appendix to the following routes: Appendix Settlement Family Life, Appendix HM Armed Forces, Appendix Long Residence and Appendix Temporary Work – International Agreement.

Definition of Parent - Changes to Part 1 – Interpretation

- 5.57 Changes are being made to the definition of parent to update the language used and recognise same-sex parents, as already happens in practice. The new definition makes reference to biological parents, legal parents and adoptive parents. Reference to step-parents (formerly recognised as parents only where the biological parent of the same sex had died) has been removed as being a step-parent does not automatically mean the person has parental responsibility for a child.
- 5.58 The relationship requirements in Appendix Children are clear that a child of the main applicant's partner can apply to come or stay in the UK, as well as a child of the main applicant. This allows the majority of step-children to be able to join or stay with their parent and their step-parent (where relevant) under the rules.
- 5.59 Step-parents, even where they are the sole carer and/or where the other parents are deceased, will no longer meet the definition of parent, unless they are also a legal parent. This change will impact a small number of applicants and there are other immigration routes which will allow the child to enter or stay in the UK, if the step-parent has parental responsibility. The step-parent could apply as the de facto adoptive parent if they and the child are both overseas, or the child could apply to come to or stay in the UK on the basis of family life with the step-parent under Article 8 of the European Convention on Human Rights.

Introduction of new Appendix Adoption

5.60 Appendix Adoption replaces existing provisions for children entering the UK for adoption in Part 8 of the Immigration Rules. This will provide clearer and more consistent rules for adoption.

5.61 The changes include:

- Reducing immigration eligibility requirements from both the Hague Convention and Recognised Overseas Adoption routes. This includes removing the requirements for the child to have the same rights and obligations as any other child of the marriage or civil partnership; being adopted due to the inability of the original carer to care for the child; that there has been genuine transfer of parental responsibility and the requirement for the child to have lost or broken ties with their family of origin. These requirements are unnecessary as they are matters that are considered, as appropriate, as part of the formal adoption procedure.
- Clarifying that, where one parent is on a route to settlement, the child will need to meet the financial requirements of the route that their parent is on.
- Applying the cross-cutting requirements in Appendix Children.
- Where a child has entered the UK under Appendix Adoption and has been granted temporary permission (for the adoption to be completed in the UK or because one parent has temporary permission on a route to settlement), the child will be able to settle on the route their parent is on or under provisions in para 298 in Part 8 once the adoption is complete and their parent has settled. Appendix Children and para 298 in Part 8 have been updated to reflect this change.

Other Minor Changes

5.62 The Youth Mobility Scheme (YMS) route implements the international commitments we have made to provide cultural exchange programmes for young people. The YMS has a quota for each participating country that limits the number of places available. This is updated annually (with the exception of Covid-impacted years). The mechanism for ensuring the continuity of the scheme's quota is being clarified to ensure the rules are compatible for all partner countries.

5.63 Appendix Children contains the common requirements for both dependent children and children applying independently of their parents. Where there are common requirements across the rules relating to children (such as age, independent life or care requirements) the individual routes refer to Appendix Children for consistency. We have updated the list of routes referring to Appendix Children to include:

- Appendix Adoption
- Appendix Child staying with or joining a Non-Parent Relative (Protection)
- Appendix Family Reunion (Protection)
- Appendix HM Armed Forces
- Appendix Hong Kong British National (Overseas)
- Appendix International Armed Forces and International Civilian Employees
- Appendix Settlement Protection

- 5.64 Appendix Relationship with Partner contains the common requirements for a relationship with a partner. We have updated the list of routes referring to Appendix Relationship with Partner to include:
- Appendix HM Armed Forces
 - Appendix Hong Kong British National (Overseas)
 - Appendix International Armed Forces and International Civilian Employees
 - Appendix Settlement Protection
- 5.65 An amendment is being made to Appendix Student to bring the terminology of the clause into line with other clauses in Appendix Student which reference government scholarships and sponsorships by removing the use of the term “award”, which has been found to cause ambiguity.
- 5.66 Changes have been made to Part 1 to make provision to disregard overstaying during the period when a person had an exceptional assurance. From 1 September 2020 to 28 February 2023, individuals who wanted to leave the UK, but were unable to do so due to Covid travel disruption, were issued with an assurance that overstaying during the period of the assurance would be disregarded.
- 5.67 A minor change is being made to Part 9: grounds for refusal and cancellation to reflect the insertion of Appendix Adoption, Appendix Armed Forces and Appendix International Armed Forces and International Civilian Employees into the Immigration Rules.
- 5.68 The amendment to Part 13 will correct omissions and oversights from the changes made to Part 13 in Spring 2023. It will set out explicitly that leave can be granted where there are very compelling circumstances over and above the exceptions to deportation. Setting this out explicitly in Part 13 will mitigate any potential litigation risk from the discrepancy between Part 13 and legislation.
- 5.69 Consequential changes are being made to Appendix FM-SE as a result of changes to Appendix HM Armed Forces and the introduction of Appendix International Forces, and changes to Appendix FM.
- 5.70 Technical changes are being made to the definitions of “certificate of sponsorship” and “employment”, to reflect IT system changes and correct a previous drafting oversight.
- 5.71 The Statement of Changes also introduces minor drafting changes to improve clarity and ensure consistency of wording within the various routes and to correct incorrect paragraph references and minor drafting errors.

