



Immigration & Nationality

A Division of the Guernsey Border Agency

ENGLISH LANGUAGE REQUIREMENT FOR FIANCE(E), SPOUSE OR UNMARRIED PARTNER (INCLUDING SAME SEX RELATIONSHIPS) OF A PERSON PRESENT AND SETTLED IN THE BAILIWICK OF GUERNSEY

Section 1 - Limited Leave to Remain (permission to stay with a time limit)

Section 2 - Indefinite Leave to Remain / Settlement (permission to stay with no time limit)

SECTION 1

Limited Leave to Remain (permission to stay with a time limit)

The Language Requirement

A person subject to control under the Immigration Act 1971 who applies for leave to remain (other than indefinite leave to remain) in the Bailiwick of Guernsey as the spouse or unmarried partner of a British citizen or a person settled here will need to show that they can speak and understand English. The language requirements are the same as apply in the United Kingdom.

Who needs to meet the requirement?

An applicant will need to meet the requirement if they are:

- a national of a country **outside** the European Economic Area and Switzerland; **and**
- in a relationship with a British citizen or a person settled here; **and**
- applying as that person's husband, wife, fiancé(e) or unmarried partner.

The English language requirement does **not** apply to the following:

- spouse, unmarried partner or fiancé(e) of an EEA national
- spouse or unmarried partner of a member of the armed forces applying under Part 7 of the Immigration Rules

- Spouses, unmarried partners and fiancé(e)s who submitted an application for leave to remain before 1st June 2011
- Spouses, unmarried partners and fiancé(e)s who entered the Bailiwick of Guernsey or the purpose of settlement in the Bailiwick of Guernsey on the basis of an entry clearance issued for that purpose which was applied for before 1st June 2011
- Persons who apply to remain as the Spouse, unmarried partner fiancé(e) who were granted leave to enter or remain in the Bailiwick of Guernsey before 1st June 2011 under Part 5 of the Immigration Rules as then in force.

Definition of Settlement

A person settled here is someone normally resident in the Bailiwick of Guernsey with no immigration restriction on the length of their stay. To be free of immigration restriction they must either be a British citizen, a citizen of another Commonwealth country who has the right of abode in the United Kingdom or have indefinite leave to enter or remain.

Why the requirement has been introduced

The requirement has been introduced to help integration into local society – to open up more opportunities, help prevent exploitation, and allow persons to benefit from and contribute more to the community.

How the English language requirement is met

The requirement can be met in one of the following ways:

- 1) 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**
- 2) by being a national of a majority English speaking country, **or**
- 3) by having an academic qualification equivalent to a Bachelor's degree in the UK which was taught in English. Master's degrees and PhDs are also acceptable.

1) Meeting the requirement by passing a test

Applicants will need to pass an English test and provide an original English language test certificate from an approved provider which clearly shows the applicant's name, the qualification obtained and the date of award. The qualification obtained must meet or exceed level A1 of the Common European Framework of Reference (CEFR).

Level A1 is equivalent to ESOL (English for Speakers of Other Languages) Entry level or National Curriculum level 1 year 1 to 2. Someone assessed at level A1 can understand and use everyday expressions and very basic phrases.

Further information can be obtained from The Guernsey College of Further Education, Route des Coutanchez, St Peter Port, GY1 2TT. Tel 737500? Which is an approved provider for the purpose of applications submitted in Guernsey. There will be a fee charged by the College for the test.

Providers approved by the United Kingdom Border Agency are also acceptable. Further information on current UKBA approved providers can be found on the UKBA website

2) Meeting the requirement by being a national of a majority English speaking country

An 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) Meeting the requirement by having a bachelor's degree, Master's degree or PhD qualification

The language requirement is met if the applicant;

- A) has obtained an academic qualification (not a professional or vocational qualification), which is deemed by UK NARIC (the National Recognition Information Centre for the UK) to meet the recognised standard of a Bachelor's degree in the UK, from an educational establishment in one of the following countries: Antigua and Barbuda; Australia; the Bahamas; Barbados; Belize; Dominica; Grenada; Guyana; the Republic of Ireland; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; the UK; the USA; and provides the specified documents; **or**
- B) has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor's degree in the UK, and
 - 1) provides the specified evidence to show he has the qualification, and
 - 2) UK NARIC has confirmed that the academic qualification was taught or researched in English, **or**

C) has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor's degree in the UK, and provides evidence to show:

- 1) s/he has the qualification, and
- 2) that the qualification was taught or researched in English.

In all cases the original certificate issued by the relevant institution confirming the award of the academic qualification must be produced.

The certificate must show

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

Provisional academic qualification certificates are not acceptable.

