

Introduction of New rules in autumn 2010

By Lawrencina Kwegyir-Afful

In a UK Border Agency publication dated the 9th of June 2010, it was announced that from autumn 2010 compulsory English Language tests will be introduced for non-European migrants applying for a visa as the spouse, civil partner, unmarried partner, fiancé (e) or prospective civil partner of a UK citizen or a person settled in the UK.

Migrants will need to demonstrate a basic command over the English language before they are granted a two - year period of temporary residence. This requirement is being introduced to assist migrants to cope with everyday life in the UK. Applicants will need to demonstrate Basic English at A1 level which is the same level required for skilled workers admitted under Tier 2 of the points based system.

The changes will be applicable to people making an application from within the UK and overseas. Evidence of the above will be required at the visa application stage. The Home Secretary Theresa May has indicated that being able to speak English should be a prerequisite for anyone who wants to settle in the UK. She has also indicated that she is committed to raising the bar for migrants and ensuring that those who benefit from being in Britain contribute to the British Society.

Theresa May further stated that; "Today's announcement is one of a wide range of measures the new government is taking to ensure that immigration is properly controlled for the benefit of the UK, alongside a limit on work visas and an effective system for regulating the students who come here."

Currently, an application made under any of the above immigration categories has to meet a range of criteria before a visa is granted. These include the criteria to show that a marriage or partnership is genuine and that an applicant can maintain and accommodate himself without recourse to public funds.

A successful applicant is granted a two-year probationary period and at the end of the two years, may apply for settlement. It is important to note that before an application for Indefinite Leave to remain is submitted, an applicant should be able to show that he or she has sufficient knowledge of the language and life in the UK.

Case Scenario:

Ama a Ghanaian, marries Kofi a British Citizen. Ama wants to come and live with her husband who is residing in UK. Ama makes her entry clearance application after the new changes have been introduced. Apart from satisfying the criteria in relation to maintenance, accommodation and the genuineness of the marriage, she will have to satisfy the new Basic English language requirement. If her application is successful she will be granted a two year visa. After entering and spending two years in the UK, Ama may apply for Indefinite Leave to Remain. She will have to submit with her application evidence to show that she has either passed the life in the UK test or has completed an ESOL (English for Speakers of Other Languages) with Citizenship context course.

The new government is anxious to be seen as placing more restrictions on immigration to reduce the number of migrants coming to the UK. It is important for migrants to note that human rights are governed by International Law. In addition, the government has little control over free movement of European nationals. Invariably the new government can marginally control only non human right applications and applications from non-European nationals applying for leave to enter or remain in the UK under the points based system and the immigration rules.

It is important for migrants to assess their situation before making an application to ensure that any human right claims amongst others are not overlooked.

Disclaimer: This article only provides general information and guidance on UK immigration law. The specific facts that apply to your matter may make the outcome different than would be anticipated by you. The writer will not accept any liability for any claims or inconvenience as a result of the use of this information.