

This Explanatory Memorandum replaces the previous version, laid before Parliament on 19 February 2024 (Session 2023-24), which has been withdrawn. Copies will be provided free of charge to all known recipients of the previous version.

EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
PRESENTED TO PARLIAMENT ON 19 FEBRUARY 2024 (HC 556)

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 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

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>

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.
- 4.2 The changes being made primarily concern changes to the Ukraine Family Scheme, Homes for Ukraine Sponsorship Scheme, Ukraine Extension Scheme and to provisions for care workers and senior care workers on the Skilled Worker visa route.
- 4.3 This instrument also makes two minor changes to other policy areas, detailed in paragraphs 5.15 and 5.16 of section 5 of this Explanatory Memorandum.

Where does the legislation extend to, and apply?

- 4.4 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.
- 4.5 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. The exception to this is the change at paragraph 5.13 below which relates only to jobs with a working location in England.

5. Policy Context

What is being done and why?

Changes to the Ukraine scheme

- 5.1 We are closing the Ukraine Family Scheme (UFS) and making changes to the Homes for Ukraine Sponsorship Scheme (HFU) through rules that affect applicants, including eligible minors.
- 5.2 We are also applying to Appendix Ukraine Scheme a number of those General Grounds for Refusal in Part 9 of the Immigration Rules that had been initially omitted, so as not to lead to refusals of visas that would have been disproportionate at the height of the invasion.
- 5.3 We are making amendments to the Ukraine Extension Scheme (UES) to allow children born in the UK to those who hold permission under the Ukraine Scheme (including the now closed Ukraine Family Scheme) to be eligible to apply for permission under the UES beyond its closure on 16 May 2024 (UES closure from that date is already in the Rules and does not form part of this Statement of Changes).

Closing the Ukraine Family Scheme

- 5.4 The Government has decided to close the Ukraine Family Scheme (UFS) to new applications with immediate effect to rationalise the offer for Ukrainians coming to the UK and improve the sustainability of the schemes we provide.
- 5.5 The UFS was designed to have broad eligibility criteria to facilitate the urgent need for a high-volume migration event without undermining the integrity of the existing family rules. Given the length of time since the invasion of Ukraine (almost 2 years) and in light of the availability and success of the HFU, the government consider that it is now right to refine our offer in favour of the more sustainable Homes for Ukraine Sponsorship Scheme.
- 5.6 Part of the rationale for closing the UFS to new applicants relates to its interaction with HFU. The same Ukrainian nationals who qualify under UFS can qualify under HFU if their family member is approved as a sponsor and they meet the other requirements of the rules. UFS sponsors already have to be British or Irish citizens or settled in the UK (as will now be the case for HFU sponsors).
- 5.7 HFU is more sustainable in the long term as a result of the required accommodation checks, accommodation commitment a sponsor must provide, and safeguarding checks, none of which feature in the UFS. This leads to a reduced risk of homelessness and reliance on emergency support provided by the Local Authorities.
- 5.8 There may be some individuals who would be eligible to apply under UFS who would not be eligible to apply under HFU, such as third country nationals who are not an immediate family member of a Ukrainian national, or who are an immediate family member but are not accompanying or joining their Ukrainian national family member in the UK. This is in line with the policy that third country nationals are only eligible for the HFU Scheme if they are immediate family members of Ukrainian nationals who qualify or hold permission under the scheme.
- 5.9 People who already have permission to enter or stay under the UFS will continue to hold that permission despite the closure of the UFS to new applicants. All applications under UFS received before the closure of the scheme will be decided under the rules in force the day before the rules change.

Changes to the Homes for Ukraine Sponsorship Scheme (HFU)

- 5.10 Almost two years into the conflict, the situation in Ukraine and the responses to it have evolved, therefore we are also changing the period of permission granted to new HFU applicants, including eligible minors, from 36 months to 18 months. This will still provide assurance of a period of sanctuary in the UK and is more closely aligned with the period granted in the EU under the EU Temporary Protection Directive, which is one year at a time.

Changes to Ukraine Extension Scheme (UES)

- 5.11 Under the current rules, the Ukraine Extension Scheme will close to new applications for permission to stay on 16 May 2024. Amendments are made to the UES to allow children born in the UK after 18 March 2022 to those who have permission under the

Ukraine Scheme (including the now closed Ukraine Family Scheme) to be eligible to apply under this route beyond 16 May 2024. They will be granted permission aligned to the length of permission under the Ukraine Scheme held by their parent. Where the parents hold differing lengths of permission under the Ukraine Scheme, a child will be granted in line with the parent who holds permission that expires last. This is necessary to ensure that we provide a route for children born in the UK to regularise the immigration status in line with their parents.

Changes relating to care workers and senior care workers on the Skilled Worker route

5.12 As announced by the Home Secretary on 4 December 2023³, changes are being made to tighten the Health and Care Worker route for Skilled Workers sponsored as care workers or senior care workers (occupation codes 6145 and 6146), in response to high levels of non-compliance and worker exploitation and abuse, as well as unsustainable levels of demand. In the year ending September 2023, 83,072 visas were granted for care workers and a further 18,244 visas for senior care workers, comprising 30% of all work visas granted. In addition, there were 250,297 visas granted for work-related dependants, 69% of which were for Health and Care Worker dependants.

5.13 These changes:

- Narrow the eligibility for workers to be sponsored in these occupation codes in England from all jobs to only jobs where the sponsor is registered with the Care Quality Commission (CQC) and is currently carrying on a regulated activity (this does not affect the eligibility of jobs in Scotland, Wales and Northern Ireland); and
- Remove the provision for dependants to accompany or join workers sponsored in these occupation codes (other than providing for children born in the UK to regularise their stay).