If an academic qualification has been taught in one a majority English speaking countries, with the exception of Canada, it will be assumed to have been taught in English.

Master's Degrees and PhDs

Although only bachelor's degrees are specified in the rules, master's degrees and PhDs are also acceptable as follows:-

- Any masters degree or PhD obtained in the UK; **or**
- Any masters degree or PhD obtained in one of the specified majority speaking countries; Antigua and Barbuda, Australia, Belize, Dominica, Grenada, Guyana, Ireland, Jamaica, New Zealand, St Kitts and Nevis, St Lucia, St Vincent and The Grenadines, Trinidad and Tobago, the UK and the USA (though not Canada); **or**
- Master's degrees and PhDs not obtained in the UK or a specified majority English speaking country (other than Canada) which UK NARIC have assessed and verified as being taught or researched in English and confirmation from UK NARIC has been submitted with the application

Other Qualifications

Other qualifications such as GCSE's or International GCSE's are not acceptable to demonstrate that the English language requirement is met . There are practical issues with using other qualifications to demonstrate they meet the English language requirement including the need to have a system to verify such qualifications and the fact they may not test the required skills e.g. speaking and listening.

Exemptions

- a) **Age** - the spouse or partner is aged 65 or over at the time they make their application;
- b) **Disability** - where a spouse has a disability (mental or physical impairment) which would make it unreasonable to expect them to learn English and/or pass the English test. The disability exemption will apply only where someone has a physical or mental impairment which would prevent them from learning English and/or taking a test.

It is necessary to produce satisfactory medical evidence which specifies the disability, and from which it may be concluded that the exemption is justified. The evidence must be from a medical practitioner who is qualified in the appropriate field;

- c) **Exceptional compassionate circumstances** - where there are exceptional compassionate circumstances that would prevent a spouse from meeting the requirement. Discretion will be exercised only in cases where there are exceptional circumstances specifically relating to the ability of the applicant to meet the language requirement.

The applicant must demonstrate that, as a result of their circumstances, they are unable to access facilities for learning English. Evidence of an inability to attend, prior/previous attendance or attempts to access learning must be clearly provided. Evidence must be provided from an independent source (e.g. from an appropriately qualified medical practitioner).

Financial reasons or claims of illiteracy or limited education will not be regarded as exceptional compassionate circumstances.

Exemptions b) and c) will be considered on a case by case basis.

Failure to provide evidence that the language requirement is met

The application will be refused if the applicant is not able to demonstrate that they meet the language requirement.

Fiancé(e)s who apply for leave to remain as a spouse

Persons who were granted entry clearance as a fiancé(e) who subsequently apply for leave to remain as a spouse still need to provide evidence that they meet the English language requirement when they apply. If they provided a test certificate that was accepted for the purpose of obtaining their fiancé(e) entry clearance, they can use the same test certificate provided the test is on the current approved list of tests.

Immigration Rules to which the language provisions apply

The English language requirement will be applicable to those people applying for leave to remain under Part 8 of the Immigration Rules as follows:-

- rule 284 (spouses)
- rule 293 (fiancé(e)s)
- rule 295D (unmarried partner)

Armed Forces

The new language requirement does not apply to applications under Part 7 of the immigration rules. Therefore the new requirement does not apply where the sponsor is:

- 1) a Gurkha granted indefinite leave on discharge from the British Army; **or**
- 2) a foreign or Commonwealth national given indefinite leave on discharge from HM Forces; **or**
- 3) a serving foreign or Commonwealth national who has completed 5 years service in HM Forces.

SECTION 2

Indefinite Leave to Remain / Settlement (permission to stay with no time limit)

In general, a spouse or may apply for indefinite leave to remain (settlement) after s/he has spent two years in the Bailiwick of Guernsey in that capacity

Knowledge of Life and Language (KOL) in the UK and Islands Requirement

Spouses or unmarried partners applying for indefinite leave to remain after completing their two-year period as a spouse or unmarried partner will need to fulfil the knowledge of life and language in the UK and Islands requirement (KOL).

How the KOL requirement can met

The requirement can be met in one of two ways:

- 1) if your level of English is ESOL (English for Speakers of Other Languages) Entry Level 3 or above you can take and must pass a citizenship test; **or**
- 2) if your level of English is below ESOL Entry Level 3, by attending and successfully competing a combined English Language (ESOL) and citizenship class

Further information can be obtained by contacting Martyn Mitchell or Jane Walden at the Guernsey College of Further Education, telephone 737500.

Important:

If you cannot meet the KOL requirement you will not be granted indefinite leave to remain unless you fall under an exemption.