



Construction workers, students, EU Settlement Scheme: latest Immigration Statement of Changes

The UK Government’s new Statement of Changes of Immigration Rules (HC 1496) has been overshadowed by legislation eroding refugee rights and a controversial linking of punitive visa fee hikes with public sector pay rises.

We summarise below the main changes that UK employers and individuals should be aware of. They reflect such recent developments and a government still vacillating between closing perceived loopholes and curbing immigration or facilitating the hires the health, construction, agriculture sector and others urgently need for a healthy economy.

The changes below all take effect from 7 August 2023, apart from those on switching from the student route to another immigration route (which took immediate effect) and those involving the EU Settlement Scheme which will come into force on 9 August 2023. Changes involving students and asylum seekers come into effect immediately. Statement HC 1496 on 17 July 2023, was followed by another Statement of Changes HC 1715 two days later with new countries added to the list of countries requiring a visa to visit the UK which came into effect immediately. Home Secretary Suella Braverman said this was again to stop “abuse” by those travelling to the UK legally, then claiming asylum from these countries. This is another change closing down so called “legal” routes to claim asylum in the UK at a time when legislation removes the option of asylum for those arriving by routes deemed “illegal.”

Shortage Occupation List to reflect construction and fishing industry vacancies

Skilled Worker visas have been increasingly important for UK businesses since Brexit ended free movement with the EU. The construction and fishing industries have been suffering greater than average job vacancies and have both been lobbying hard for these to be eased by adding certain job roles to the Shortage Occupation List (SOL). The SOL allows firms to sponsor migrants on Skilled Worker visas with a lower minimum pay threshold and also at 20% less than the going rate.

Reflecting recommendations made by the Migration Advisory Committee, these occupation codes for construction and fishing roles will be joining the [SOL](#):

- Bricklayers and masons (5312)



- Roofers, roof tilers and slaters (5313)
- Carpenters and joiners (5315)
- Plasterers (5321)
- Construction and building trades not elsewhere classified (5319)
- Deckhands on large fishing vessels of nine metres and above with at least three years' full-time experience (9119)
- Fishing trades not elsewhere classified (5119)

Don't forget immigration fees set to rise

More occupation codes on the Shortage Occupation List helps sectors facing skills shortages, however the Prime Minister has also now announced that visa fees and the Immigration Health Surcharge to access the NHS are set to rise - an extra cost to businesses hiring from abroad. Both fee increases will need to be voted through the House of Commons and the House of Lords before being enforced, so expect higher fees after the summer parliamentary recess.

Genuineness of vacancies sponsored migrants fill

The July Statement of Changes contains a clarification of the "genuineness" requirement of sponsored employees' job roles for the Skilled Worker visa, Scale-up visa and Global Business Mobility immigration routes. This clarification duplicates wording that already exists in temporary worker routes.

In each case, an applicant must show that they genuinely intend and are able to undertake the role for which they have been sponsored and that they don't intend to take unpermitted additional employment.

Unmarried Partners of Skilled Workers and Scale-up Workers

There is also a clarification that unmarried partners of people on the Skilled Worker and Scale-up Worker immigration routes will need to meet the suitability requirements for unmarried partners as defined for other categories such as students of graduates to correct what appears to be an omission in the last Statement of Changes.

Changes for sponsored medics

Changes to the Skilled Worker rules will now allow those sponsored to train as a General Practitioner to undertake supplementary work - not just for their sponsor - for up to four months after the end date of their Certificate of Sponsorship, rather than just 14 days.

A minor change to Appendix Skilled Occupations is also being made to correct an error in the salary scales for specialty registrars in Scotland, setting them at £36,472.

Endorsement for Innovator Founders

There is a clarification added to the Rules that letters of endorsement from legacy endorsing bodies will be considered in support of applications for under the Innovator Founder visa route for the same business where applicants had previous permission to stay under the Start-up route.

Service Providers from Switzerland

The Home Office can no longer refuse applicants on the Service Providers from Switzerland visa if they have reasonable grounds to believe the employment in the UK does not comply with the National Minimum Wage Regulations or the Working Time Regulations.

Seasonal workers' pay

There is an increase in minimum pay for sponsors of seasonal workers in the poultry sector (occupation codes 5431 or 5433) to at least £10.75 an hour and £26,200 per year.

Youth Mobility Scheme

New Zealanders can now apply for a year extension on the reciprocal cultural exchange and live and work in the UK for up to three continuous years. They can also apply to come to the UK on the Youth Mobility Scheme now up to when they reach the age of 36, rather than 31 like other participating nationalities. (Australians and Canadians are to follow suit next year, Australian nationals from 31 January.)

Students won't be able to switch visa until they complete their course

Student visa holders will no longer be able to switch to the following visas unless they have completed their course, the sponsored

work role start date is no earlier than completion of their course at an education provider with a track record of immigration compliance, or, if studying a PHD at an education provider with a track record of immigration compliance, the job will not start any earlier than 24 months after their course started.

