EXPLANATORY MEMORANDUM TO

THE IMMIGRATION (PASSENGER TRANSIT VISA) (AMENDMENT) ORDER 2024

2024 No. 922

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 Seema Malhotra, 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 Visa Policy, Visitors & International Trade, at the Home Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Graham Peachey at the Home Office on email: visapolicyteam@homeoffice.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This Order amends the Immigration (Passenger Transit Visa) Order 2014[1] by adding Jordan to the list of countries or territories whose nationals or citizens need transit visas if they want to pass through the United Kingdom without entering while transiting to another country.

Where does the legislation extend to, and apply?

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

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is 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 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. In the case of Jordan, instances of Jordanian nationals not complying with visit rules were low prior

[1] https://www.legislation.gov.uk/uksi/2014/2702/made

to the lifting of the visa regime in February. This is partially demonstrated by low numbers of refusals at the border. In the quarter one year prior (Q2 2023) to the first full quarter after the lifting of the visa regime 3 Jordanian nationals were refused at the border. After consideration of compliance and other factors, it was considered appropriate to move Jordan from the visa requirement to ETA in February 2024. Following the lifting of the visa regime in February 2024, there has been a significant increase in Jordanian nationals who have travelled to the UK for purposes that are not permitted under the visit and Electronic Travel Authorisation (ETA) provisions, such as to live, work or claim asylum in the UK. The latest available published statistics demonstrate this trend with refusals of entry at the border rising from 10 in 2023 to 22 in the first quarter (January to March) of 2024 and 463 in the most recent quarter (April to June) of 2024. The number of asylum claims made by Jordanian nationals in the UK rose from 17 in the final quarter (October to December) of 2023 to 77 in the first quarter (January to March) 2024, and 261 in the most recent published quarter (April to June 2024). In addition, there has been an increase in Jordanian nationals using an ETA to transit through the UK and subsequently claim asylum in Ireland. Statistics published by the Ireland International Protection Office show that in May, June and July 2024, Jordanian nationals were the second highest nationality for asylum claims made in Ireland with 1552 asylum claims in 2024. Until April 2024 Jordanian nationals did not feature in the top 5 nationalities applying for international protection in Ireland. A transit visa imposition will support the integrity and effective functioning of the Common Travel Area.

5.2 The amendment to the Immigration (Passenger Transit Visa) Order 2014 is being made so that Jordanian nationals will be required to obtain a visa 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).

5.3 The imposition of the visa regime will include a transition period for Jordanian nationals to travel to and transit the UK without a visa where they hold a valid ETA prior to the imposition. This period will commence at the same time as the visa regime is imposed and run until 28 days after the imposition date, until 15.00 on 8 October 2024. During this period, Jordanian nationals who hold a confirmed travel booking to the UK for travel within the 28-day transition period, and who hold a valid ETA before the exact time of the imposition, and where arrival in the UK is no later than 28 days after the imposition, will not be required to obtain a visit visa before travel. Those who do not meet these conditions during the transition period will require a visa. Jordanian 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 and they would not be permitted to travel on their ETA.

5.4 Consequential to these changes, Appendix Electronic Travel Authorisation will be amended. Firstly, to remove Jordan from the nationalities eligible for an ETA. Secondly, to give effect to the transition period for Jordanian nationals who had obtained an ETA and booked travel to the UK prior to the imposition.

5.5 This transition period will prevent operational difficulties, general unfairness, and ensure that people who arranged travel having applied for and been granted an ETA

before this announcement do not lose money. The length of the period (28 days) has been chosen to give those affected enough time to apply for and receive a visa. The current service-level agreement for processing times for visit visas is 21 working days.

What was the previous policy, how is this different?

5.6 Before 22 February 2024, Jordanian nationals could transit airside if they met certain requirements. From 22 February 2024 Jordanian nationals could transit the UK airside without a visa as long as they held an ETA. This instrument will require all Jordanian nationals that wish to transit airside to have a transit visa.

6. Legislative and Legal Context

How has the law changed?

6.1 Jordanian nationals are now required to obtain a transit visa 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 public consultation would not be appropriate.

8. Applicable Guidance

8.1 This change will be reflected in all relevant guidance.[2]

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full impact assessment has not been carried out for this change, however key considerations are outlined below.

Impact on businesses, charities and voluntary bodies

9.2 There is not anticipated to be a significant, impact on business, charities or voluntary bodies. ONS estimated in 2023 that the typical spend for a transiting passenger from an ETA country (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 the economic impact of this change is not anticipated to be significant.

9.3 The legislation does not significantly impact small or micro businesses.

9.4 There is likely to be a positive impact on the public sector. It is expected that any reduction in fee revenue from ETAs that might otherwise have been applied for to facilitate legitimate transit travel, will be offset by savings from costs that would otherwise have been incurred from those Jordanian nationals using transit as a means of travelling to the UK to claim asylum.

[2] https://www.gov.uk/check-uk-visa

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The UK Government keeps 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. As this instrument is being laid in response to a rapid and significant increase in Jordanian nationals travelling to the UK (or to third countries) and claiming asylum following the lifting of the visa regime earlier this year, we consider there to be a real risk that giving notice of reintroducing a visa requirement may trigger a further increase before the new regime comes into force. This would place an unpredictable and potentially unmanageable strain upon the UK's Migration and Borders system. We therefore assess that bringing this instrument into force as soon as possible is necessary and proportionate.

11.2 Controlling migration and tackling irregular migration are priorities for the Home Office, whilst continuing to respect our international obligations under the Refugee Convention. Requiring Jordanian nationals to obtain a visa before visiting or transiting the UK does not contravene these obligations. The department is also facilitating a 28-day transition period until 15.00 on 8 October 2024. This will enable nationals from these countries to transit through the UK without a transit visa, if their travel was booked before the date at which the statutory instrument came into force and who arrive before 15.00 on 8 October. 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 The Minister for Migration and Citizenship at the Home Office has made the following statement regarding Human Rights:

"In my view the provisions of the Immigration (Passenger Transit Visa) (Amendment) Order 2024 are compatible with the Convention rights."

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").