

Statement of Changes to the Immigration Rules – detailed changes

The main policy changes reflected in the Statement of Changes are as follows.

Introduction of Hong Kong British National (Overseas) route

Before the handover of the UK's responsibilities for Hong Kong, we created the British National (Overseas) (BN(O)) nationality status which was opened to people in Hong Kong, through a registration process, to those who had British Dependent Territories citizenship. Now that China has breached the Sino-British Joint Declaration through implementation of its national security legislation on Hong Kong restricting the rights and freedoms of BN(O) citizens, we are changing the entitlements which are attached to BN(O) status. BN(O) citizens in Hong Kong are in a unique position and therefore this policy is specific to them in the wider immigration system.

The Hong Kong British National (Overseas) rules cover two routes – the BN(O) Status Holder route and the BN(O) Household Member route. The BN(O) Status Holder route is for a BN(O) citizen who is ordinarily resident in Hong Kong or the UK. A dependent partner and a dependent child under the age of 18 of a BN(O) citizen can, if they are ordinarily resident in Hong Kong or the UK, apply under this route. In exceptional circumstances, other family members with a high degree of dependency may also apply.

The BN(O) Household Member route is for the adult child, born on or after 1 July 1997, of a BN(O) citizen. The BN(O) Household Member, and any dependent partner or child applying under this route must be ordinarily resident in Hong Kong or the UK and form part of the same household as the BN(O) citizen.

The Hong Kong British National (Overseas) routes allow work and study in the UK and are both routes to settlement.

Changes to Suitability requirements of the Immigration Rules

We have revised and simplified the rules setting out how the powers to refuse or cancel permission on suitability grounds are to be exercised. The main policy changes which apply to most routes are:

- There are changes to the criminality thresholds to introduce a new single sentence-based threshold of 12 months applying both to offences committed in the UK and overseas. This will align decision-making relating to criminality with the current automatic deportation threshold of 12 months for UK offences, creating consistency across the immigration system and making it easier for migrants to understand exactly what impact their convictions will have on their immigration status.
- The new rules also reflect the policy intention for decision-making to be tougher at the border in relation to visitors and those entering the UK for the first time.
- Certain low-level offending can cause as much societal or economic harm as more serious criminal offences but may attract penalties, such as a fine or suspended sentence, which would fall below the sentence-based threshold for refusal. Some non-criminal behaviour can have a similar effect. The new rules

introduce specific grounds for refusal or cancellation of permission on the basis of customs offending or involvement in a sham marriage. Evasion of duty and tax at the border affects the UK economy and can boost trade on the black market. Border Force regularly refuse entry on non-conducive grounds to individuals with quantities of restricted or prohibited goods, for example those carrying in excess of their duty-free allowances or those found with small quantities of drugs, but who meet the requirements of the Immigration Rules for their purpose of entry. Similarly, the non-conducive power is used to take enforcement decisions against non-EEA nationals following a sham marriage determination. Introducing specific rules allowing decisions to refuse or cancel permission on the grounds of customs offending where there is no criminal prosecution, and on the grounds of involvement in a sham marriage, will make clear that these behaviours are unacceptable and will preserve use of the non-conducive power for those who pose a direct threat to the security of the UK.

- The rules also include a specific discretionary ground for refusal of permission to stay or cancellation in-country of permission of those in the UK for a temporary purpose on the basis of rough sleeping. The number of rough sleepers in the UK is continuing to rise and, in London alone, the number of rough sleepers accounted for 27% of the national total compared to 23% in 2016. It is intended that the new rule will be used sparingly and where wider cross-government support to those sleeping rough is refused.
- The revised rules will also now apply to applications for, and leave granted under, legacy ECAA arrangements with Turkey and transitional arrangements introduced from 1 January 2021. The changes ensure that, in respect of conduct committed after 31 December 2020, the UK conduct thresholds will apply to cancellation of leave and to new applications for extension of leave. Conduct committed before that date will continue to be assessed under ECAA legacy thresholds. For dependent children joining a family member with leave under Appendix ECAA Extension of Stay or legacy ECAA arrangements after 1 January 2021, all conduct will be assessed in accordance with the revised suitability rules.

We have also ensured through the Rules that overstaying between 24 January and 31 August 2020 will be disregarded.

