



# MINIMUM INCOME REQUIREMENT

## Policy Briefing

In 2012, Theresa May, Home Secretary at the time, introduced new immigration rules, which require a UK Citizen to meet a Minimum Income Requirement of **£18,600 per year** before tax to be able to bring a Non-EU spouse/partner to live in the UK with their family. This goes up to **£22,400** if the couple has a Non-EU child, and an additional £2,400 for each subsequent child. Applicants who have cash savings can make up for a shortfall in earnings if the cash savings are at least £16,000 plus 2.5 times the shortfall. So, for example, someone with an income of £17,600 would require £18,500 in savings (=£16,000 + £2,500). People without income can qualify if they have cash savings of at least **£62,500**.<sup>[1]</sup>

UK sponsors who are receiving certain disability-related benefits are exempt from the £18,600 threshold. The threshold also does not apply to EEA citizens, whose free movement rights under European law allow them to bring non-EEA spouses with them.

The income requirement **must be met by the UK sponsor alone**. Applicants cannot rely on offers of support from family members or other third parties. The non-EEA partner's earnings cannot be taken into account if they are working abroad or if they have a job offer in the UK but do not already have work authorisation. Those partners who are already working legally in the UK can count their income towards the threshold.<sup>[2]</sup>

The Government contends that the financial requirement supports integration and prevents a burden being placed on the taxpayer. Various migrants' rights groups consider the minimum income requirement to be unfair, inflexible, disproportionate and counter-productive.

It is acknowledged that in some cases, the financial requirement represents a significant and possibly permanent obstacle to a couple living together in the UK, and that some demographic groups are particularly affected by it due to differences in earnings.[3]

The rules were challenged by those who argued that it contravened Article 8 of the Human Rights Act, which guarantees a right to a family life. Critics also argued that it neglected to consider also the earning potential of family members wishing to join their spouse living in the UK. The minimum income requirement establishes a hierarchy within this: if you earn enough money you can apply to live with your binational family in the UK. But if you earn less, then you need not apply.[4]

In July 2013, the High Court ruled that the family income requirement was not unlawful in itself and that the aims of the policy were legitimate. However, it ruled that the full package of requirements – including the level at which the threshold was set and the disregard of spouses’ future income or credible offers of support from third parties – was disproportionate and unlawful. It identified some “less intrusive” policy options, such as reducing the income requirement to £13,500 or thereabouts (around the level of a full-time minimum wage job), permitting savings of less than £16,000 to supplement income, and allowing spousal income or third-party support to count towards the threshold (High Court 2013).

This decision was overturned in July 2014 by the Court of Appeal.[5] [Supreme Court](#) justices have unanimously [backed Theresa May’s “particularly harsh” £18,600 minimum income rule](#) that campaigners say has led to tens of thousands of families being separated. But the Supreme Court justices acknowledge in their judgment that the £18,600 rule “causes hardship to many thousands of couples, including some who are in no way to blame for the situation in which they find themselves” but add that “does not mean that it is incompatible” with article 8 of the European convention on human rights on the right to family life. The Supreme Court also agreed that the income rule has “a particularly harsh effect” on British citizens who have lived and worked abroad, have married or formed stable relationships there and now cannot return home to Britain.[7]

It was estimated in 2015 that [the threshold excluded 41% of the British working population](#) from bringing in a non-EU spouse, particularly in areas where incomes are lower. Thousands of families are forced to become single parent families while trying to work enough hours to meet the requirement.

Children are severely affected by being torn away from both parents, one who is unable to enter the UK and the other who is having to work long hours to meet requirements[9]. In 2015, a report issued by the Children's Commissioner for England revealed that at the time of publication there were estimated 15,000 UK children separated from a non-UK parent or stranded abroad solely because of the MIR[10]. The estimate of the [total number of families unable to meet the MIR](#) by the Migration Observatory is [between 24,000 and 94,000 between 2012 and 2018](#)[11].

In fact, in light of the current political climate in the UK, this is a problem that is set to grow. [Brexit](#) is likely to mean that European Economic Area (EEA) nationals, previously excluded from family visa requirements, might now face this same problem.[12]

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[1] <https://migrationobservatory.ox.ac.uk/resources/reports/the-minimum-income-requirement-for-non-eea-family-members-in-the-uk-2/?fbclid=IwARotZlSwHAUR3SvCmX4Tvpr86YYTjiujPzMW7T3sNyLqCwxyLssolr2sdQ>

[2] Ibid

[3] <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SNo6724>

[4] <http://theconversation.com/why-britain-is-making-it-so-hard-for-separated-families-to-be-reunited-73463>

[6] Ibid.

[7] <https://www.theguardian.com/law/2017/feb/22/supreme-court-backs-minimum-income-rule-for-non-european-spouses>

[8] <http://theconversation.com/why-britain-is-making-it-so-hard-for-separated-families-to-be-reunited-73463>

[9] <https://www.theguardian.com/politics/2018/aug/30/we-were-wrong-to-go-along-with-tories-on-immigration-senior-lib-dem>

[10] Reunite Families UK ([https://www.reunitefamiliesuk.co.uk/about\\_us](https://www.reunitefamiliesuk.co.uk/about_us))

[11] Children's Commissioner for England, Family Friendly? The impact on children of the Family Migration Rules: A review of the financial requirements (London, 2015) <https://www.childrenscommissioner.gov.uk/wp-content/uploads/2017/06/CCO-Family-Friendly-Report-090915.pdf>, p. 114

[12] <https://migrationobservatory.ox.ac.uk/resources/commentaries/how-many-people-have-been-prevented-from-bringing-a-partner-to-the-uk-due-to-the-18600-minimum-income-requirement/>

[13] <http://theconversation.com/why-britain-is-making-it-so-hard-for-separated-families-to-be-reunited-73463>