6. Legislative and Legal Context

How has the law changed?

- 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.⁵
- 6.3 The changes will be implemented on various dates from 4 April 2024 as detailed in the implementation section of the accompanying Statement of Changes.

Why was this approach taken to change the law?

- 6.4 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

Changes to Appendix Armed Forces

- 7.1 We have consulted with and worked collaboratively on these rules with the Ministry of Defence, who are supportive of these changes.

Changes to the Skilled Worker route

- 7.2 The changes to the Skilled Worker route are being made to contribute towards the Government's manifesto commitment to reduce overall levels of immigration and have not been the subject of a formal public consultation.

Changes to skilled occupations due to SOC 2020

- 7.3 The MAC has carried out an independent review to inform the changes relating to the Immigration Salary List. Owing to the need to review the list quickly, the MAC did not have time to carry out a full public call for evidence, but it is expected to do so when it reviews the list again later this year.
- 7.4 The other 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.

8. Applicable Guidance

- 8.1 Guidance relating to these Rules changes will be updated and placed on the GOV.UK website when these changes take effect.
- 8.2 It is our established standard practice to only publish guidance updates when Rules changes take effect to mitigate the high risk of users referring to the wrong version.

⁵ <https://www.gov.uk/guidance/immigration-rules>

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

Changes to Appendix Electronic Travel Authorisation

- 9.1 An Impact Assessment of the ETA scheme was published on 6 June 2023⁶. An additional Impact Assessment for these changes was considered disproportionate given the changes will have no substantive economic impact.

Changes to the Skilled Worker route and increase to the minimum income requirement in family routes

- 9.2 Further qualitative detail on the impact on the welfare of the UK resident population, as well as quantitative impacts on business, charities, voluntary bodies as well as the public sector, have been prepared in a full Impact Assessment. This Impact Assessment also considers the package of Rules changes laid in February.
- 9.3 A full Impact Assessment has not been prepared for the remaining changes in this instrument because there is no, or no significant, impact that would warrant producing an Impact Assessment.

Impact on businesses, charities, and voluntary bodies

Changes to the Skilled Worker route

- 9.4 The changes to work routes are likely to have a limited direct impact on businesses, charities and voluntary organisations who use these routes to sponsor workers. Any significant impacts on business are likely to be indirect as a result of business decisions on how to respond to these changes.
- 9.5 The changes to work routes are intended to significantly reduce net migration. This is likely to have a significant impact on the public sector, as fewer applications will result in lower Home Office fee and Immigration Health Surcharge revenue. This will have a corresponding impact on Home Office and NHS budgets, which that revenue contributes towards.

Update to the Appendix Visitor: Permit Free Festival List

- 9.6 This will have an impact on music/cultural festivals that successfully apply for inclusion on the PFF list, as they will no longer be required to sponsor their artists under the Points Based System.

⁶ Available at [Electronic Travel Authorisation: impact assessment \(accessible\) - GOV.UK \(www.gov.uk\) / https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1162968/ETA_impact_assessment.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1162968/ETA_impact_assessment.pdf)

- 9.7 For all other changes there is no, or no significant, impact on business, charities or voluntary bodies.
- 9.8 The legislation does not impact small or micro businesses.
- 9.9 For all other changes there is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

- 10.1 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.
- 10.2 A statutory review clause is included in the instrument.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

- 11.1 None.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

- 13.1 This instrument is not being made under the European Union (Withdrawal) Act 2018 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”). It does, however, relate to the withdrawal of the United Kingdom from the European Union because it supports further implementation of the EUSS.
- 13.2 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 2018.

14. Consolidation

- 14.1 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.