Changes to the Afghan Interpreter rules

We are also introducing changes to extend the Afghan Interpreters ex-gratia relocation scheme to allow applications from those who resigned from their position and who served for a minimum of 12 months on the frontline prior to their resignation. This extension will allow for more Afghan Interpreters who assisted HM Forces in Afghanistan, along with their immediate family members, to relocate to the UK. Changes have been made to allow those who served for a minimum of 12 months prior to resignation and served 'on frontline duties outside the wire in Helmand' to apply for limited leave to enter the UK. The amendment makes clear that this is a time-limited extension – applications must be submitted between 1 December 2020 and 30 November 2022. These changes allow a person now eligible for limited leave to the UK to sponsor family members to come to the UK, subject to the existing requirements under Part 7 of the Immigration Rules.

Changes to the EU Settlement Scheme (EUSS)

Some changes are being made to the Immigration Rules for the EU Settlement Scheme (EUSS), contained in Appendix EU, and for the EUSS family permit, contained in Appendix EU (Family Permit). The changes being made are in line with the Citizens' Rights Agreements with the EU, the other EEA states (Iceland, Liechtenstein and Norway) and Switzerland and mainly reflect the end of the transition period.

The main changes in respect of the EUSS and the EUSS family permit are as follows:

- To provide access to the EUSS for a resident EEA or Swiss citizen's existing close family member (a spouse, civil partner, durable partner, child or grandchild and dependent parent or grandparent) who are resident overseas at the end of the transition period (or who are resident in the UK before that point and subsequently break the required continuity of that residence), where the family relationship continues to exist when the family member seeks to join them in the UK. The changes also provide access to the EUSS for a child born to or adopted by an EEA or Swiss citizen after the end of the transition period where the latter was resident here by then and, in line with the Agreement with Switzerland, for the spouse or civil partner of a Swiss citizen resident here by then where the marriage or civil partnership is formed after that point and by 31 December 2025.
- To provide for the deadlines by which applications to the EUSS are to be made. These include in particular the deadline of 30 June 2021 for an application to be made by those resident here by the end of the transition period, with scope for them to apply after that date where there are reasonable grounds why they missed the deadline.
- To widen access to the EUSS family permit from the end of the transition period to include, for example, existing close family members resident overseas at that point and children born or adopted after that point, together with relevant family members returning to the UK from the EEA or Switzerland with a UK national having lived together there while the UK national exercised their free movement rights.
- To provide access to the EUSS and the EUSS family permit for relevant family members of EEA or Swiss citizens resident in the UK by the end of the transition period who are exempt from immigration control (e.g. because they work for a specified international organisation) and who will be able to apply for status under the EUSS themselves once they cease to be exempt. The changes also provide access to the EUSS and the EUSS family permit for relevant family members of EEA or Swiss citizens who, under regulations to be made under section 8 of the EU (Withdrawal Agreement) Act 2020, are frontier workers in the UK (working here, but resident overseas) by the end of the transition period.
- To provide that, consistent with the Agreements, in an application to the EUSS made from 1 July 2021, the dependency of a parent or grandparent on the resident EEA or Swiss citizen will not be assumed but will need to be evidenced, where the applicant was resident outside the UK at the end of the transition period (or was resident in the UK before that point and subsequently broke the required continuity of that residence) and where they (or their

spouse, civil partner or durable partner with whom they reside) do not already have status under the EUSS as a 'dependent parent'. Similar changes are made for any application made from 1 July 2021 for an EUSS family permit as a 'dependent parent'.

- To incorporate in Appendix EU and Appendix EU (Family Permit) the provision currently made in Part 9 of the Immigration Rules for the cancellation and curtailment of leave to enter or remain granted under Appendix EU and of leave to enter granted by virtue of having arrived in the UK with an entry clearance that was granted under Appendix EU (Family Permit).

Changes to the Visitor route

We want to ensure legitimate travellers who support our economy and enrich society and culture can continue to come to the UK. We have therefore simplified the visitor rules to:

- Permit study of up to six months under the standard visit route. All non-recreational study must be undertaken at an accredited institution, except recreational courses undertaken for leisure that last no longer than 30 days.
- Allow drivers on international routes to collect as well as deliver goods and passengers in and out of the UK.
- Remove the requirement for volunteering to be incidental to the main reason for the visit.

