

# Immigration Directorate Instructions

## Family Members under Appendix FM and Appendix Armed Forces of the Immigration Rules

### Annex FM Section FM 1.7: Financial Requirement

#### Contents

<b>1. Introduction</b> .....	<b>3</b>
1.1. Who needs to meet the financial requirement? .....	3
<b>2. Calculating the financial requirement</b> .....	<b>5</b>
<b>3. Operating principles</b> .....	<b>7</b>
3.1. Meeting the financial requirement .....	7
3.2. The level of the financial requirement .....	7
3.3. Evidence requirements – general information .....	8
3.4. Evidential flexibility .....	10
3.5. Conversion of foreign currency .....	12
3.6. Meeting the financial requirement through “adequate maintenance” .....	12
<b>4. Sources for meeting the financial requirement</b> .....	<b>14</b>
4.1. Ways of meeting the financial requirement .....	14
4.2. Sources that are not permitted .....	15
<b>5. Salaried and non-salaried employment</b> .....	<b>17</b>
5.1. Category A: With current employer for 6 months or more – person residing in the UK.....	17
5.2. Category A: With current employer for 6 months or more – overseas sponsor returning to the UK.....	20
5.3. Category B: Less than 6 months with current employer or variable income – person residing in the UK.....	22
5.4. Category B: Less than 6 months with current employer or variable income – overseas sponsor returning to the UK.....	25
5.5. Salaried and non-salaried employment – general requirements.....	27
5.6. Salaried and non-salaried employment – specified evidence.....	32
<b>6. Non-employment income</b> .....	<b>36</b>
6.1. Category C: Non-employment income – requirements .....	36
6.2. Property rental – further guidance .....	37
6.3. Dividends and other investment income – further guidance .....	38
6.4. Maintenance grant or stipend – further guidance .....	39
6.5. Non-employment income – specified evidence .....	40
<b>7. Cash savings</b> .....	<b>43</b>
7.1. Category D: Cash savings – requirements.....	43
7.2. Calculating Cash Savings – Appendix FM .....	43
7.3. Calculating Cash Savings – Appendix Armed Forces .....	45

7.4. Cash savings – further guidance.....	46
7.5. Cash savings – specified evidence .....	51
<b>8. Pension.....</b>	<b>52</b>
8.1. Category E: Pension – requirements .....	52
8.2. Pension – Specified Evidence.....	52
<b>9. Self-employment or Director of a specified limited company in the UK.....</b>	<b>53</b>
9.1. Category F: Last full financial year .....	53
9.2. Category G: Average of last two full financial years .....	53
9.3. Self-employment or Director of a specified limited company in the UK – general requirements .....	53
9.4. Self-employment or Director of a specified limited company in the UK – further guidance .....	55
9.5. Self-employment as a sole trader, as a partner or in a franchise – requirements .....	55
9.6. Sole trader, partner or franchise – specified evidence .....	56
9.7. Director of a specified limited company in the UK – requirements .....	58
9.8. Director of a specified limited company in the UK – specified evidence.....	59
<b>10. Decision letter wordings .....</b>	<b>61</b>

## 1. Introduction

Since 9 July 2012, the Immigration Rules have contained a financial requirement to be met by a person applying for entry clearance to, leave to remain in and indefinite leave to remain in the UK as the non-EEA national partner or dependent child of a person who is:

- a British Citizen; or
- present and settled in the UK; or
- in the UK with refugee leave or humanitarian protection.

Since 1 December 2013, the Immigration Rules in Appendix Armed Forces have also contained a financial requirement to be met by a person applying for entry clearance to, leave to remain in and indefinite leave to remain in the UK as the non-EEA national partner or dependent child of a person (British or Foreign or Commonwealth) who is a member of HM Armed Forces (as defined in paragraph 2(d) of Appendix Armed Forces).

This guidance tells you how to decide applications that need to meet the financial requirement and is to be used for all applications decided from 6 April 2014.

For the purpose of this guidance “partner” means an applicant’s fiancé(e), proposed civil partner, spouse, civil partner, unmarried partner or same sex partner.

Where the applicant is a child, references to “applicant” should be read as appropriate to refer to the applicant’s parent, and references to “partner” should be read as appropriate to refer to the applicant’s parent’s partner.

