

## **Guidance for applicants following the Supreme Court ruling in Quila and Bibi v Secretary of State for the Home Department**

Following the Supreme Court judgment in Quila and Bibi v Secretary of State for the Home Department [2011] UKSC 45 which ruled that the minimum age requirement of 21 in the Immigration Rules for spouse and partners of British citizens and those with settled status was unlawful, the Government has been carefully considering the implications of the judgment and will now take the following action.

Changes to the Immigration Rules have been laid in Parliament to reinstate a minimum age of 18 for a spouse, civil partner, fiancé(e), proposed civil partner, unmarried partner or same-sex partner, and his/her sponsor to qualify for entry clearance, leave to enter, leave to remain or variation of leave on the basis of the applicant's relationship.

### **What Immigration Rules have been amended?**

Paragraphs 277, 289AA, and 295AA of the Immigration Rules have been amended to reinstate a minimum age of 18 for both the applicant and the sponsor.

### **When will the new rules come into force?**

Changes to the Immigration Rules have been laid in Parliament on 7 November 2011 and come into effect on 28 November 2011.

### **I am a British Citizen or have indefinite leave to remain in UK. I recently made an application for my spouse/partner to get a visa. We have not yet had our decision. Is there anything I need to do?**

If you and/or your spouse/partner are both aged 21 or over the Supreme Court ruling has no bearing on your case and you need take no action as a result of that ruling. You must meet all the relevant Immigration Rules to qualify for a visa.

If you and/or your spouse/partner are aged between 18 and 20 and have not yet received a decision on your application your applications will have been held pending the change to the Immigration Rules. The minimum age of 18 requirement will apply when the new rule comes into force and you need take no action as a result of the Supreme Court ruling. You must still meet all the relevant Immigration Rules as well as the new minimum age of 18 to qualify for a visa.

### **I want to make an application for my spouse/partner to come to the UK. He/She is 18. Can we apply now?**

Yes. You can apply now but your application will be held pending the change to the Immigration Rules. The minimum age of 18 will apply when the new rule comes into force. You must still meet all the relevant Immigration Rules as well as the new minimum age of 18 to qualify for a visa.

### **I was refused a visa solely on age grounds and I have appealed. I am waiting a decision on my appeal. Do I need to take any action?**

If your application was refused solely because your sponsor or you were aged between 18 and 20 and you have an outstanding appeal to that refusal we will automatically reconsider your case. You need take no action now.

## **I was refused a spouse/partner visa on age grounds. Should I reapply?**

Some applicants were refused on age grounds alone between 27 November 2008 and October 2011 and have not made a subsequent successful application.

Where an applicant has

- received a refusal decision under paragraphs 277, 289AA, and 295AA of the Immigration Rules between 27 November 2008 and October 2011 **and**
- the application was refused solely on age grounds **and**
- Both parties are aged 18 or over

You can seek a review of that decision.

If you want us to reconsider your case you should seek a review of the decision to refuse you a visa by **31 May 2012**.

You will need to complete proforma on the right hand side of the page if you are applying for leave to remain in the UK as spouse or partner and send by post to CLS12 - Family Casework PO BOX 3468 Sheffield S3 8WA in the UK.

If you are applying for entry clearance as a spouse or partner you need to download a copy of the VAF4A, provide biometrics and submit your review request to the relevant visa application centre using VAF4A which can be found at the link below.

<http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/visas/vaf4a.pdf>.

The application for review will not be charged. After **31 May 2012** if you want us to look again at your case you will need to apply in the normal way and pay the relevant fee.

Applications will be considered on the basis of the Immigration Rules in place at the time you made your original application. However you will be required to demonstrate that your relationship is still subsisting and that you intend to live permanently with each other. You will also be required to demonstrate that you and your partner are aged 18 or over.

As part of the reconsideration you will not be required to meet the new English language requirement for spouses and partners if your original application was made before 29 November 2010.

Please note if you are granted a visa and later apply for further leave to remain in the UK; an English language requirement will apply to your application as will any English language requirements that need to be met in order to be granted indefinite leave to remain in the UK or British Citizenship.

## **I was refused a spouse/partner visa on age grounds but this was not the sole reason my visa was refused. Can I seek a review on my case?**

No. You will not be able to seek a review of your case under this policy because your visa was refused on multiple grounds. The change in the minimum age would not result in a change of decision in your case.

**I am a member of HM Forces. Does the ruling effect me?**

No. A minimum age of 18 already applies to spouses and partners of British and settled HM Forces and their sponsors and will continue to do so.

**I am under 18. Am I eligible to apply for a marriage visa?**

No. The minimum age for an applicant or sponsor who wants to apply for a spouse or partner visa was 21 but this will now be reduced to 18 when new Immigration Rules come into force. Applicants and or sponsors aged under 18 would not qualify under the present or revised rules.