Changes to the Short-term Study rules

The current Short-term study route allows students to come to the UK to study courses of up to six months, and to study English language courses for between 6 and 11 months at an accredited institution. The new Short-term Student route will replace the current rules for the 6 to 11-month English language route. Other students who wish to undertake short-term study for up to six months may now use the revised Visitor route for this purpose.

Changes to the Student rules

The Student and Child Student routes, collectively referred to as the Student routes, were simplified and revised, with changes taking effect from October this year. The further changes made now are that maintenance levels for the Student routes are amended in line with the current home student maintenance loans. Also, the restriction on working as a postgraduate doctor or dentist in training has been removed from the conditions of leave for Students and their dependants to enable them to support our NHS.

Changes to the Parent of a Child Student rules

The Parent of a Child Student route allows one parent to come to or stay in the UK to care for their child (or children), where the child is a Child Student aged between four and 11 who is attending an independent fee-paying school in the UK. The main changes are to clarify the amount of money that the parent must have available to maintain themselves and their child in the UK and to allow parents to be granted the same length of permission as their children.

Introduction of the Skilled Worker route

The Skilled Worker route is for those who wish to come to the UK for the purpose of working in a skilled job they have been offered. The key characteristics of the new route are that an applicant must be sponsored to do a specific job, which meets skill and salary requirements, by an employer that has been licensed by the Home Office. The main differences between the Skilled Worker route and the Tier 2 (General) route it replaces were set out in the Policy Statement on 13 July 2020 and are:

- The minimum skill threshold is being lowered from graduate occupations to occupations skilled to RQF level 3, roughly equivalent to A-levels or Scottish Highers. Applicants will not need to hold a formal qualification; it is the skill level of the job they will be doing which determines whether the threshold is met.
- The general salary threshold is being lowered from £30,000 to £25,600 a year. As is currently the case, sponsors must pay their skilled workers a salary which equals or exceeds both this threshold and the “going rate” for the occupation, whichever is higher. Going rates are being updated in line with newer salary data and the recommendations of the independent Migration Advisory Committee (MAC).
- Sponsored workers may be paid less than the above amounts, depending on the tradeable points they are awarded. Applicants must be awarded 70 points in total. Meeting the mandatory criteria (sponsorship, skill level and English language skills) will result in 50 points. An applicant may be awarded the remaining 20 tradeable points through a combination of points for salary, a shortage occupation or a relevant PhD qualification.
- The Government is carefully considering the MAC’s recommended changes to the Shortage Occupation List. We do not believe we should make changes before assessing how the UK labour market develops post-Covid 19 and the introduction of the new Points-Based Immigration System.
- The cap which currently applies under Tier 2 (General) is being suspended. This will reduce the end-to-end process for sponsoring skilled workers by up to four weeks.
- There will be no requirement for sponsors to undertake a Resident Labour Market Test. This will remove at least a further four weeks from the end-to-end process for sponsoring skilled workers. Sponsors must still be seeking to fill a genuine vacancy which meets the skill and salary thresholds.
- The criteria used to identify a “new entrant to the labour market” are being amended.
- The 12-month “cooling off period” and six-year maximum length of stay in the route are being removed.
- The £35,800 salary threshold for settlement applications is being removed. Instead, sponsors must be paying their skilled workers a salary which equals or exceeds £25,600 per year and the going rate for the occupation.
- Those sponsored in shortage occupations or listed health or education occupations may be paid £20,480 per year but their salary must equal or exceed the going rate for the occupation. Other salary reductions permitted through tradeable points will not apply to settlement applications.

Changes to the Intra-Company Transfer rules

The Intra-Company Transfer route is for established employees who are being transferred by their employer company to do a skilled role in the UK. The Intra-Company Graduate Trainee route is for employees who are being transferred by their employer company to a role in the UK as part in a structured graduate training programme. The main changes were set out in the Policy Statement and are:

- A change is being made to the cooling-off requirement. Instead of migrants being barred from re-entering the UK as an ICT for 12 months after departing, they will be permitted to hold Intra-Company Transfer leave for up to five years in any six-year rolling period or up to nine years in any 10-year period for high earners.
- Provisions for high earners will be unified to a single salary threshold of £73,900. Workers with salaries at or above that threshold will be permitted to hold Intra-Company Transfer leave for up to nine years in any 10-year rolling period and are exempt from the requirement to have worked for the overseas business for 12 months prior to entering the UK.

