

CHAPTER 8

SECTIONS 1, 2, 3 & 9

**Spouses, Civil Partners, Fiancé(E)S, Proposed Civil Partners, Unmarried
And Same-Sex Partners**

English Language Requirement

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1. Introduction

1.1 With effect from 29 November 2010, the Immigration Rules have been amended to bring in an English language requirement for those people applying for entry clearance, leave to enter or leave to remain in the UK as spouse, civil partner, fiancé(e), proposed civil partner, unmarried partner or same-sex partner of a British citizen or a person settled in the UK.

1.2 The English language requirement is applicable to those people applying under Part 8 of the Immigration Rules –

- rule 281 (spouses and civil partners – entry clearance/leave to enter)
- rule 284 (spouses and civil partners – leave to remain)
- rule 290 (fiancé(e) and proposed civil partners – entry clearance/leave to enter)
- rule 293 (fiancé(e) and proposed civil partners – leave to remain)
- rule 295A (unmarried and same sex partners – entry clearance/ leave to enter)
- rule 295D (unmarried and same sex partners – leave to remain)

This requirement only applies to people who are applying for leave as the main applicant under the rules listed above. It **does not** apply to dependants on such applications. It does not apply to people who are applying as a dependant on their partner's application for leave to enter or remain in a different capacity such as under the Points Based System. For information on dependants on applications for leave to enter or remain, refer to the guidance for the category of leave sought by the main applicant.

1.3 An applicant can meet the requirement in one of the following ways

- by passing an acceptable test at a minimum level A1 of the Common European Framework of Reference for Languages (CEFR) with an approved provider, or
- by being a national of a majority English speaking country, or
- by having an academic qualification recognised by UK NARIC to be equivalent to the standard of a Bachelor's or Master's degree or PhD in the UK, which was taught in English..

If the applicant does not meet the requirement in one of the ways listed above, they may qualify for an exemption from the requirement to provide a test certificate if;

- they are aged 65 or over, or
- they have a disability (physical or mental condition) which prevents them from meeting the requirement, or
- there are exceptional compassionate circumstances which prevent them from meeting the requirement.

If the applicant is not able to demonstrate that they meet the requirement, and they do not qualify for an exemption from the requirement, their application will be refused under the Rules.

2. Interpretation of level required/approved test providers

2.1 Evidence

The applicant must provide an original English language test certificate in speaking and listening from an English language test provider approved by the Secretary of State for these purposes, which clearly shows the applicant's name and the qualification obtained (which must meet or exceed level A1 of the Common European Framework of Reference (CEFR) and the date of award.

If they do not provide an original test certificate but there is evidence provided of the PTE (Pearson) test, and we have the print out of the online score we can assess whether the English Language test provider and level meet our requirements.

2.2 Repeat attempts

Applicants may make as many attempts as they wish to obtain a CEFR A1 level qualification. The important thing is that they are able to provide evidence of the qualification when applying for leave.

2.3 Definition of CEFR

The Common European Framework of Reference (CEFR) is a tool, put together by the Council of Europe, to provide a basis for the mutual recognition of language qualifications. Its six levels are becoming widely accepted as the European standard for grading a person's language proficiency. Level A1 of CEFR is the level of a basic speaker, who can understand and use familiar everyday expressions and very basic phrases. They can introduce themselves and others, and can ask and answer questions e.g. where they live, people they know, and things they have. They can interact in a simple way provided the other person talks slowly and clearly, and is prepared to help.

2.4 What is meant by "exceed the level"?

The minimum standard applicants will need to meet is in speaking and listening at level A1 of the Common European Framework of Reference.

The list of approved tests and providers includes some tests above A1 level. This is because the UK Border Agency will also accept tests in speaking and listening, or speaking and listening with additional skills such as reading or writing, taken at a higher level with an approved test provider.

This is to give people as wide a choice as possible and to provide for those who have already taken a test at a higher level with one of our current approved test providers. It also allows for people who wish to take a higher level test for work or study reasons.

The six levels of CEFR are:

A Basic Speaker

A1

A2

B Independent Speaker

B1

B2

C Proficient Speaker

C1

C2

A person who has level A2, B1, B2, C1 or C2 which tests speaking and listening (or speaking and listening plus reading and/or writing exceeds level A1.)

2.5 How to treat applicants who already have a certificate

If an applicant supplies a certificate from a test provider who has ceased to be an approved UK Border Agency test provider we will not accept that certificate as they are not currently on the approved list of test providers for partners.

Once the new requirement is in place if there are any changes to the list of test providers for partners then transitional arrangements will be put in place advising on how to treat certificates from providers who are no longer on the list of approved providers,

2.6 Approved test providers

Only certain providers have been assessed as meeting UK Border Agency requirements to issue English Language test certificates.

An approved test provider is one on the UK Border Agency's list of approved test providers for spouses published on the UK Border Agency website. The approved list of test providers for partners was published on 16 August 2010. Only tests and test providers on this list will be accepted as evidence of meeting the language requirement for partners.

