EXPLANATORY MEMORANDUM TO

THE IMMIGRATION (PASSENGER TRANSIT VISA) (AMENDMENT) (NO. 4) ORDER 2025

2025 No. 1279

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.

2. Declaration

2.1 Mike Tapp, Minister for Migration and Citizenship at the Home Office confirms that this Explanatory Memorandum meets the required standard.

2.2 John Brocklehurst, Deputy Director for Visits, Visa and Trade Policy at the Home Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Rowan Duval-Fryer at the Home Office can be contacted by email at the following address with any queries regarding the instrument: Rowan.Duval-Fryer@homeoffice.gov.uk. Alternatively, the department can be contacted by telephone: 020 7035 4848.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This Order adds Nauru to the list of countries or territories whose nationals or citizens need a Direct Airside Transit Visa (DATV) if they want to pass through the United Kingdom (UK), without entering, while transiting to another country unless they hold a document listed at article 4 of the Immigration (Passenger Transit Visa) Order 2014 (S.I. 2014/2702).

Where does the legislation extend to, and apply?

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

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

5. Policy Context

What is being done and why?

5.1 Decisions on changes to visa requirements are designed to serve the UK national interest and are always taken in the round. A range of factors are considered. These will vary globally, but often include security, compliance, returns and prosperity.

5.2 The decision to introduce a DATV alongside a Visit Visa requirement for Nauru has been made due to the country's decision to introduce a new Citizenship by Investment programme. This programme permits persons to acquire citizenship solely by making a one-off payment to Nauru, and without requiring that person to have any wider relationship or prior residency with the country of Nauru.

5.3 The practice of granting Citizenship by Investment is inherently high-risk, due to the speed that it can lead to individuals accessing a new identity principally via a financial transaction with little or no wider ties to the issuing jurisdiction. Where programmes are poorly designed, expert bodies such as the Financial Action Task Force and the Organisation of Economic Co-operation and Development, have documented their vulnerability to exploitation by criminal actors, including for facilitating fugitive flight.

5.4 It is our assessment that the design of Nauru's Citizenship by Investment programme is particularly vulnerable to misuse. In its present design, it poses an unsustainable risk of being exploited by criminal actors or individuals seeking to circumvent UK immigration controls without genuine intent to comply with UK law.

5.5 A core concern is that Nauru has outsourced both the design and casework of its Citizenship by Investment programme to a private firm which is controlled by a one hundred percent shareholding by a Citizenship by Investment marketing agency, as listed on the New Zealand Companies Register. This agency is not only authorised to submit applications on behalf of clients to the programme, but is also financially incentivised. According to the programme legislation, an Agent Fee is payable by the programme to the authorised agent of $25,000 US dollars for successful applications, per accepted client. This creates at the very least a clear appearance of a conflict of interest, as that private firm both considers applications and is ultimately controlled by another firm that profits from application approvals.

5.6 The Government's view is that this arrangement and the conflicted position fundamentally compromises the credibility of any due diligence or assurance claimed by that private firm. We do not believe this arrangement can operate without rapidly escalating the level of risk to the UK border. Therefore, the Government considers it necessary to take action through adding Nauru to the list of countries or territories whose nationals or citizens need a DATV.

5.7 The amendment to the Immigration (Passenger Transit Visa) Order 2014 is being made in parallel to the immigration rules changes so that nationals of Nauru will also be required to obtain a DATV in advance if they wish to transit the UK (i.e. pass through the UK without entering). If this amendment is not made, these nationals could travel to the UK without a visa if they have booked an onward ticket to another destination where they either hold a visa or they are not required to have one. The amendment will prevent these nationals from travelling to the UK, using transit provisions as a means of then claiming asylum on arrival (or at their onward destination). Not introducing a DATV requirement in parallel to the broader visa requirement would likely significantly reduce the intended impact of introducing a visa requirement. This loophole would mean that these individuals could continue to abuse our borders, and bad actors could also continue to enter the UK for nefarious activities. This would materially undermine the intention and impact of removing Nauru from ETA eligibility and introducing of a visa requirement.

