

VISAS FOR SPOUSES – UPDATE MAY 2017

In July 2012 the Government introduced a new system for people, including spouses, wanting to join a British member of their family to settle in the UK. Consequently you now need a 'family of a settled person' visa if you're from outside the European Economic Area (EEA) or Switzerland and you want to join, for 6 months or more, a partner or family member who is living in the UK permanently.

Moving to the UK to join a spouse is a common situation for mission partners who have married overseas or who are coming to the UK to get married. This paper is an update on the issues facing those in this situation.

If you meet the eligibility requirements, you can apply to join your partner (spouse, fiancée, civil or unmarried partner), your parent, or come to look after your child. The regulations include financial criteria which have been heavily criticised.

In February 2017, the Supreme Court heard an appeal against the eligibility requirements by families who argued that the rules breached their human right to a family life. The Supreme Court has ruled that the UK laws are lawful "in principle" even though the income rules stop some British citizens from bringing their foreign spouse to the UK. However the judges criticised some of the rules, saying they failed to take "proper account" of the duty to safeguard and promote the welfare of children **when** making decisions which affect them. The judges ruled there should be an amendment to allow alternative sources of funding, other than a salary or benefits, to be considered in a claim.

One key issue is that the laws do not take into account the earnings of the overseas partner, even if they have higher qualifications, or are likely to be employed in higher-paid work than their British spouse.

As yet the income rules have not been updated and it remains to be seen if the ruling will affect families with children where the British citizen wants to establish the family in the UK. For more details see www.bbc.co.uk/news/uk-39050664

It should be noted that you might not need a 'family of a settled person' visa to visit your family for up to six months, but it is important to check if you need a [Standard Visitor visa](#).

There are also ways to come to the UK to be looked after by the family member if you are ill, but this is more complicated and expensive. You also need to apply in a different way if your partner is from the EEA, you are already in the UK, or you want to reunite with a partner or parent who has asylum or humanitarian protection in the UK.

The government has useful information which can be found at www.gov.uk/join-family-in-uk/overview and this provides a comprehensive list of the scenarios. The key points for coming to join your spouse are listed below.

1. **Cost:** The visas are not cheap, currently costing £1,464, and you may also have to [pay the healthcare surcharge](#) as part of your application (currently £200 pa). Usually you should get a decision on your visa within 12 weeks. Once in the UK, you should be able to apply to [extend your visa or settle](#) in the UK permanently.
2. **General Criteria:** One of the key criteria is to prove to the Government that it is a genuine marriage and your partner has the means to support you. Consequently you have to show that:
 - You are married, or engaged to be married. In the latter case you must prove that you plan to marry within 6 months of arriving in the UK and you won't be able to work during your engagement
 - Your relationship to the family member is genuine and recognised in the UK so if the marriage did not take place in the UK, the marriage must be legal in your country
 - You intend to continue living with your family member or partner in the UK after you apply

- You have evidence in the form of a decree absolute for example if either you or your partner have had a previous marriage
- You and your family will have an adequate place to live in the UK
- You may need to prove your knowledge of the English language

Your application might be refused if you've got a criminal record or have ever provided false or incomplete information to the Home Office.

3. **Financial Criteria:** The British citizen whom you are joining must meet the financial income requirement of (currently):
- £18,600 per year if you're applying only for yourself
 - £22,400 per year if you are applying for a child as well
 - £2,400 per year for each additional child for whom you are applying

It should be noted that this must be the income of the British person to whom you are married or engaged. Your own income as a foreign national does not count. The financial requirements are quite stringent and complicated. For more information see [Appendix FM 1.7: financial requirement](#)

4. **Documents required:** You'll need to provide:
- your current passport or other valid travel ID
 - previous passports
 - proof of your relationship to the person you're joining
 - proof you can meet the financial requirement or maintenance requirement
 - proof of your knowledge of English if you're 18 or over (unless you're applying as an adult dependent relative)
 - your TB tuberculosis test results if you're from a country where you have to take the test

To find out more and to make an application visit www.gov.uk/join-family-in-uk/overview

Updated 2nd May 2017