You can assess the test certificate/score provider and level for meeting the requirements by using the methods below:

1. [Go to UK Border Agency list of approved test providers.](#)

[list of acceptable tests and approved test providers \(PDF 144KB opens in a new window\).](#)

Check the certificate level and name of provider matches the details on the table (although this may be subject to change).

If possible you should now verify the certificate to ensure it is valid and genuine using the methods below:

1. For Pearson test result print outs, use the following website to check they match the system: www.pearsonvue.com/ptescores (a log in and password should have been provided to you; if it has not, consult your manager).
2. For other certificates, search for the provider on the internet and if there is not the option to type in a reference number, attempt to telephone them in order to verify. If the provider is unable to confirm that the certificate is genuine, the certificate will not be accepted as evidence of passing an acceptable English language test.

3. Interpretation of “majority English speaking country”

3.1 The applicant is deemed to meet the language requirement if they are a national of one of the following countries: Antigua and Barbuda; Australia; the Bahamas; Barbados; Belize; Canada; Dominica; Grenada; Guyana; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; United States of America.

3.2 The evidence required to show that a person is a citizen or national of a majority English speaking country is a passport or travel document. A dual national may invoke either of their nationalities.

What happens if the applicant does not have a passport or travel document?

If the applicant has not provided their passport/travel document we can only accept other evidence of nationality in certain circumstances.

These circumstances are;

- where the passport has been lost or stolen;
 - where the passport has expired and been returned the relevant authorities;
- or
- where the passport is with another part of the UK Border Agency.

Note: The applicant must indicate this on the application form.

In these circumstances we can accept the following pieces of evidence as proof of nationality:

- current national identity document;
- original letter from the applicant’s Home Government or Embassy confirming the applicant’s full name, date of birth and nationality.

4. Interpretation of academic qualifications taught in English.

4.1 Which qualifications are accepted as evidence that the applicant meets the English language requirement?

The applicant will meet the language requirement if they;

- 1) have obtained an **academic** qualification recognised by the National Academic Recognition Information Centre for the UK (UK NARIC) to be equivalent to the standard of a Bachelor's or Master's degree or PhD in the UK.

If a qualification was taken in one of these countries, it will assumed that it was taught in English:

Antigua and Barbuda, Australia, the Bahamas, Barbados, Belize, Dominica, ,Grenada, Guyana, Ireland, Jamaica, New Zealand, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Trinidad and Tobago, the UK, the USA

Please note that Canada is not on this list.

- 2) have obtained an academic qualification (recognised by UK NARIC to be equivalent to the standard of a Bachelor's or Master's degree or PhD in the UK, and provides the specified evidence to show:
 - (1) s/he has the qualification, and
 - (2) that the qualification was taught or researched in English.

4.2 Definition of specified evidence

Specified evidence is a certificate issued by the relevant institution confirming the award of the academic qualification.

If an academic qualification has been taught by one of the majority English speaking countries listed at paragraph 3.1 with the exception of Canada we will assume it to have been taught in English

If an applicant is claiming that they have completed an academic qualification taught in English, they must provide the original academic qualification certificate (provisional academic qualification certificates are not acceptable), showing:

- the applicant's name;
- the title of award;
- the date of award; and
- the name of the awarding institution.

If the applicant is awaiting graduation or no longer has the certificate and cannot get a new one, we can accept an original academic reference from the

institution awarding the academic qualification **together** with an original academic transcript. Both must meet the following requirements:

- Academic reference must be on the official letter headed paper and show:

- the applicant's name;
- the title of award;
- that the academic qualification has been/ will be awarded; and
- either the date that the certificate will be issued (if the applicant has not yet graduated) or confirmation that the institution is unable to re-issue the original certificate of award.

- Academic transcript must be on the official letter headed paper and show:

- the applicant's name;
- the name of the academic institution;
- the course title; and
- confirmation of the award.

4.3 Verification of academic qualification evidence

Caseworkers may find the English Skills section of the [PBS Points Calculator](#) helpful when deciding whether a qualification meets the criteria for the English language requirement. The calculator contains information from UK NARIC as to which academic qualifications they deem to have been taught to the standard of a Bachelor's or Master's degree or PhD in the UK.

The Points Based Calculator can be located at the following UK Border Agency web address:

<http://www.ukba.homeoffice.gov.uk/pointscalculator>

Further information on how to verify academic qualifications taught in English awarded in the UK and outside the UK to ensure that they are valid and genuine can be found within the Points Assessment for English Language skills. This can be found on the UKBA Website under [Tier 2 \(General\) English Language Guidance](#).

or on Horizon at.