### 1.1. Who needs to meet the financial requirement?

The financial requirement needs to be met by those making an application in the following categories of Appendix FM:

- [Family Life as a Partner](#)
- [Family Life as a Child of a person with limited leave as a Partner or Parent](#)

Under paragraph A280(b) of [Part 8 of the Immigration Rules](#), the financial requirement needs to be met by those applying from 9 July 2012 as a Child under paragraph 314(i)(a) or (d) (unless both parents are settled), or paragraph 316A(i)(d) or (e), where a parent who has adopted the child, or is doing so, is themselves subject to the financial requirement because they have or are applying for entry clearance or limited leave to remain as a partner under Appendix FM. Otherwise, the maintenance requirement applicable to the child applicant will be that contained in the relevant adoption rule in Part 8.

The financial requirement also needs to be met by those making an application in the following categories of Appendix Armed Forces unless otherwise stated in that Appendix:

- [Partners of members of HM Forces in Part 4](#) (where specified)
- [Children of members of HM Forces in Part 7](#) (where specified)

This guidance must be read along with the guidance for these categories: IDI Chapter 8 Section FM.1.0 Partner Guidance, IDI Chapter 8 Section FM.3.1. Children, Modernised Guidance on Adopted Children and Modernised Guidance on HM Forces: Partners and Children.

For further information on the background to the financial requirement in Appendix FM, please see the Statement of Intent on Family Migration published on 11 June 2012. This is available on the Home Office's immigration website: [Statement of Intent: Family Migration](#).

For further information on the background to the financial requirement in Appendix Armed Forces, please see the Statement of Intent published on 4 July 2013. This is available on the gov.uk website: [Statement of Intent: Family Members of HM Forces](#).

## 2. Calculating the financial requirement

- 2.1. Unless exempt (see [section 3.6](#) of this guidance) there is a minimum income threshold that must be met. The minimum income threshold for a [Partner](#) applying under Appendix FM from 9 July 2012 and for a [Partner](#) applying under Appendix Armed Forces from 1 December 2013, without dependent children, is **£18,600**.
- 2.2. However, where the application includes sponsorship of a child at the same time (or at any time before the applicant reaches settlement), the minimum income threshold increases and there is a higher financial requirement to be met.
- 2.3. The level of the financial requirement to be met in cases involving dependent children varies and is determined by the number of children who already have leave, or are applying for leave, at the date of application.
- 2.4. An additional gross annual income of £3,800 is required for the first child sponsored in addition to the Partner and an additional £2,400 for each further child. The level of the financial requirement will therefore be for example:
  - Partner with no children – £18,600.
  - 1 child in addition to the partner – £22,400.
  - 2 children in addition to the partner – £24,800.
  - 3 children in addition to the partner – £27,200.
- 2.5. If the higher financial requirement and other requirements are met, the child or children will be granted leave in line with the migrant partner. If the migrant partner and child or children are applying together, and the higher financial requirement and other requirements are not met, all the applicants will be refused.
- 2.6. The higher financial requirement applies to biological children, step-children (in certain circumstances), adopted children (in certain circumstances, including de facto adoptions), and children coming for the purpose of adoption who are subject to immigration control and applying for limited leave to enter or remain under Appendix FM, Appendix Armed Forces or the paragraphs of Part 8 set out in [section 1](#), above.
- 2.7. The higher financial requirement will apply until the migrant partner qualifies for settlement, even if the child turns 18 before then. However, the 18+ year old's income and savings will be permitted to count towards the financial requirement.
- 2.8. The financial requirement does **not** apply to a child who:
  - Is a British citizen (including an adopted child who acquires British citizenship);

- Is an EEA national (except where a non-EEA spouse or partner is being accompanied or joined by the EEA child of a former relationship who does not have a right to be admitted to the UK under the Immigration (EEA) Regulations 2006);
- Is settled in the UK or who qualifies for indefinite leave to enter; or
- Qualifies otherwise under Part 8 or Appendix Armed Forces of the Immigration Rules in a category to which the financial requirement does not apply.

### 3. Operating principles

#### 3.1. Meeting the financial requirement

- 3.1.1. Under Appendix FM, Appendix Armed Forces and Appendix FM-SE, the applicant must meet:
- The level of the financial requirement applicable to their application; and
  - The requirements specified as to:
    - (a) the permitted sources of income/savings; and
    - (b) the time periods and permitted combinations of sources applicable to each permitted source relied upon; and
    - (c) the evidence required for each permitted source relied upon.
- 3.1.2. Income and cash savings must be in the name of the applicant, their partner or jointly. However, income and cash savings of a dependent child of the applicant can also be included once the child has turned 18 years of age.
- 3.1.3. All employment income must come from working legally. All income and savings must be lawfully derived.
- 3.1.4. Where the gross (pre-tax) amount of any income cannot be properly evidenced, the net (post-tax) amount will be counted, including towards a gross income requirement.
- 3.1.5. Under paragraph 1(n) of [Appendix FM-SE](#) the gross amount of any cash income may be counted where the person's specified bank statements show the net amount which relates to the gross amount shown on their payslips (or in the relevant specified evidence provided in addition to the specified bank statements in relation to non-employment income). Otherwise, only the net amount shown on the specified bank statements may be counted.

