

What are the consequences of minimum income requirement for family migrants in the UK?

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A new minimum income requirement for British citizens and permanent residents seeking to sponsor a non-EEA spouse, partner and child to live with them in the UK came into force in July 2012. Emerging evidence on the new rules suggests that they have impacted on a wide range of people who for various reasons cannot meet the income requirement. People from outside London, women, ethnic minorities and young people are likely to have been particularly affected.

Those who cannot meet the minimum income requirement are being forced to relocate, make significant sacrifices to meet the threshold or face indefinite separation from family members. The policy conflicts with other government policy areas and with international treaties. Sarah Teather MP described the rules as follows in a recent parliamentary debate:

“The first thing that is very apparent about the new rules is that they represent a distinct philosophical shift in approach from the old rules. The system used to be tilted in favour of family life, subject to certain basic conditions being met, such as the ability to support a spouse coming into the UK and the ability to meet a basic income threshold, which was pretty much tantamount to a basic income threshold that we would expect around income support levels. Now, the system is tilted entirely in the opposite direction, and against family life”¹.

Introduction of an income requirement to sponsor family migrants

The changes to family migration rules which came into force on 9th July 2012 included the introduction of a minimum income requirement for British citizens and permanent residents sponsoring non-EEA partners and children to enter or remain in the UK. The minimum income threshold has been set at £18,600 to sponsor a non-EEA partner, at £22,400 for a partner and one child and an extra £2,400 for each additional child.

A limited range of income sources can be drawn upon in order to meet the requirement, including income from employment, income from non-employment sources (e.g. income from property rental), cash savings, pension income and income from self-employment or as the Director of a specified type of limited company. Supporting evidence is strictly defined, and virtually no discretion can be exercised on the part of Home Office decision-makers in considering applications.

A number of income sources which could previously have been considered are now not permitted. The current or prospective employment income of the non-EEA partner cannot be

¹ Sarah Teather MP, in Westminster Hall Debate, 19 June 2013, <http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130619/halltext/130619h0001.htm>

counted unless the partner already resides in the UK. Only cash savings above £16,000 and subject to a multiplier formula are permitted. Third party support cannot be counted towards meeting the requirement.

Policy aims of the new immigration rules

The Government has stated that the aims of the rules are to tackle abuse by ensuring that relationships are genuine; ensuring sponsors can support partners financially without recourse to public funds; and promoting integration. The Government has also estimated that the new requirements will bring substantial reductions in the numbers of people coming into the UK. The consultation document that preceded the changes made this explicit when it stated: '*we have been clear that we will take action across all the routes of entry to the UK, so we must also take action on the family migration route.*'² The Migration Advisory Committee was tasked with advising the Government on the level of the income requirement, based on the objective of reducing any cost of family migration to the public purse.

Aggregate impact of the income requirement on particular groups

The Migration Observatory has calculated that 47% of the British population *in employment* does not earn enough to meet the income requirement.³ Women, young and older people, some ethnic minorities and people living in regions outside of London are disproportionately affected by the income requirement.

The number of visa applications on the 'family route' fell by 57% in the six months following the introduction of the new rules. The refusal rate has more than doubled. The effect has been a 78% decrease in the number of visas issued following the introduction of the rules.⁴

Impact on individuals and families

Evidence illustrates the significant impact the rules are having on individuals. Those affected are being separated from their partners or have had to make significant and disruptive changes to their livelihoods to try to meet the income requirement.

Personal testimonies sent as evidence to the Migrants Rights Network for its Divided Families Campaign and to the All Party Parliamentary Group on Migration for its Inquiry into New Family Migration Rules⁵ reflect some of these circumstances.

Those affected have resorted to a variety of strategies to cope with their situation. These include:

² UK Border Agency, 2013, Family Migration: A Consultation, <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/consultations/family-migration/consultation.pdf?view=Binary>

³ The Migration Observatory, 2012, Women, young people and non-Londoners are most affected by the changes to family migration policy, <http://www.migrationobservatory.ox.ac.uk/press-releases/women-young-people-and-non-londoners-are-most-affected-changes-family-migration-policy>

⁴ Kofman, Eleonore and Helena Wray, 2013, Middlesex University briefing: The fiscal implications of new Family Migration Rules: What does the evidence tell us? http://www.migrantsrights.org.uk/files/news/Family_migration_costs_briefing-9-7-2013.pdf

⁵ All-Party Parliamentary Group on Migration, 2013, Report of the inquiry into new family migration rules, http://www.appgmigration.org.uk/sites/default/files/APPG_family_migration_inquiry_report-Jun-2013.pdf

- Indefinitely postponing plans to reunite. In cases with children this has involved the child living away from one of its parents.
- Trying to reach the threshold by increasing income levels. This often involves taking on extra jobs to reach the threshold or re-locating to areas with higher salaries, even if this implies higher outgoings and therefore lower quality of life.
- Relocating to a country outside the EU, generally the country of the non-EU partner.
- Relocating to an EU country exercising EU rights and bringing their families to join them there.

In addition to difficulties associated with the level of the income requirement, the complexity of the rules and evidence requirements as laid out in Appendix FM have compounded the difficulties for many families seeking to meet the rules.

Wider consequences of the policy

The evidential requirements to prove that people can sustain their family members and that attempt to prevent abuse mean that some wealthy families whose circumstances do not fit the evidential criteria do not meet the income requirement. This has particularly affected families where the non-EEA partner is the main earner, or with investments which cannot be made liquid in order to meet the rules under the cash savings requirement.

In some cases the rules increase the use of public funds. For example, people who were forced to live away from their parents, either outside the UK or in another region, has resulted in elderly parents having to be cared for by social services. Some mothers have had to rely on benefits because their partner who could generate income or assist with childcare has not been allowed into the country.

Wider implications

The new income requirement is part of a wider package of changes to the rules affecting family migration. Significant other changes include the new pre-entry English language test required for spouse and partner applicants since November 2010; the extended route to settlement for non-EEA spouses and partners from two to five years introduced in July 2012; the wide cuts to legal aid making it significantly more difficult to seek legal advice on family migration applications and the revocation of the right of appeal for refused family visit visa applications from June 2013.

Overall, the income requirement, alongside other family migration rule changes, potentially undermines other government policy areas and is currently undergoing legal challenge on the basis that it is at odds with international treaties relating to family life.

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