Changes to the Global Talent route

We are also making changes to the Global Talent rules. This route is for exceptionally talented and exceptionally promising individuals in the fields of science, engineering, humanities, medicine, digital technology or arts and culture wishing to work in the UK. 'Talent' applicants are already leaders in their respective field, while 'promise' applicants have shown the potential to become leaders in their field. The main changes to the Global Talent route are:

- The criteria for consideration of senior appointments are being revised, so that the route caters for emerging leaders as well as those at a more advanced stage of their career.
- The definition of the types of academic and research roles that qualify is being expanded.
- A points assessment is being introduced in line with the introduction of the points-based system.

Changes to other work routes

A number of other work routes are included in the Statement of Changes. These have been revised and simplified but there are no substantial policy changes. These routes are:

- Minister of Religion, which allows the recruitment of persons who have a key leading role within their religious establishment or organisation in the UK.
- Sportsperson route which is for an elite sportsperson or qualified coach who is sponsored on a long-term contract to make a significant contribution to the development of sport at the highest level in the UK.
- UK Ancestry, which is for Commonwealth citizens with a grandparent born in the UK who intends to come to the UK to work.
- The Representative on an Overseas Business route, which is for an employee of an overseas business which does not have a presence in the UK.

- The Tier 5 (Temporary Worker) routes: Seasonal Worker, Youth Mobility Scheme, Religious Worker, Charity Worker, Creative and Sporting Worker, International Agreement Worker and Government Authorised Exchange Worker.
- Start-up and Innovator routes which were reformed recently to attract those with innovative business ideas to the UK.

Changes to the validity requirements for applications

The requirements for how to make a valid application for most routes include some of the following:

- The application must be made on the specified form on Gov.UK.
- Any fee and Immigration Health Charge must have been paid.
- The applicant must have provided any required biometrics.
- The applicant must have provided a passport or other document which satisfactorily establishes their identity and nationality.
- The applicant must meet any minimum age requirement on the date of application.
- If the applicant has received an award from a Government or international scholarship agency in the 12 months before the date of application which covers both fees and living costs for study in the UK, they must have provided written consent to the application from that Government or agency.
- If the applicant is switching into another route, they must not be in the UK on one of the routes that does not allow switching.

In addition to these, there are now some route specific objective validity requirements. For example, the Skilled Worker route includes an additional validity requirement to have been issued with a Certificate of Sponsorship.

Changes to English language, finance and Knowledge of Life in the UK requirements

We are aligning the way applicants prove English language, Finance and Knowledge of Life in the UK with the intention of creating rules on themes which will apply across several routes. These thematic rules include changes to:

- Ensure applicants only need to prove the required level of English language to the Home Office once.
- Update the majority speaking English language country list to include Malta. This change will also be mirrored in the British Nationality (General) Regulations 2003.
- Allow applicants who have gained GCSE/A Level or Scottish Highers in English while at school in the UK to rely on this to prove their English language ability. Initially, we will apply this to entry clearance and permission to stay for Students, Skilled Workers, and Start up and Innovator.
- No longer require applicants who have met the maintenance requirement on their current route to meet it again if they have been supporting themselves in the UK for more than a year. This will apply to Students, Skilled Work, Intra-Company Transfers, T2, T5 (temporary workers), and Start up and Innovator.

- Align the timeframes applicants are required to show they have held funds to 28 days. Initially we will apply this to Students, Skilled work, Intra-Company Transfers, T2, T5 (temporary workers), and Start up and Innovator.
- Allow applicants to rely on electronic bank statements.
- Allow applicants to show they meet maintenance requirements by relying on a wider range of accounts.
- There are also some minor and technical changes to the way time periods are calculated and our approach to accounts with financial institutions where the Home Office cannot verify financial evidence.

There are also common themes on ATAS (Advance Technology Approval to Study) and Continuous Residence to provide greater consistency in how the current rules apply.