#### 3.2. The level of the financial requirement

- 3.2.1. Decision-makers cannot exercise any discretion or flexibility with regard to the **level** of the financial requirement that must be met. It is a matter of public policy to operate a financial requirement based on a minimum income threshold for the sponsorship of partners and children. It must be clear and consistently applied in all cases.
- 3.2.2. The applicant has to demonstrate and evidence the income/savings required to meet the level of the financial requirement relevant to their application. They do not need to provide

information in the first instance about any income/savings which they and/or the partner may have beyond this.

- 3.2.3. The onus is on the applicant to demonstrate that the financial requirement is met in their case. Decision-makers will not generally be expected to make further enquiries or request further information in an effort to establish whether the financial requirement is met.

### **3.3. Evidence requirements – general information**

- 3.3.1. These general evidence requirements are based on paragraph 1 of [Appendix FM-SE](#).
- 3.3.2. Promises of support from a third party **cannot** be counted towards the financial requirement. The applicant and their partner must have the required resources under their own control, not somebody else's. Promises of support from a third party are vulnerable to a change in that person's circumstances or in the applicant's or partner's relationship with them. (Under [section 7.1](#) a gift from a third party can be the source of cash savings held by the applicant, their partner or the couple jointly, provided that the money has been held by them for at least the 6 months prior to the date of application and is under their control).
- 3.3.3. Income can be paid into, or cash savings held in, any bank/savings account in the name of the applicant, the applicant's partner or both jointly, provided that the account is held in a financial institution that is regulated by the Financial Services Authority or the appropriate regulatory body for the country in which that institution is operating; and the financial institution does not appear on the list of excluded institutions under [Appendix P](#) of the Immigration Rules.
- 3.3.4. Bank statements must be on official bank stationery. Alternatively electronic bank statements can also be accepted for all bank accounts (the account itself does not have to be exclusively online) as long as they are either accompanied by a letter from the bank on its headed stationery confirming that the documents are authentic or which bear the official stamp of the issuing bank on every page.
- 3.3.5. The bank statements must cover the specified periods as described in the Immigration Rules for each of the sources of income relied upon.
- 3.3.6. As an alternative to a bank statement we will also accept:
- a building society statement or pass book; or
  - a letter from the bank or building society; or
  - a letter from a financial institution regulated by the Financial Conduct Authority and the Prudential Regulation Authority or, for overseas accounts, the appropriate regulatory body for the country in which the institution operates and the funds are

located. The financial institution must not appear on the list of excluded institutions under Appendix P of the Immigration Rules.

This is provided that the requirements in paragraph 1(aa)(1)-(3) of [Appendix FM-SE](#) are met: These are:

**(1)** the requirements in paragraph 1(a)(i)-(iv) are met as if the document were a bank statement; and

**(2)** a building society pass book must clearly show:

(i) the account number;

(ii) the building society's name and logo; and

(iii) the information required on transactions, funds held and time period(s) or as otherwise specified in Appendix FM-SE in relation to bank statements; and/or

**(3)** a letter must be on the headed stationery of the bank, building society or other financial institution and must clearly show:

(i) the account number,

(ii) the date of the letter;

(iii) the financial institution's name and logo; and

(iv) the information required on transactions, funds held and time period(s) or as otherwise specified in Appendix FM-SE in relation to bank statements.

- 3.3.7. Payslips must be original formal payslips issued by the employer and showing the employer's name, or be accompanied by a letter from the employer, on their headed paper and signed by a senior official confirming they are authentic.
- 3.3.8. Where Appendix FM-SE requires the applicant to provide specified evidence relating to a period which ends with the date of application, that evidence must be dated no earlier than 28 days before the date of application.
- 3.3.9. Any documentary evidence must be the original (not a copy) unless indicated otherwise in Appendix FM-SE. For further information on evidential flexibility please see [section 3.4](#) of this guidance.
- 3.3.10. Where a specified document is not in English or Welsh, the applicant must provide the original and a full translation that can be independently verified by the decision-maker. This translation must include contact details for the translator or the translation company and confirmation that it is an accurate translation of the original document. It must also be dated and include the full name and original signature of the translator or an authorised official from the translation company. For applications for leave to remain or indefinite leave to remain (but not for entry clearance) certification by a qualified translator and confirmation of the translator/translation company's credentials must also be provided.