One of the above conditions would have to be fulfilled to switch into one of the following immigration routes: Skilled Worker, Global Business Mobility routes, T2 Minister of Religion, Representative of an Overseas Business, UK Ancestry, Global Talent, High Potential Individual, Scale-Up, Innovator Founder, International Sportsperson, Temporary Work – Creative Worker, Temporary Work – Religious Worker, Temporary Work – Charity Worker, Temporary Work – International Agreement, or Temporary Work – Government Authorised Exchange.

For those applying for a Skilled Worker visa, the course need not have been completed before an application is made if it is degree-level or above at a provider with a track record of compliance and the job will start no earlier than the course completion date.

These changes have been brought in to close off a perceived loophole of people coming to the UK on student visas and switching into working visas, which could potentially save employers paying a skills charge fee to sponsor them.

Student dependants restricted further

At the moment, only postgraduate students are able to bring dependent family to the UK with them. For those starting courses from 2 January 2024 onwards, postgraduates will only be able to bring dependants if they will be studying for a research-based higher degree. A definition of a research-based higher degree can be found in the Immigration Rules.

EU Settlement Scheme amendments

There are important changes to the EU Settlement Scheme (EUSS), some relating to recent court decisions. Last year, the High Court ruled that the EUSS breached the Withdrawal Agreement between the UK and the EU as those on pre-settled status would be rendered unlawfully resident if they failed to apply for settled status. Appendix EU of the Immigration Rules has now been amended to say that the Home Secretary “*may extend [limited leave], regardless of whether the person has made a valid application under this Appendix for such an extension.*”

A simultaneous announcement by the Home Office offered some clarification of how this would operate. It said that from September 2023 people with pre-settled status will “*automatically have their status extended by two years before it expires if they have not obtained settled status.*”

The Home Office also said it intends to “*take steps to automatically convert as many eligible pre-settled status holders as possible to settled status once they are eligible for it, without them needing to make an application. During 2024, automated checks of pre-settled status will establish their ongoing continuous residence in the UK. Safeguards will be in place to ensure that settled status is not wrongly granted.*”

In another important change, it will be mandatory for a reason for a late application to be considered as the first stage of a two-stage application process. This means late applications to the scheme from 9 August may be rejected with no right of appeal or administrative review if the Home Office decides that there were no reasonable grounds for the delay. The application will be invalid, and the only possible challenge will be by judicial review.

Dependent relatives under the scheme will now include adult children of a durable partner who will continue to qualify if previously granted leave in this capacity when under 18.

In-country applications to the scheme as a joining family member who was not resident in the UK before the end of the post-Brexit transition period may be rejected if the applicant is defined as an illegal entrant.

From 8 August 2023, the EUSS will be closed to new applications under two routes not covered by the Withdrawal Agreement: family members of qualifying British citizens (on their return to the UK having exercised free movement rights in the EEA or Switzerland, known as “*Surinder Singh*” cases) and primary carers of British citizens (known as “*Zambrano*” cases). The routes will remain open to those who are already on them or with a pending application, administrative review, or appeal or those who have pending access to them via a relevant EUSS family permit.

The EUSS family permit will also close on 8 August 2023 to new applications by a family member of a qualifying British citizen. Those granted an EUSS family permit as such a family member via an application made by this date, will still be able to come to the UK and



apply to the EUSS.

Ukraine Extension Scheme extended

The Ukraine Extension Scheme currently allows Ukrainian nationals to extend permission to stay in the UK if they had leave to remain granted for any point between 18 March 2022 and 16 May 2023. Applications to the scheme had a deadline of 16 November 2023. This has now been extended to 16 May 2024, with the latest date during which an applicant must have had leave to stay to apply brought up to 16 November 2023.

Adult Dependent Relatives in a relationship

The Adult Dependent Relatives immigration route has generally become harder for people wanting to bring parents or grandparents with personal care needs that cannot be met to the UK to look after.

In June, the Immigration Rules were reorganised, and the wording was changed so that if a couple were applying together for the visa, not just one of them but both would have to demonstrate that their long-term care needs could not be met in their country of origin. The Home Office has admitted that this was a mistake and it has been rectified. From 7 August the situation will revert to just one of them having to show this personal care requirement.

Visa nationals

In the second statement of changes in just one week, on 19 July, five more countries were added to the list of countries whose nationals need to apply for a visa to visit or transit the UK.

Coming into effect immediately, nationals of Dominica, Honduras, Namibia, Timor-Leste, and Vanuatu will now need a visa for UK visits. According to the Home Office the change is due to Namibians and Hondurans claiming asylum in the UK and what Home Secretary Suella Braverman said was “evident abuse” of citizenship by investment schemes in Dominica and Vanuatu and other abuses of the UK’s immigration system by nationals of Timor-Leste.

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