5.14 Transitional arrangements are being applied for Skilled Workers who have applied on the route and are sponsored in these occupations before these changes come into force. These arrangements allow them to apply to extend their permission with the same sponsor, and settle, without the CQC regulation requirement applying to them. They also allow such individuals to be accompanied or joined by dependants, including in cases where they change jobs to another sponsor who meets the CQC regulation requirement.

Other Minor Changes

5.15 The Youth Mobility Scheme route implements our international commitments to provide cultural exchange programmes for young people. The “Youth Mobility Scheme route” definition is being clarified to ensure previous iterations of the route are included.

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

- 5.16 The Statement of changes also corrects a minor drafting error relating to a change in Part 8 of the rules, made in the Statement of Changes in Immigration Rules (HC 246) laid on 7 December 2023.⁴

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 19 February 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 the Ukraine scheme

- 7.1 The changes in this Statement have not been the subject of a formal public consultation, this would not be appropriate in the context of these changes given the need to protect the integrity of the schemes and prevent a rush of applications to pre-empt the changes to the rules which have, in part, been made to mitigate risks of misuse of the generosity of the schemes.
- 7.2 Discussions have been held with the Ukrainian Embassy in London to ensure we are responding appropriately to their views on retaining the temporary nature of the permission granted to Ukrainians as it remains their view, and ours, that the return of their citizens to Ukraine when it is safe to do so, is a key objective to support reconstruction and redevelopment. This is consistent with our providing at the same time an appropriate route for their nationals seeking sanctuary in the UK.
- 7.3 Discussions have also been held with the Scotland Devolved Administration, the Wales Devolved Administration and the Northern Ireland Devolved Administration so that they can identify and take into account any consequential impacts arising from the rules changes. The Crown Dependencies (Jersey/Guernsey/Isle of Man) have also been engaged to ensure they are fully aware of the UK's plans and able to respond accordingly in their position as a Crown Dependency.

⁴ Statement of changes to the Immigration Rules: HC 246, 7 December 2023 - GOV.UK (www.gov.uk)

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

All other changes

- 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 We intend to publish guidance during the intervening period between laying and implementation for Ukraine changes implementing in March.
- 8.3 For the other changes 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.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

Changes relating to care workers and senior care workers in the Skilled Worker route

- 9.1 The changes to the Skilled Worker 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 in how to respond to these changes.
- 9.2 The changes to work routes are likely to have a significant impact on the public sector through changes to Home Office fee and Immigration Health Surcharge revenue.
- 9.3 Further detail on the impact on business, charities, voluntary bodies, as well as the public sector are being prepared in a full Impact Assessment. Given the short timeframe between these Rules changes and the subsequent wider package of Rules changes being laid in March (which also affect the same group), a single impact assessment is being prepared to illustrate the individual and combined impact of the package of changes. This IA will show the separate impact of each change but given resource constraints it would not have proved feasible to deliver two Impact Assessments in such close proximity.
- 9.4 The changes relating to the Skilled Worker route will have an impact on small businesses who sponsor these workers, as described above.

Changes to the Ukraine scheme

- 9.5 There is no significant impact on business. However, for the public sector impact, the balanced package of measures over a three-year appraisal period, from February 2024 to February 2027, is estimated to have a Net Present Social Value (NPSV) range of -£36m to £70m, with a central estimate of £3m.
- 9.6 Within the central scenario, the main quantified cost is a potential £8m loss in fiscal revenue. The most substantial monetised benefit is the potential relief of fiscal

pressure, such as the reduction in benefit payments to Ukrainian refugees, estimated at £16m over the 3-year appraisal period.

- 9.7 A detailed Economic Note relating to the balanced package of measures has been published alongside this EM.
- 9.8 For all other changes there is no, or no significant, impact on business, charities or voluntary bodies.
- 9.9 For all other changes the legislation does not impact small or micro businesses.
- 9.10 These changes have 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

Changes to the Ukraine scheme

- 11.1 The changes to the Ukraine Family Scheme (the closure of the UFS scheme to new applications) and to the Homes for Ukraine Sponsorship Scheme (changes to the sponsor eligibility through HMG guidance and period of permission granted to HFU applicants) will come into effect at 1500GMT on 19 February 2024, 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.
- 11.2 The Government considers this departure from the convention to be justified and proportionate in order to maintain the orderly operation of the immigration system.
- 11.3 It is anticipated that closure of the UFS route to new applicants and changes to the HFU scheme with 21-days' notice, or less, could trigger a misplaced surge in applications, involving a substantial increase in application levels in advance of the deadline in order to benefit from the current provisions, which is arguably unnecessary because the Homes for Ukraine Sponsorship Scheme remains open for applications from most of the Ukrainian applicants and sponsors of the Ukraine Family Scheme.

- 11.4 There is a risk associated with the changes being made to HFU – because of the change to the period of permission grant from 36 months to 18 months, there is a risk that during the 21-day period application numbers would surge and overwhelm the system. The Ukraine Extension Scheme remains open to eligible applicants applying from within the UK, until 16 May 2024. Ukrainians are also able to use other existing routes to come to the UK outside of the Ukraine Schemes. It is therefore considered that most Ukrainians will continue to be able to seek sanctuary in the UK through the Homes for Ukraine Sponsorship Scheme or apply under other immigration routes for which they are eligible.
- 11.5 It is considered that closure of the UFS affects only a small proportion of potentially eligible individuals, such as those third country nationals who are not immediate family members or who are not accompanying or joining a Ukrainian national in the UK. This is in line with the HFU eligibility requirements for third country nationals being limited to those who are immediate family members of Ukrainian nationals who hold permission under the Ukraine scheme.

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”).
- 13.2 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.