- 3.3.11. Under paragraph GEN.1.5. of [Appendix FM](#), where decision-makers have reasonable cause to doubt the genuineness of any information or document submitted in support of an application and, after taking reasonable steps, are unable to verify that it is genuine, the information or document will be discounted for the purposes of the application.
- 3.3.12. Decision-makers are able to refuse the application if they have evidence that the applicant or partner has deceived them as to the level and/or source of income or has withheld relevant information, e.g. that the cash savings relied upon are a loan.

### **3.4. Evidential flexibility**

- 3.4.1. There is discretion for decision-makers to defer an application pending submission of missing evidence or the correct version of it, within reasonable deadline set for this. Decision-makers will not have to defer where they do not think that correcting the error or omission will lead to a grant.
- 3.4.2. Decision-makers are also able to grant an application despite minor evidential problems (but not where specified evidence is missing entirely).
- 3.4.3. There is also discretion for decision-makers where evidence cannot be supplied because it is not issued in a particular country or has been permanently lost.
- 3.4.4. Decision-makers have general discretion to request additional information or evidence before making a decision.
- 3.4.5. The evidential flexibility is set out in paragraph D of [Appendix FM-SE](#):

**D. (a)** In deciding an application in relation to which this Appendix states that specified documents must be provided, the Entry Clearance Officer or Secretary of State (“the decision-maker”) will consider documents that have been submitted with the application, and will only consider documents submitted after the application where sub-paragraph (b) or (e) applies.

(b) If the applicant:

(i) Has submitted:

(aa) A sequence of documents and some of the documents in the sequence have been omitted (e.g. if one bank statement from a series is missing);

(bb) A document in the wrong format (for example, if a letter is not on letterhead paper as specified); or

(cc) A document that is a copy and not an original document; or

(dd) A document which does not contain all of the specified information; or

(ii) Has not submitted a specified document,

the decision-maker may contact the applicant or his representative in writing or otherwise, and request the document(s) or the correct version(s). The material requested must be received at the address specified in the request within a reasonable timescale specified in the request.

(c) The decision-maker will not request documents where he or she does not anticipate that addressing the error or omission referred to in sub-paragraph (b) will lead to a grant because the application will be refused for other reasons.

(d) If the applicant has submitted:

(i) A document in the wrong format; or

(ii) A document that is a copy and not an original document, or

(iii) A document that does not contain all of the specified information, but the missing information is verifiable from:

(1) other documents submitted with the application,

(2) the website of the organisation which issued the document, or

(3) the website of the appropriate regulatory body,

the application may be granted exceptionally, providing the decision-maker is satisfied that the document(s) is genuine and that the applicant meets the requirement to which the document relates. The decision-maker reserves the right to request the specified original document(s) in the correct format in all cases where sub-paragraph (b) applies, and to refuse applications if this material is not provided as set out in sub-paragraph (b).

(e) Where the decision-maker is satisfied that there is a valid reason why a specified document(s) cannot be supplied, e.g. because it is not issued in a particular country or has been permanently lost, he or she may exercise discretion not to apply the requirement for the document(s) or to request alternative or additional information or document(s) be submitted by the applicant.

(f) Before making a decision under Appendix FM or this Appendix, the decision-maker may contact the applicant or their representative in writing or otherwise, to request further information or documents. The material requested must be received at the address specified in the request, within a reasonable timescale specified in the request.

### **3.5. Conversion of foreign currency**

3.5.1. Income or cash savings in a foreign currency will be converted to pounds sterling (£) using the closing spot exchange rate which appears on [www.oanda.com](http://www.oanda.com) on the date of application. Where there is income or cash savings in different foreign currencies, each will be converted into pounds sterling (£) before being added together, and then added to any UK income or savings, to give a total amount.

### **3.6. Meeting the financial requirement through “adequate maintenance”**

3.6.1. Where the applicant’s partner is in receipt of any of the following benefits or allowances in the UK, the applicant will be able to meet the financial requirement at that application stage by providing evidence of “adequate maintenance” rather than meeting an income threshold:

- Carer’s Allowance.
- Disability Living Allowance.
- Severe Disablement Allowance.
- Industrial Injuries Disablement Benefit.
- Attendance Allowance.
- Personal Independence Payment.
- Armed Forces Independence Payment or Guaranteed Income Payment under the Armed Forces Compensation Scheme.
- Constant Attendance Allowance, Mobility Supplement or War Disablement Pension under the War Pensions Scheme.

