

ILPA information sheet

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Steve Symonds ILPA Legal Officer 020-7490 1553 steve.symonds@ilpa.org.uk

Immigration Law Practitioners' Association www.ilpa.org.uk 020-7251 8383 (t) 020-7251 8384 (f)

Family Migration – Changes to Immigration Rules 2

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The “Family Migration – Changes to Immigration Rules 1” information sheet [<http://tinyurl.com/blz7zg6>] provides general information about the changes affecting family-related applications. It explains which family-related applications are now dealt with under new Appendix FM to the Immigration Rules. It should be read together with this information sheet to understand when the new requirements, to which this information sheet refers, will apply. Appendix FM took effect on 9 July 2012. This information sheet provides information about some (not all) of the new requirements Appendix FM has introduced.

New financial requirements

Appendix FM introduces particularly demanding financial requirements affecting those who apply to come to or stay in the UK on the basis that:

- they are the partner (spouse, civil partner, unmarried partner, fiancé or proposed civil partner) of a British citizen or a person settled in the UK; or
- they are the partner (spouse, civil partner, unmarried partner, fiancé or proposed civil partner) of a person with refugee leave or humanitarian protection (where the relationship was formed after the refugee or person with humanitarian protection fled his or her home country).

In these cases, the new financial requirements may be met from either income or savings. Where the applicant is outside the UK and applying to join his or her partner in the UK, the financial requirements must be met in one of the two ways described in the two boxes below.

Option 1 (relying on income in an application to come to the UK):

If just relying on income, a gross annual income of £18,600 is required. If the applicant has and wishes to bring any children, an additional £3,800 gross annual income is required for the first non-British child and a further £2,400 for each additional non-British child.

For example, where an applicant wishes to come to the UK with his or her three non-British children, the gross annual income required will be £18,600 + £3,800 + £2,400 + £2,400 = **£27,200**. No earnings from work of the applicant can be taken into account, though some of his or her other income may be taken into account (e.g. any income from savings or a pension).

Option 2 (relying on savings in an application to come to the UK):

If relying on savings, the savings of both partners may be considered. There must be total savings of £16,000 plus an amount no smaller than 2½ times the difference between the required income (under option 1, see above) and the gross annual income the couple have (again discounting any

earnings from work of the applicant).

For example, where an applicant has no income (save for earnings from work) and no non-British children, and his or her partner in the UK has a gross annual income of £14,000, the required savings will be £16,000 + (2½ x [£18,600 - £14,000]) = **£27,500**.

If the applicant in this example has one non-British child, the required savings will be £16,000 + (2½ x [£18,600 + £3,800 - £14,000]) = **£37,000**.

Where the applicant is in the UK and is applying to stay with his or her partner in the UK, the only difference is that the applicant's earnings from work may be included along with those of the partner to meet the requirements in either of the ways set out above.

Where an applicant is applying to come to or stay in the UK on the basis that he or she is the child of a parent (who either is applying to come to or stay in the UK or has limited leave to enter or stay in the UK), the new financial requirements in Appendix FM are very similar to those described in this information sheet.

Previously, the Immigration Rules ("the Rules") had included much less demanding financial requirements in these types of cases. Those requirements had been that the applicant (and any children) could be financially supported and accommodated without reliance on public funds. Generally, where there are financial requirements for other family-related applications, the previous less demanding requirements continue to apply. UK Border Agency guidance relating to the new financial requirements is available at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDIs/chp8-annex/section-FM-1.7.pdf?view=Binary>

New Appendix FM-SE

On 20 July 2012, Appendix FM-SE was added to the Immigration Rules. This contains additional requirements relating to the financial requirements. For example, it sets out what and whose income and savings may be relied upon and what specific evidence is required to meet the financial requirements. A person who can meet the financial requirements, but either cannot or does not supply all of the required evidence (even where the evidence he or she relies upon does show that he or she or his or her partner has the required sum of money), will not meet the requirements of the Rules.

The new route to settlement

Appendix FM introduces a much longer route to settlement for those who apply to come to or stay in the UK on the basis that:

- they are the partner (spouse, civil partner, unmarried partner, fiancé or proposed civil partner) of a British citizen or a person settled in the UK; or
- they are the partner (spouse, civil partner, unmarried partner, fiancé or proposed civil partner) of a person with refugee leave or humanitarian protection (where the relationship was formed after the refugee or person with humanitarian protection fled his or her home country).

If such a person meets all the requirements in the Rules, he or she will be granted leave to enter or remain in the UK for 30 months (two and a half years). He or she will need to apply at the end of this period for a further period of 30 months leave (and must still meet the requirements in the Rules). After these two periods (five years), he or she will be able to apply for indefinite leave to remain (and must still meet the requirements in the Rules). In very restricted circumstances, a person may be permitted to stay in the UK and continue on a route to settlement where he or she has not been able to meet all the requirements of the Rules. Some people who can no longer meet the financial requirements may be permitted to stay. If so, the route to settlement will be extended so that no application for indefinite leave to remain may be made before ten years has passed.