

**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
PRESENTED TO PARLIAMENT ON 7 DECEMBER 2023 (HC 246)**

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) in 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 concern changes to the EU Settlement Scheme and to travel document requirements for school groups visiting the UK from France. The Youth Mobility Scheme has also been updated to reflect changes and enhancements to the arrangements in place between the UK and specific countries. Three new Appendices to the Rules have also been introduced: Appendix Bereaved Partner and Appendix Statelessness which replace existing provisions and Appendix Victims of Domestic Abuse which introduces an out of country settlement route for victims of transnational marriage abandonment.
- 2.3 This instrument also makes a series of changes to other policy areas, detailed in paragraphs 7.28 to 7.41 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 OR the Select Committee on Statutory Instruments OR the Sifting Committees]

- 3.1 The change to Statement of Changes HC1160 will be implemented on the same day as this Statement of Changes is laid- this is to correct an error at the earliest possible opportunity.

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.¹
- 6.3 The changes will be implemented on various dates from 7 December 2023 as detailed in the implementation section of the accompanying Statement of Changes.

7. Policy background

What is being done and why?

Changes to the EU Settlement Scheme (EUSS)

- 7.1 The EUSS enables EU, other European Economic Area and Swiss citizens living in the UK by the end of the transition period on 31 December 2020, and their family members, to obtain the UK immigration status they need to continue living in the UK. The changes in respect of the Immigration Rules for the EUSS in Appendix EU are as follows:
 - To reflect the addition of Appendix Returning Resident to the Rules by Statement of Changes HC 1780. That Appendix applies where a person whose indefinite leave to enter or remain under the EUSS has lapsed and they wish to return to and settle in the UK.
 - To prevent a valid application to the EUSS as a joining family member being made by an irregular arrival to the UK (which will include small boat arrivals) as well as by an illegal entrant to the UK, thereby reinforcing the Government's approach to tackling illegal migration.
 - To require a person in the UK as a visitor to make any application to the EUSS as a joining family member within three months of their arrival (subject to reasonable grounds for any delay in applying). This is consistent with the temporary protection of rights conferred on them by the Citizens' Rights Agreements for three months from their arrival in the UK.
 - To enable limited leave to enter or remain granted under the EUSS to be curtailed (subject to a right of appeal) where it is proportionate to do so where the person never met the requirements of Appendix EU.

Changes to the Visitor Rules

- 7.2 We are amending the permitted intra-corporate activities to remove the prohibition on working directly with clients and are introducing a requirement that client facing activity is incidental to the visitor's employment abroad and does not amount to the offshoring of a project or service to their overseas employer.

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

- 7.3 We are making clear that visitors are permitted to work remotely whilst they are in the UK but that remote working must not be the primary purpose of their visit.
- 7.4 We are allowing flight crew to come to the UK as part of a Civil Aviation Authority approved wet lease arrangement between the months of March and October. This will incorporate an existing concession currently operated outside of the rules into the Visitor rules.
- 7.5 We are allowing scientists, researchers and academics to conduct research in the UK as part of their visit. Currently scientists and researchers can only conduct independent research, and academics can only conduct research for their own purposes if they are on sabbatical leave from their home institution. These changes will not apply to academics applying for a 12 month visit visa, or if they are applying to extend their permission from within the UK.
- 7.6 We are expanding the permitted activities for legal professionals.
- 7.7 We are allowing speakers at conferences to be paid for this activity, by including this in the list of Permitted Paid Engagements (PPE).
- 7.8 We are moving the provisions of the Permitted Paid Engagement Visitor route into the Standard Visitor route. This means all visitors will be able to undertake PPE without the need for a special visa. However, visitors intending to undertake PPE must still have arranged their PPE activity prior to travel to the UK, and this must be undertaken within 30 days of arrival in the UK as a Visitor.

Changes to travel document requirements for school groups visiting the UK from France

- 7.9 These changes allow children aged 18 and under, studying at a school in France, to visit the UK on an organised educational trip without passports or visit visas, as is currently required on all other visits to the UK.
- 7.10 EU/EEA/Swiss national children aged 18 and under, who are resident and studying at a school in France, can now use national identity cards to visit the UK on an organised school trip instead of passports.
- 7.11 The changes also provide for visa national children aged 18 and under, who are resident and studying at a school in France, to be able to visit the UK on an organised school trip without obtaining a visit visa (but we will still require passports of this cohort).

