

Spousal Entry Clearance Applications – Income Thresholds Changed and Home Office Decisions to be put on Hold

The Home Office has announced that they will be putting on hold decisions on applications for spouses, where the only reason that the application would be refused is that the UK based spouse does not meet the current financial requirement of £18,600 introduced on the 9th July 2012.

In the case of *R on the application of MM and others v SSHD*, Mr Justice Blake found that the various financial requirements of the current rules for spouses, when taken together, made the overall system unfair.

The Court found that if **more than one** of the following five factors apply, then an application should not be refused by the Home Office.

The five factors are:

- i. The setting of the minimum income level to be provided by the sponsor at above £13,400
- ii. The requirement to have more than £16,000 in savings before they can be taken into consideration.
- iii. The need to have 2 ½ years worth of savings above £16,000 to make up a shortfall in income, rather than just 1 years worth of savings.
- iv. The ability to take into account that a third party is willing to sponsor the Applicant where credible evidence of the intention to support is provided in the form of a deed and other documentation.
- v. The fact that the Applicant's own income after entering the UK will not be taken into account in meeting the financial requirement.

In response to the Court's decision, the Home Office have said as follows:

'Our family changes were brought in to make sure that spouses coming to live in the UK would not become reliant on the taxpayer for financial support and would be able to integrate effectively. We're pleased that this judgment supports the basis of our approach.'

'We are looking closely at the judgment and its likely impact on the minimum income threshold before we decide how to respond. In the meantime, where an applicant does not meet the minimum income threshold and there is no other reason to refuse it, the application will be put on hold.'

The High Court's decision will be very welcome for those wanting to bring their spouses to the UK who are struggling to meet the current financial levels which are set at a level over three times the requirement that was in place before the 9th July 2012.

If you want to rely on the Immigration Rules for spouses coming to the UK, but are not certain whether you can meet the required income threshold of £18,600, then please contact us so that we can arrange for one of our experienced advisors to

advise you on whether the High Court's judgment provides you with scope to make an application under the Immigration Rules.