

March 2022

Changes to the Requirements for Settlement / Indefinite Leave to Remain for Partner or Parent or their Child Granted Limited Leave to Remain under Appendix FM 10 Years Route

The Statement of Immigration Rules published on 15 March 2022 introduced major changes to the requirements for settlement for partner or parent or their child granted leave to remain under Appendix FM 10 years route. This note examines some of the major changes introduced by Appendix Settlement Family Life.

Appendix Settlement Family Life

Overview:

1. This route is for a person who has permission to stay as a partner or parent (or has had a combination of the two) under Appendix FM, and who is eligible to settle in the UK after a qualifying period of 10 years.
2. The person may be able to count time under other immigration routes towards the 10 years qualifying period.
3. There are new and more stringent suitability provisions.
4. There are more ways of fulfilling the English Language requirements for those who have attended school in the UK.
5. New continuous residence requirements for partner or parent applying for settlement on the basis of a qualifying period of 10 years have been introduced.
6. There are new provisions to apply for settlement as a child of a partner or parent granted leave to remain under Appendix FM 10 years route.

When are these provisions coming into force:

The provisions will take effect on 20 June 2022. If an application for entry clearance, leave to enter or remain has been made before 20 June 2022, such applications will be decided in accordance with the Immigration Rules in force on 19 June 2022.

New Suitability provisions:

1. Individuals who have a criminal conviction leading to a custodial sentence of 12 months or more will not be able to qualify for settlement. The 12 months custodial sentence is a reduction from the existing provision which provides that individuals are not able to qualify for settlement under the family route if they have been sentenced to imprisonment of at least 4 years.
2. There is no longer a separate suitability provision for individuals who have been convicted of an offence for which they have been sentenced to imprisonment for at least 12 months, but less than 4 years. Instead, anyone convicted of an offence for which they have been sentenced to imprisonment of less than 12 months will not be able to qualify for settlement, unless the applicant has completed a qualifying period of 10 years on family and private life routes and has completed 5 years with such permission since the end of that sentence. This is a broadening of the existing provision which provides that individuals who have been convicted of an offence for which they have been sentenced to imprisonment of less than 12 months will not be able to qualify for settlement unless a period of 7 years has passed since the end of the sentence.
3. There are two new grounds of refusal on the basis of suitability, namely for taking part in sham marriage / civil partnership or for breach of conditions during the qualifying period. Further, applicants who take part in a sham marriage / civil partnership, use false documents or provide false information in an immigration application, use deception, owe unpaid litigation debt(s) to the Home Office or unpaid debt(s) of over £500 to the NHS, or who breach immigration conditions during their qualifying period will need to complete 10 years qualifying period in the private and family life route, including 5 years continuous residence with such permission since these came to the attention of the Home Office, before they qualify for settlement.

4. With the exception of children and young adults between the age of 18 to 25 who are on the private life route, on the basis that they have spent half of their life in the UK, applicants who enter the UK illegally will need to complete a 10-year qualifying period in the private and family life route before they are able to apply for indefinite leave to remain.

English Language Requirement:

In addition to a degree taught in English or taking the required English test from a specified language provider, applicants for settlement under the 10 year route will be able to rely on GCSE, A levels or the equivalent Scottish Higher qualification in English language or literature obtained within a UK school to show they meet the English language requirement.

10 years qualifying period for settlement as a partner or parent

The new rules clarify that applicants who are on the 10 years partner or parent routes are able to combine the following permission in making up the qualifying period of 10 years :

- a) Entry clearance or permission granted as a partner or parent under Appendix FM (except for permission as a fiancée or proposed civil partner)
- b) Permission described by the Home Office grant letter as ' family permission as a parent' or ' family permission as a partner'
- c) Permission on the private life route
- d) Permission granted outside the rules as a partner or a parent or because of private life on the basis of Article 8 of the Human Rights Convention

Further, applicants are able to meet the qualifying period by counting time on any other immigration route that allows an applicant to qualify for settlement, provided:

- a) The applicant did not enter the UK illegally, and

- b) Has had permission as a partner or parent under Appendix FM for at least 1 year.

Continuous residence requirement

The applicant must have met the continuous residence requirement set out in Appendix Continuous Residence for the 10 years qualifying period.

To meet the continuous residence requirement, the applicant must not have been outside the UK for more than 180 days in any 12 month period. The 180 days are counted on a rolling basis. However, for any absence from the UK with permission granted under the rules in place before 11 January 2018, the 180 days absences are counted on a consecutive 12 months period ending on the same date as the date of application for indefinite leave to remain.

Absences before 20 June 2022

In determining the period of continuous residence, absences before 20 June 2022 will not be counted if the applicant was subsequently granted permission as a partner or parent under Appendix FM or on the basis of their private life.

New Provisions to apply for settlement / indefinite leave to remain as a child of a partner or parent granted limited leave to remain under Appendix FM 10 years route.

To be eligible, the child must be the child of a person:

- i) who is at the same time being granted settlement as a partner or parent under the 10 year route or
- ii) who is settled or has become a British Citizen, provided the person had permission as a partner or parent based on a qualifying period of 10 years when they were granted indefinite leave to remain

The applicant's other parent must also be granted settlement at the same time, be settled or be a British Citizen unless:

- i) the person is the child's sole surviving parent
- ii) the person has sole responsibility for the child's upbringing
- iii) there are serious and compelling reasons to grant the child's settlement despite the child not being able to fulfil this requirement

The applicant must be under the age of 18 on the date of application, unless they were last granted permission as the dependent child of a partner or a parent. If the child is aged 16 or over, they must not be leading an independent life. Further, there must be suitable arrangements for the child's care and accommodation in the UK if the child is under 18 on the date of application.

Applicants who are over 18 must meet the Knowledge of Life in the UK requirement, and must show English Language ability in speaking and listening at B1 level

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If you would like advice or assistance on any of the issues raised in this note/article, please contact Agnes Lai by email at

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