Changes to the Youth Mobility Scheme

- 7.12 The Youth Mobility Scheme (YMS) route implements the international commitments we have made to provide cultural exchange programmes for young people.
- 7.13 The UK has negotiated a YMS arrangement with Uruguay which is being added to the list of countries and territories participating in this route and the Rules are being amended to reflect the requirements for Uruguayan citizens coming to the UK.
- 7.14 Changes are being made to reflect that the UK's existing reciprocal, bilateral arrangements with Japan and the Republic of Korea have been enhanced; the total number of allocated places for nationals of these countries who can travel to the UK and vice versa under the Scheme will increase. For nationals of the Republic of Korea the age range is also being expanded from 18-30 to 18-35. The requirement to obtain an invitation to apply for Japanese and South Korean citizens is being removed.

Introduction of new Appendix Bereaved Partner

7.15 Appendix Bereaved Partner replaces existing provisions for Bereaved Partners and their dependent children in Part 8, Appendix FM and Appendix Armed Forces of the Immigration Rules. It does not include provisions for Bereaved Partners of Gurkhas or Hong Kong Veterans discharged before 1 July 1997 who are included in Appendix Gurkhas and Hong Kong military unit veterans discharged before 1 July 1997.

7.16 Changes from provisions in the current rules are:

- The provisions for a dependent child of a Bereaved Partner are included in Appendix Bereaved Partner.
- The general grounds for refusal in Part 9 of the rules are applied to this route.

Introduction of new Appendix Victim of Domestic Abuse

7.17 Appendix Victim of Domestic Abuse replaces existing provisions for Victims of Domestic Abuse and their dependent children in Part 8, Appendix FM and Appendix Armed Forces of the Immigration Rules. This will provide a single set of Victim of Domestic Abuse rules for those applying for settlement.

7.18 Changes from provisions in the current rules are:

- Appendix Victim of Domestic Abuse will allow victims of domestic abuse and their dependants to apply for entry clearance from outside the UK, where they have been abandoned overseas and it is accepted that the abandonment overseas is part of the domestic abuse.
- The overseas and in country application for settlement as a Victim of Domestic Abuse is subject to a fee waiver based on destitution.
- A person who was last granted permission as a partner under Appendix FM, Part 11, or Appendix Family Reunion (Protection) of a person with permission as a refugee will be eligible to apply for settlement as a Victim of Domestic Abuse.
- The provisions for a dependent child of a Victim of Domestic Abuse are included in Appendix Victim of Domestic Abuse.
- The general grounds for refusal in Part 9 of the rules are applied to this route.

Introduction of new Appendix Statelessness

7.19 Appendix Statelessness replaces existing provisions for Stateless Persons in Part 14 of the Immigration Rules.

7.20 Changes are being introduced which affect partners and children of a Stateless Person. They include:

- A partner or child will not be able to apply for entry clearance, permission to stay or settlement under Appendix Stateless from the 16 January 2024.
- Where a partner or child of a Stateless Person are not themselves stateless or are overseas, they may apply to come to or stay in the UK under the family provisions in Appendix FM. The existing provision in Appendix FM have been amended to allow a Stateless person to sponsor a partner and dependent child. Those applying under Appendix FM will need to pay the application

fee, or be granted a fee waiver, as well as meet the relevant partner or child requirements.

- Partners or children who currently have permission under Part 14: Stateless Persons will continue to be able to extend their permission or settle in the UK under those provisions.

7.21 Other changes allow Stateless applicants to combine time on other routes that allow an applicant to qualify for settlement after a 5 year qualifying period. To combine time on other routes the applicant must not have entered the UK illegally and must have had permission on the stateless route for at least 1 year at the date of application for settlement.