<http://horizon.gws.gsi.gov.uk/portal/site/horizon-intranet/menuitem.5e9fdfa5b28a104a43757f10466b8a0c/?vgnnextoid=960e06d405395210VgnVCM1000002bb1a8c0RCRD>

5. Interpretation of exemptions

5.1 Exemption for those aged 65 and over

The applicant does not need to meet the language requirement if they are aged 65 or over at the time they make their application.

Acceptable evidence of age would be proof of age in a passport or travel document.

5.2 Disability exemption

The applicant does not need to meet the language requirement if the Secretary of State considers that the applicant has a physical or mental condition that would prevent him from meeting the requirement.

5.3 Definition of disability

The exemption will apply only where someone has a physical or mental impairment which would prevent them from learning English and/or taking a test. This is not a blanket exemption. Some disabled people will be capable of learning English and taking an English test.

5.4 Evidence required to demonstrate disability

The exemption would only be granted subject to production of satisfactory medical evidence which specifies the disability, and from which it may be concluded that exemption is justified. Each application will be considered on its merits.

5.5. Satisfactory medical evidence

For both entry clearance/leave to enter and leave to remain applications disability must be evidenced by a medical practitioner who is qualified in the appropriate field.

5.6 Authorisation of exemption

Use of this exemption should be agreed by a senior caseworker or equivalent or an entry clearance manager.

5.7 Exceptional compassionate circumstances exemption

The applicant does not need to meet the language requirement if the Secretary of State considers that there are exceptional compassionate circumstances that would prevent the applicant from meeting the requirement.

Discretion should be exercised only in cases where there are exceptional circumstances specifically relating to the ability of the applicant to meet the language requirement.

Consideration will be on a case by case basis. The applicant must demonstrate that as a result of their circumstances they are unable to access facilities for learning English before coming to the UK. Evidence of an inability to attend, prior/previous attendance or attempts to access learning must be clearly provided. This evidence must be provided by an independent source (e.g. from an appropriately qualified medical practitioner) or alternatively must be independently verified by a caseworker.

Situations which **might**, subject to receipt of all necessary evidence in support, lead a caseworker to conclude that the applicant can properly claim exceptional compassionate circumstances, include the following:

- If the sponsor in the UK is seriously ill and requires immediate support or care from the applicant whilst they are receiving medical attention in the UK and there is insufficient time for the applicant to access learning and/or to take a test.
- Where a country or region is affected by conflict or humanitarian disaster the UK Border Agency will consider whether the situation makes it unreasonable for individuals to learn English and/or to take a test. In such circumstances we will consider the nature of the situation including the infrastructure affected and whether it would be proportionate to expect an applicant to meet the English language requirement.

It will be extremely rare for these circumstances to apply when the applicant is applying in country for leave to remain. Applicants who are already in the UK will have access to a wide variety of facilities for learning English.

Financial reasons or claims of illiteracy or limited education would not be acceptable.

Applicants who are nationals of a country with no test centre and who have made an application for entry clearance/leave to enter from that country will be exempt from the requirement. This exemption **does not** apply to applicants applying in country for leave to remain, as test centres and facilities to learn English are readily available in the UK.

5.8 Authorisation of exemption

Use of this exemption should be agreed by a senior caseworker or equivalent.

6. Treatment of HM Forces

The language requirement **will not** apply to the spouses and partners of members of the armed forces applying under Part 7 of the Immigration Rules, specifically where the sponsor falls into one of the following groups:

- is a member of the armed forces exempt from immigration control under section 8(4) of the Immigration Act 1971; or
- is a Gurkha granted indefinite leave on discharge from the British Army; or,
- is a foreign or Commonwealth national given indefinite leave on discharge from HM Forces; or

- is a serving foreign or Commonwealth national who has completed 5 years service.

The new language requirement **will** apply to spouses, civil partners, fiancé(e)s, proposed civil partners, unmarried partners and same-sex partners of British citizens or persons settled in the UK applying for entry clearance, leave to enter or leave to remain under Part 8 of the Immigration Rules. This will include spouses etc. of British citizens who are serving members of the armed forces. They will not be exempt from the language requirement.

7. Transitional arrangements

The changes to the Immigration Rules take effect on 29 November 2010. However, if an applicant has made an application before 29 November 2010 for entry clearance or leave to enter or remain as the spouse, civil partner, fiancée, proposed civil partner, unmarried partner or same-sex partner of a British citizen or a person settled in the United Kingdom, and the application has not been decided before that date, it will be decided in accordance with the Rules in force on 28 November 2010. Applications will be considered to have been received on the date of posting, as evidenced by the postmark on the envelope. Applications posted after this date will be decided in accordance with the Rules in force on 29 November 2010.

8. Knowledge of Life (KOL)

Spouses applying for indefinite leave to remain after completing their two-year period of temporary residence will still need to fulfil the knowledge of life and language in the UK requirement.

9. Refusals

- grounds for refusal – for details see IDI ch 8 sect 9 annexes G (spouses), I (civil partners), L (fiancé(e)s and proposed civil partners) and AA (unmarried + same-sex partners)