3.6.2. If the applicant’s partner is in receipt of one of the above benefits or allowances on behalf of their child, the applicant will be able to qualify by meeting the financial requirement through “adequate maintenance”.

3.6.3. The evidence required to demonstrate that the applicant’s partner is in receipt of a specified benefit or allowance is specified in [Appendix FM-SE](#):

**12. Where a person is in receipt of Carer's Allowance, Disability Living Allowance, Severe Disablement Allowance, Industrial Injuries Disablement Benefit, Attendance Allowance or Personal Independence Payment, or Armed Forces Independence Payment or Guaranteed Income Payment under the Armed Forces Compensation Scheme or Constant Attendance Allowance, Mobility Supplement or War Disablement Pension under the War Pensions Scheme, all the following must be provided:**

(a) Official documentation from the Department for Work and Pensions or Veterans Agency confirming the entitlement and the amount received.

(b) At least one personal bank statement in the 12-month period prior to the date of application, showing payment of the benefit or allowance into the person's account.

- 3.6.4. The applicant **will not** need to meet the minimum income threshold. Instead, the applicant is required to demonstrate that they will be adequately maintained without recourse to public funds. The relevant guidance is set out in IDI Chapter 8 section 1.7a. This does not allow the applicant to rely on promises of third party support or prospective employment or a job offer.
- 3.6.5. The minimum income threshold will apply at the next application stage if the applicant's partner is no longer in receipt of one of these benefits or allowances at that time.
- 3.6.6. Some applicants under Appendix Armed Forces are already required to demonstrate that they will be adequately maintained without recourse to public funds and there is no assessment needed of whether they are exempt from minimum income threshold because the minimum income threshold does not apply to their category of application. See Part 4, Part 7, Part 9, and Part 10 of Appendix Armed Forces for details of who falls into this group. The relevant guidance is set out in IDI Chapter 8 section 1.7a. This does not allow the applicant to rely on promises of third party support or prospective employment or a job offer.

## 4. Sources for meeting the financial requirement

### 4.1. Ways of meeting the financial requirement

4.1.1. Where the applicant has to meet the minimum income threshold, the financial requirement can be met in the following 5 ways:

- Income from salaried or non-salaried employment of the partner (and/or the applicant if they are in the UK with permission to work). This is referred to as Category A or Category B, depending on the employment history. See [section 5](#) of this guidance.
- Non-employment income, e.g. income from property rental or dividends from shares. This is referred to as Category C. See [section 6](#) of this guidance.
- Cash savings of the applicant's partner and/or the applicant, above £16,000, held by the partner and/or the applicant for at least 6 months and under their control. This is referred to as Category D. See [section 7](#) of this guidance.
- State (UK or foreign) or private pension of the applicant's partner and/or the applicant. This is referred to as Category E. See [section 8](#) of this guidance.
- Income from self-employment, and income as a director of a specified limited company in the UK, of the partner (and/or the applicant if they are in the UK with permission to work). This is referred to as Category F or Category G, depending on which financial year(s) is or are being relied upon. See [section 9](#) of this guidance.

4.1.2. The following table shows how these sources can and cannot be combined with each other. See the relevant section of this guidance for further information:

Income source			Salaried and non-salaried employment			Non-employment	Cash savings	Pension	Self-employment and Director of specified limited company	
	Category		A	B		C	D	E	F	G
				1	2					
Salaried and non-salaried employment	A			X	X	✓	✓	✓	✓	✓
	B	1	X			✓	✓	✓		
		2	X			✓	X	✓		
Non-employment	C		✓	✓	✓		✓		✓	✓
Cash savings	D		✓	✓	X	✓		✓	X	X
Pension	E		✓	✓	✓	✓	✓		✓	✓
Self-employment and Director of specified limited company	F		✓			✓	X	✓		
	G		✓			✓	X	✓		

✓ = these sources can be combined.

✓ = these sources can be combined, but only for the period of the relevant financial year(s).

X = these sources cannot be combined.

## 4.2. Sources that are not permitted

4.2.1. Income from the following sources **will not be counted** towards the financial requirement:

- Any subsidy or financial support from a third party (other than child maintenance or alimony payments, academic maintenance grants/stipends or gifts of cash savings that meet the requirements specified in paragraph 1(b) of [Appendix FM-SE](#)).

