

**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
PRESENTED TO PARLIAMENT ON 31 DECEMBER 2020 (CP 361)**

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 that are used to regulate people's entry to and stay in the United Kingdom. The detail of the changes being made is included in section 7 of this Explanatory Memorandum, but in summary, the changes will:

- Implement commitments made in the Temporary Agreement between the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland on Services Mobility and make changes on Mode IV commitments (the part of a trade agreement which sets out what persons of one party in an agreement can do in the other for the purpose of providing a service) within the UK-EU Trade and Co-Operation Agreement.
- Make changes to Appendix T5 (Temporary Worker) International Agreement Worker to implement commitments on contractual service suppliers and independent professionals in the Temporary Agreement between the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland on Services Mobility. This agreement requires us to grant entry for up to 12 months and extend our provisions to nationals and permanent residents of Switzerland.
- Make changes to Appendix T5 (Temporary Worker) International Agreement Worker to implement commitments made in the Services chapter of the UK-EU Trade and Co-Operation Agreement on length of stay for European Union contractual service suppliers and independent professionals.
- Amend the Visitor rules to implement the United Kingdom's commitments on short-term business visitors in the Services chapter of the UK-EU Trade and Co-Operation Agreement.
- Correct a small number of minor drafting errors made in the Statement of Changes to the Immigration Rules (HC 813) laid on 22 October 2020.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As this Statement of Changes in Immigration Rules is subject to the procedure set out under section 3(2) of the Immigration Act 1971, there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

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 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 at www.gov.uk/government/collections/immigration-rules, where all the Statements of Changes in Immigration Rules issued since May 1994 are published.

6.3 The changes set out in this statement shall take effect at 2300 on 31 December 2020 and will apply to all decisions made on or after that time.

6.4 The implementation of these changes will breach the conventional 21 day praying period ahead of implementation due to the requirement to implement at the end of the transition period at 2300 on 31 December 2020. It was not possible to lay these changes earlier and thus observe the 21 day rule prior to implementation due to the outstanding conclusion of both the UK-Swiss negotiations and the UK-EU negotiations. The UK signed the UK-Swiss agreement on 14 December and the agreement with the EU on 24 December 2020.

7. Policy background

What is being done and why?

Changes to Appendix V and Appendix Visitor: Permitted Activities

7.1 This instrument amends the Immigration Rules that are used to regulate people's entry and stay in the United Kingdom. These amendments deliver commitments taken in the Trade and Co-Operation Agreement with the European Union.

7.2 The following will be added to the existing permitted activities for Visitors:

- business visitors will be able to conduct market research or analysis in the UK for their employment overseas;
- researchers will be able to conduct independent research for their employment overseas; and
- translators and/or interpreters will be able to translate and/or interpret in the UK as an employee of an enterprise overseas.

Change for Swiss and European Union national contractual service suppliers and independent professionals coming under commitments in the UK-Switzerland Services Mobility Agreement and UK-EU Trade and Co-Operation Agreement

7.3 Changes are being made to the Introduction to insert the definition of a European Union national to align with changes being made to the Appendix T5 (Temporary Worker) International Agreement Worker route. Changes are also being made to the Appendix T5 (Temporary Worker) International Agreement Worker route to:

- Permit EU nationals who are contractual service suppliers and independent professionals to stay in the United Kingdom for up to 12 months to fulfil a service supply contract in specified sectors with a United Kingdom final consumer as part of the United Kingdom's obligations under the UK-EU Trade and Co-Operation Agreement;
- Permit Swiss nationals and permanent residents who are contractual service suppliers and independent professionals to stay in the UK for up to 12 months in any 24 month period to fulfil a service supply contract in specified sectors with a UK final consumer as part of the United Kingdom's obligations under the Temporary Agreement between the Swiss Confederation and the United Kingdom of Great Britain and Northern Ireland on Services Mobility.

7.4 Finally, this statement includes a small number of technical amendments to correct minor errors made in the Statement of Changes to the Immigration Rules (HC 813) laid on 22 October 2020.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

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 these amendments enable Mode IV commitments for European Union nationals and Mode IV commitments for Swiss nationals and permanent residents after the transition period has ended.

9. Consolidation

9.1 The Immigration Rules were last consolidated in 1994. The Government has committed to 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 GOV.UK website.

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 review clauses at the beginning of this Statement of Changes require the Secretary of State to review the operation and effect of all of the relevant Immigration Rules, including any rules amended or added 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 as they are, be revoked or be amended. A further Statement of Changes would be needed to revoke or amend the relevant rules.

15. Contact

15.1 Specific written queries relating to this Statement of Changes should be directed to Richard Short at StatementofChanges@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 at <https://www.gov.uk/government/organisations/uk-visas-and-immigration>.

15.3 A copy of this Statement of Changes can be found on the visa and immigration pages of the GOV.UK website at <https://www.gov.uk/government/collections/immigration-rules-statement-of-changes>.

- 15.4 Oliver Carlisle at the Home Office can confirm that this Explanatory Memorandum meets the required standard.
- 15.5 Kevin Foster MP at the Home Office can confirm that this Explanatory Memorandum meets the required standard.