5.8 The introduction of the DATV requirement will include a transition period for nationals of Nauru to travel to the UK without a visa where they hold a confirmed travel booking made prior to the introduction. This period will commence at the same

time as the visa requirement is introduced and run until six weeks after the introduction date, ending at 23:59 on 20 January 2026. During this period, nationals of Nauru who hold a confirmed travel booking at the time of the introduction and an ETA, for travel to the UK within the six-week transition period, will not be required to obtain a visit visa before travel. Applications for an ETA for nationals of Nauru will close at 23:59 GMT on 9 December 2026. Nauru nationals who hold confirmed bookings for travel to the UK on a date after the transition period ends will need to obtain a visa in advance of travel. Amending the date of travel on a confirmed booking to an earlier date that falls within the transition period would still require the person to have a visa.

What was the previous policy, how is this different?

5.9 Nauru nationals were not required to apply for a visa to visit or transit the UK. This instrument introduces the requirement for all Nauru nationals that wish to transit UK airside to have a DATV in advance of travel unless they hold a document listed at article 4 of the Immigration (Passenger Transit Visa) Order 2014.

6. Legislative and Legal Context

How has the law changed?

6.1 Nationals of Nauru are now required to obtain a DATV in order to transit airside through the UK to an onward destination.

Why was this approach taken to change the law?

6.2 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 Given the nature of the amendment made by this instrument, a formal public consultation would be disproportionate and is therefore not appropriate.

8. Applicable Guidance

8.1 The change will be reflected in all applicable guidance. Please see further information regarding application for a Direct Airside Transit Visa here: https://www.gov.uk/transit-visa/direct-airside-transit-visa.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument as it would not be proportionate to do so, but key considerations are outlined below.

Impact on businesses, charities and voluntary bodies

9.2 There is not expected to be a significant impact on business, charities or voluntary bodies. Prior to this change, travel from Nauru, including for transit, was very low. Only 12 Electronic Travel Authorisations were issued to Nauru nationals in total between October 2023 and June 2025. The Office for National Statistics ("ONS") estimated in 2023 that the typical spend for a transiting passenger from an Electronic Travel Authorisation (ETA) country (i.e. non-visa national countries, upon full scheme rollout) who indicated to the ONS that they intended to leave the UK on the

same day as arrival was expected to be £68, while the typical visa national air transit passenger is expected to spend £72. As such, impact on UK business, charities and voluntary bodies are expected to be minimal.

9.3 The legislation does not impact small or micro businesses.

9.4 The impact on the public sector is likely to be positive. High volumes of asylum claims, if left unchecked, can represent significant cost to the public sector, though overall costs for this population would be a small proportion of overall asylum costs. The deterrence of national security and financial crime risk is also expected to lead to significant public sector saving.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The UK Government keeps its visit visa requirements under regular review.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 We are departing from the usual convention that a statutory instrument subject to the negative procedure will come into force no earlier than 21 days after it is laid in Parliament. This is considered necessary and proportionate to safeguard the operation of the immigration system. Providing the customary 21-days' scrutiny period before implementation would put the immigration system at risk to exploitation and potentially allow individuals who present a criminality, national security or border security risk to the UK.

11.2 Controlling migration and protecting the UK from criminality and national security risks are priorities for the Home Office, whilst continuing to respect our international obligations. Requiring nationals of Nauru to obtain a visa before visiting or transiting the UK does not contravene these obligations. The department is also facilitating a six-week transition period. This will enable nationals of Nauru to transit through the UK without a Direct Airside Transit Visa if their travel was booked before the date at which the statutory instrument came into force and who transit before 20 January 2026. This is to ensure that those with pre-booked travel would not be unreasonably adversely affected by this change economically.

12. European Convention on Human Rights

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

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").