- Income from others who live in the same household (except any dependent child of the applicant who has turned 18 and continues to be counted towards the higher income threshold the applicant has to meet until they qualify for settlement).
- Loans and credit facilities.
- Income-related benefits: Income Support, income-related Employment and Support Allowance, Pension Credit, Housing Benefit, Council Tax Benefit and income-based Jobseeker's Allowance.
- The following contributory benefits: contribution-based Jobseeker's Allowance, contribution-based Employment and Support Allowance and Incapacity Benefit.
- Child Benefit.
- Working Tax Credit.
- Child Tax Credit.
- Unemployability Allowance, Allowance for a Lowered Standard of Occupation and Invalidity Allowance under the War Pensions Scheme.
- Any other source of income not specified in [Appendix FM-SE](#) as counting towards the financial requirement.

## 5. Salaried and non-salaried employment

### 5.1. Category A: With current employer for 6 months or more – person residing in the UK

- 5.1.1. Where the applicant's partner (and/or the applicant if they are in the UK with permission to work) is in salaried employment at the date of application and has been with the same employer for at least 6 months prior to the date of application, they can count their gross annual salary towards the financial requirement. **In doing so** they must have been paid throughout the period of 6 months prior to the date of application at a level of gross annual salary which equals or exceeds the level relied upon in the application.
- 5.1.2. Gross income from non-salaried employment will be counted on the same basis as income from salaried employment where the person has been with the same employer for 6 months or more at the date of application.
- 5.1.3. Non-salaried employment includes that paid at an hourly or other rate (and the number and/or pattern of hours required to be worked may vary) or paid an amount which varies according to the work undertaken. Salaried employment includes that paid at a minimum fixed rate (usually annual) which is usually subject to a contractual minimum number of hours to be worked.
- 5.1.4. The only difference in Category A between salaried and non-salaried employment is how gross annual salary or employment income is calculated:

Where the person is in **salaried employment** – they must have been paid throughout the period of 6 months prior to the date of application at a level of gross annual salary which equals or exceeds the level relied upon in the application. Therefore the figure used towards the requirement will be the lowest level of annual salary received during the 6 month period.

Where the person is in **non-salaried employment** – the level of gross annual employment income relied upon in the application will be the annual equivalent of the person's average gross monthly income from non-salaried employment in the 6 months prior to the date of application (where that employment was held throughout that period).

To calculate this annualised average for non-salaried employment in Category A the following calculation should be used:

(Total gross income from employment held **throughout** the 6 month period, divided by 6) multiplied by 12 = Income from non-salaried employment that can be counted towards the financial requirement.

5.1.5. If necessary, to meet the level of the financial requirement applicable to the application, a person in salaried or non-salaried employment with the current employer for 6 months or more at the date of application can **add** to this:

- The gross amount of any specified non-employment income received by the applicant's partner, the applicant or both jointly in the 12 months prior to the application, provided they continue to own any asset on which that income was based (e.g. property, shares) at the date of application;
- An amount based on the cash savings **above** £16,000 held by the applicant's partner, the applicant or both jointly for at least the 6 months prior to the date of application and under their control. At the entry clearance/initial leave to remain stage and the further leave stage, the amount above £16,000 must be divided by 2.5 (to reflect the 2.5 year or 30-month period before the applicant will have to make a further application) to give the amount which can be added to income. At the indefinite leave to remain stage, the whole of the amount above £16,000 can be added to income; and/or
- The gross **annual** income received by the applicant's partner or the applicant from any State (UK or foreign) or private pension.

5.1.6. Therefore income under Category A can be combined with [Category C: non-employment income](#), [Category D: cash savings](#) and [Category E: pension](#) if necessary to meet the financial requirement.

#### 5.1.7. Case studies – Category A: With current employer for 6 months or more – person residing in the UK

##### Example (a)

In an application for entry clearance the applicant's partner is in salaried employment at the date of application and has been working for the same employer for 7 months prior to the date of application. For the first three months of the 6 months prior to the date of application his gross annual salary was £15,500. Then he was promoted by his employer so that for the next three months (those being the three months immediately prior to the date of application) his gross annual salary was £18,700. The applicant's partner is relying on Category A and so must have earned a level of gross annual salary which equals or exceeds the level relied upon in the 6 months prior to the date of application. Therefore the figure that can be used towards the requirement will be the lowest level of annual salary received during this 6 month period prior to the date of application which is £15,500.

The couple have no other source of income or savings and so the financial requirement is not met.

### Example (b)

In an application for leave to remain the applicant's partner is in employment at the date of application and has been working for the same employer for at least 6 months prior to the date of application. They earn a gross annual salary of £8,000 a year and have been earning the same salary for at least that 6-month period. They receive non-employment income from a rental property and in the 12 months prior to the date of application they received a gross rental income of £9,000; they continue to own the property. The applicant's partner's total income is therefore £17,000.