Changes relating to administrative review

Changes are also being made to Appendix AR and Appendix AR (EU) to provide a right of administrative review where a relevant decision is made on an application as:

- A Hong Kong British National (Overseas).
- A joining family member (under the EUSS) of a resident EEA or Swiss citizen.
- An S2 Healthcare Visitor.
- A service provider from Switzerland.

Changes to the Sham Marriage Scheme and marriage visit visa requirements

Changes are being made to the marriage visit rules that will bring EEA citizens within scope of the sham marriage scheme from the end of the grace period from July 2021 when a change will be made through secondary legislation under the Immigration and Social Security Co-ordination (EU Withdrawal) Bill. Consistent with the Withdrawal Agreement, EEA citizens with EUSS status as well as Irish citizens will remain exempt from the scheme and from the requirement to hold a marriage visit visa.

Changes to Family Immigration Rules in Appendix FM

Changes are being made to the family Immigration Rules in Appendix FM to enable:

- An EEA or Swiss citizen with limited leave under Appendix EU (the EUSS) on the basis of being resident in the UK before the end of the transition period to sponsor new family members (those who are not covered by the EUSS) to come to or remain in the UK.
- A Turkish worker or business person with limited leave under Appendix ECAA (or under legacy arrangements in respect of the European Communities Association Agreement (ECAA)) to sponsor a partner and children to come to or remain in the UK.

New S2 Healthcare Visitor route

The Citizens' Rights Agreements with the EU, the other EEA states and Switzerland require a route of entry into the UK to be made available, free of charge, to persons who, before the end of the transition period, had requested authorisation from their home state to receive a course of planned healthcare treatment provided by the NHS under the 'S2 route'. After the transition period ends, the S2 Healthcare Visitor route,

which is being created by this Statement of Changes, will allow eligible patients to enter the UK for a period sufficient to allow them to complete their treatment. These arrangements will also apply to any person accompanying a patient for the purpose of providing them with care or support during the course of planned healthcare treatment.

Changes to Turkish ECAA categories

Following the end of the transition period and the repeal of EU-derived directly effective immigration rights by the Immigration and Social Security Co-ordination (EU Withdrawal) Bill, the UK will no longer be internationally or domestically obliged to provide preferential treatment to Turkish nationals on the basis of the ECAA or its related provisions in the Additional Protocol or Decision 1/80. Appendix ECAA Extension of Stay added by this Statement of Changes will largely replicate the existing ECAA arrangements to ensure that Turkish workers and business persons currently covered by those arrangements remain subject to the same eligibility requirements as now. Changes are being made to suitability requirements to ensure that conduct committed before the end of the transition period is considered under the previous arrangements for restricting rights (which derive from judgments of the CJEU), whereas conduct committed after that date will be considered under the UK criminality thresholds.

Introduction of Service Providers from Switzerland route

In line with the Citizens' Rights Agreements with Switzerland, the new Appendix Service Providers from Switzerland establishes an immigration route for eligible service providers from Switzerland. To be eligible, service providers will need to show that:

- They have a written work contract, signed and dated before the end of the transition period, and they have commenced work under the contract before then.
- The work contract is between businesses established in Switzerland and the UK.
- They are employed by the contracting business and required to execute its terms in the UK.
- If they are not a Swiss citizen, they are integrated into the regular labour market of Switzerland.

Successful applicants will receive an entry clearance which gives them permission to enter and leave the UK multiple times, to allow for up to 90 days' work per calendar year.

Changes to prevent Irish citizens from applying under the Points-Based Immigration System

Finally, as part of the Common Travel Area arrangement between the UK and Ireland, and in line with their long-standing associated rights set out in the UK-Ireland CTA Memorandum of Understanding signed last year, Irish citizens will continue to have the right to enter, live and work in the UK without requiring permission and without restriction on their stay, unless they are subject to a deportation order, exclusion decision or international travel ban. As such, Irish citizens will not be eligible to apply for permission to enter or stay under the Points-Based Immigration

System (including as visitors) unless they require permission to enter/stay as a result of the above restrictions. We have made changes to the rules to reflect the fact that Irish citizens will generally not require permission to enter or stay in the UK.

This Statement of Changes is a significant step forward in transformation of our immigration system, implementing the future global points-based immigration system and simplifying and streamlining the rules.