Minor Changes to Temporary Work routes

7.22 Minor formatting changes are being made to Appendix Government Authorised Exchange schemes.

7.23 Updates to Appendix Government Authorised Exchange schemes are being made to remove schemes that are redundant.

7.24 An update is being made to Appendix Sports Governing Bodies to add “The Darts Regulation Authority” as the governing body for darts in the UK.

7.25 A minor change to correct a drafting error is being made, to allow those who apply for a period of 12 months or less on the International Sportsperson route to apply from a third country.

7.26 A minor change is also being made to correct the length of permission that can be granted to those applying on the International Agreement route.

7.27 Changes are being made to Appendix Temporary Work – Creative Worker, Appendix Temporary Work – Government Authorised Exchange and Appendix Returning Resident to apply the parental consent requirement set out in Appendix Children.

Changes to Appendix Innovator Founder

7.28 A change is being made to correct a drafting error in the 17 July 2023 Rules changes (HC 1496) relating to switching conditions from the Student route to the Innovator Founder route. PhD students can apply to switch having completed 24 months of study (not 12).

Changes to Appendix Children

7.29 Some changes to Appendix Children are being made to include the following routes: Appendix Bereaved Partner, Appendix Temporary Work – Creative Worker, Appendix Temporary Work – Government Authorised Exchange, Appendix Returning Resident, Appendix Victim of Domestic Abuse.

Changes to Part 5

7.30 We are deleting from Part 5 the indefinite leave to remain provisions from the following: Private Servant in a diplomatic household, Overseas government employees, and airport based operational ground staff of overseas-owned airlines. These routes had been closed for some time (although some have successor routes)

Those on these routes can count that time towards settlement under Long Residence or Private Life routes.

Other Minor Changes

- 7.31 A change is being made to Appendix UK Ancestry to confirm the existing policy that an applicant must be in the UK to apply for this route.
- 7.32 Appendix Returning Resident is being revised to move the requirement to have previously been granted settlement from the Validity to Eligibility section of the Rules. Part 9 has also been updated to refer correctly to Appendix Returning Resident.
- 7.33 Minor changes are being made to Appendix FM, Appendix FM-SE and Appendix Armed Forces to reflect the devolution of social security benefits to Scotland where Disability Living Allowance and Personal Independence Payment have been replaced by Child Disability payment for those aged under 16 and Adult Disability Payment for those aged 16 and over.
- 7.34 The definition of ‘Partner’ in the Introduction is being updated to bring it in line with Appendix Relationship with Partner.
- 7.35 The Statement of changes also 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, including those made in the Statement of Changes in Immigration Rules (HC 1160) laid on 9 March 2023.²

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument is not being made under the European Union (Withdrawal) Act 2018 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 2018.

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

² [Statement of changes to the immigration rules: HC 1160, 9 March 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/statement-of-changes-to-the-immigration-rules)

11.1 Guidance relating to these Rules changes will be updated and placed on the GOV.UK website when these changes take effect.

12. Impact

12.1 These changes are estimated to have no, or no significant, impact on business, charities, or voluntary bodies.

12.2 These changes are estimated to have 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 or be revoked or amended. A further Statement of Changes would be needed to revoke or amend the relevant Rules.

14.2 A review provision is included in the instrument.

15. Contact

15.1 Specific written queries relating to this Statement of Changes should be directed to Robert Hayes-Walters at StateofChanges@homeoffice.gov.uk. Please note that this mailbox is only for Parliamentary use in relation to specific technical queries regarding the drafting of this Statement of Changes. It is not a contact point for general enquiries. Queries to this e-mail address from outside Parliament about other immigration issues, including how these changes affect applications, will not receive a response.

15.2 More general queries should be directed to the Home Office as per the 'Contact UKVI' section on the visas and immigration pages of GOV.UK website.³

15.3 A copy of this Statement of Changes can be found on the visa and immigration pages of the GOV.UK website.⁴

15.4 Sally Weston, Head of Simplification and Systems Unit at the Home Office, can confirm that this Explanatory Memorandum meets the required standard.

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

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

15.5 Rt Hon Robert Jenrick MP, Minister of State (Minister for Immigration) at the Home Office, can confirm that this Explanatory Memorandum meets the required standard.