The applicant's partner also has cash savings of £25,000. She can meet the savings requirements of the rules, including having held those savings for at least 6 months prior to the date of application and the savings being under her control. The amount of savings that can be used towards the financial requirement is £3,600:  $(£25,000 - £16,000) \div 2.5 = £3,600$ .

So, using a combination of Categories A, C and D, the applicant's partner has £20,600 in income and savings (£17,000 income + £3,600 savings) which can be used to meet the financial requirement of £18,600.

### Example (c)

The applicant's partner is in non-salaried employment in the UK. He works on a weekly rota basis and does not receive any paid holidays. He has earned £450 each week in the same job for the last 7 calendar months, except for the week prior to the date of application when he earned £150 owing to a holiday.

Non-salaried income = (gross earnings from employment held throughout the 6 month period, divided by 6) x 12  
=  $((25 \text{ weeks} \times 450 + 1 \text{ week} \times 150) \div 6) \times 12$   
=  $(11,400 \div 6) \times 12$   
= **£22,800**

So the financial requirement is met through Category A non-salaried employment.

## 5.2. Category A: With current employer for 6 months or more – overseas sponsor returning to the UK

5.2.1. Where the applicant's partner is returning with the applicant to the UK to work, they must meet two requirements to rely on Category A:

- **First**, the applicant's partner must be in employment at the date of application and have been with the same employer for at least 6 months prior to the date of application. They must have been paid throughout that period of 6 months at a level of gross annual salary or income which equals or exceeds the level relied upon in the application. Their gross annual salary or employment income can be combined with any or all of the sources at section 5.1.6. in order to meet the financial requirement. So, again, income under Category A can be combined with [Category C: non-employment income](#), [Category D: cash savings](#) and [Category E: pension](#) if necessary to meet the financial requirement.

As with employment in the UK, gross income from non-salaried employment held throughout the 6 month period will be calculated on the basis set out in section 5.1.4.).

- **Second**, the applicant's partner must also have a confirmed offer of salaried or non-salaried employment in the UK, starting within 3 months of their return. This must have a gross annual starting salary (or in non-salaried employment a gross annual income from that employment, based on the rate or amount of pay and the standard or core hours to be worked provided by the employer in evidence) sufficient to meet the financial requirement, alone or in combination with any or all the sources at section 5.1.4. ([Category C: non-employment income](#), [Category D: cash savings](#) and [Category E: pension](#)).

5.2.2. Where the applicant's partner is returning with the applicant to the UK to salaried or non-salaried employment, and is in self-employment outside the UK, they must meet the **first** requirement in section 5.2.1. through their self-employment income (see [section 9](#) of this guidance for how this income is calculated). The **second** requirement, regarding a confirmed job offer in the UK, must be met on the basis set out in section 5.2.1.

5.2.3. **Case studies – Category A: With current employer for 6 months or more – overseas sponsor returning to the UK**

### Example (a)

The applicant's partner currently works in Australia but is returning with the applicant to the UK to work. The applicant's partner has been with working for the same employer for the last 5 years in Australia earning a gross annual salary of £25,000. The applicant's partner

has a confirmed job offer to start in the UK in 8 weeks of their return, with an annual starting salary of £30,000. Therefore the applicant's partner has both current gross annual salary and a future starting salary which meet the financial requirement under Category A.

### **Example (b)**

If, in the scenario at (a) above, the applicant's partner overseas had been unemployed for 12 months, the financial requirement could not be met using Category A. This would be true even if they had a job offer in the UK starting in 8 weeks of their return with a starting salary of £30,000. The applicant's partner can only rely on the income from a job offer in the UK under Category A if they have been in employment overseas at the required level of income for at least 6 months at the date of application.

### **Example (c)**

The applicant's partner currently works in Japan and is returning with the applicant to the UK to work. She has been working for the same employer for 2 years in Japan and earns a weekly wage. She has earned £495 each week for the last year.

Current non-salaried income = (gross earnings from employment held throughout the 6 month period, divided by 6) x 12  
= ((26 weeks x 495) ÷ 6) x 12  
= (12,870 ÷ 6) x 12  
= **£25,740**

She has a confirmed offer of non-salaried employment in the UK to start within 5 weeks of her return (paying £385 a week over a 12-month contract), so the annual starting income for the job is equivalent to £20,000 a year.

So the financial requirement is met through Category A non-salaried employment.

