EXPLANATORY MEMORANDUM TO

THE IMMIGRATION (NOTICES) (AMENDMENT) REGULATIONS 2023

2023 No. 1008

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 The intention of the instrument is to ensure the Immigration (Notices) Regulations 2003 ("the 2003 Regulations") explicitly provide that electronic service of asylum notices includes service via an electronic portal. The Manage Asylum Claim ("MAC") portal is a new digital tool which will be used by Home Office staff and immigration advisors outside the Home Office to upload documents associated with an asylum claim, including supporting evidence, interview transcripts and asylum decisions. By making this amendment, the 2003 Regulations will make clear that the Home Office can send asylum decisions via the MAC portal which will also allow decisions to be dealt with more expeditiously.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

6.1 Currently, regulation 7 of the 2003 Regulations allows for notices to be sent electronically. However it does not explicitly cover the serving of asylum decisions via the MAC portal. Amending the 2003 Regulations will make it clear that serving notices electronically includes service via the MAC portal and that the notice shall be deemed to have been received on the day the recipient receives an electronic notification that the notice has been uploaded to the MAC portal.

7. Policy background

What is being done and why?

7.1 This instrument amends the 2003 Regulations to explicitly cover the service of asylum notices via an electronic portal. These amendments are necessary in order to clarify that notices sent electronically includes service via an electronic portal to ensure that there has been an effective service of notice under the Regulations where the portal is used.

7.2 These amendments also clarify that a notice is deemed to have been received on the day on which the person who is the subject of the decision or a representative receives a notification that the notice has been uploaded to the portal. This clarifies when service is effective where the portal is used.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

9. Consolidation

9.1 There are no plans to consolidate the Immigration (Notices) Regulations 2003.

10. Consultation outcome

10.1 The changes in this statement have not been the subject of formal public consultation, as this would be disproportionate given the nature of the changes.

11. Guidance

11.1 The Drafting, Implementing and Serving asylum decisions guidance will be updated to reflect this change when the MAC portal referred to in paragraph 2.1 goes live. The updated guidance will provide further details on who can use the MAC portal and how it is intended to be used. Details of how to access the portal, once it is operational, will be published on www.gov.uk/claim-asylum.

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.

12.3 An Impact Assessment has not been prepared for this instrument because the suggested changes are considered uncontroversial and have a low level of impact per business.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The use of an electronic portal as a means of serving asylum decisions will be subject to internal monitoring by the Home Office.

15. Contact

15.1 Specific written queries relating to this instrument should be directed to asylumpolicy@homeoffice.gov.uk. Please note that this mailbox is only for Parliamentary use and specific technical queries regarding the drafting of these 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 Catherine Wells at the Asylum Decisions Policy team. Telephone: +44 (0)7393 784212 or email: Cat.Wells@homeoffice.gov.uk can also be contacted directly with any queries regarding the instrument.

15.3 Miv Elimelech, Deputy Director for the Asylum and Protection Unit, at the Migration and Borders Group can confirm that this Explanatory Memorandum meets the required standard.

15.4 The Rt Hon Chris Philp MP, Minister for Crime, Policing and Fire, can confirm that this Explanatory Memorandum meets the required standard.