### **Example (d)**

The applicant's partner currently works in Canada as a self-employed carpenter. She is returning with the applicant to the UK to work as a salaried employee of a large construction firm. The applicant's partner has provided all of the specified evidence for her self-employment income for the last financial year. Her tax return shows her gross income as being £19,200 for that year. She has a confirmed job offer with the construction firm to start within 10 weeks of her return to the UK. The annual starting salary for this job is £20,500. Therefore the applicant's partner meets the financial requirement using Category A.

### **5.3. Category B: Less than 6 months with current employer or variable income – person residing in the UK**

- 5.3.1. This category can be used where the applicant's partner (and/or the applicant if they are in the UK with permission to work) is in salaried or non-salaried employment at the date of application, but has **not** been with the same employer and/or **not** earning the income level relied upon in the application for at least 6 months prior to the date of application. It can therefore be used by those who have been with their current employer for less than 6 months, or who have been with their current employer for at least 6 months but earning a variable income and wish to be considered in this category rather than under Category A.
- 5.3.2. Under Category B, the financial requirement must be met and evidenced in **two parts**.
- 5.3.3. **First**, where the applicant's partner and/or the applicant (if they are in the UK with permission to work) is in salaried employment at the date of application and has been with the same employer, or earning the amount relied upon, for less than the last 6 months, they can count the gross **annual** salary at the date of application towards the financial requirement.
- 5.3.4. Gross income from non-salaried employment will be counted on the same basis as income from salaried employment where the person has been with the same employer, or earning the amount relied upon, for less than 6 months at the date of application.
- 5.3.5. Non-salaried employment includes that paid at an hourly or other rate (and the number and/or pattern of hours required to be worked may vary) or paid an amount which varies according to the work undertaken. Salaried employment includes that paid at a minimum fixed rate (usually annual) which is usually subject to a contractual minimum number of hours to be worked.
- 5.3.6. The only difference in Category B between salaried and non-salaried employment is how gross annual salary or employment income at the date of application is calculated:

Where the person is in **salaried employment** – the level of gross annual salary will be as at the date of application. This must be evidenced by the latest payslip or the signed contract of employment (if a payslip does not provide this information).

Where the person is in **non-salaried employment** – the level of gross annual employment income relied upon in the application can be no greater than the annual equivalent of the person's average gross monthly income from non-salaried employment in the 6 months prior to the date of application, **regardless** of whether that employment was held throughout that period. The calculation will include all non-salaried employment undertaken during that 6 month period, and will be calculated over that 6 month period regardless of how much of that period was spent in employment.

To calculate this annualised average for non-salaried employment in Category B the following calculation should be used:

(Total gross income from **all employment** undertaken during the 6 month period, divided by 6) multiplied by 12 = Income from non-salaried employment that can be counted towards the financial requirement.

5.3.7. If necessary to meet the level of the financial requirement applicable to the application, the applicant can **add** to this:

- The gross amount of any specified non-employment income received by the applicant's partner, the applicant or both jointly in the 12 months prior to the application, provided they continue to own the relevant asset (e.g. property, interest from shares) at the date of application;
- An amount based on the cash savings **above** £16,000 held by the applicant's partner, the applicant or both jointly for at least the 6 months prior to the date of application and under their control. At the entry clearance/initial leave to remain stage and the further leave stage, the amount above £16,000 must be divided by 2.5 (to reflect the 2.5 year or 30-month period before the applicant will have to make a further application) to give the amount which can be added to income. At the indefinite leave to remain stage, the whole of the amount above £16,000 can be added to income; and/or
- The gross **annual** income from any State (UK or foreign) or private pension received by the applicant's partner or the applicant.

5.3.8. **Second**, the person must **in addition** have received **in the 12 months prior to the date of application** the level of income required to meet the financial requirement, based on:

- The gross amount of salaried or non-salaried employment income of the applicant's partner (in the UK or overseas) and/or the applicant (if they are in the UK with permission to work);
- The gross amount of any specified non-employment income received by the applicant's partner, the applicant or both jointly, provided they continue to own the relevant asset (e.g. property, interest from shares) at the date of application; and/or
- The gross amount of any State (UK or foreign) or private pension received by the applicant's partner or the applicant.

5.3.9. So, under Category B, the assessment of the financial requirement is based on:

- (1) The gross annual salary or income from salaried or non-salaried employment at the date of application. This source can be combined with [Category C: non-employment income](#), [Category D: cash savings](#) and [Category E: pension](#); **and**

- (2) The actual amount of gross income received from any salaried or non-salaried employment in the 12 months prior to the application. This can be combined with the actual gross income received from [Category C: non-employment income](#) and [Category E: pension](#) over the same 12-month period. [Category D: cash savings](#) cannot be used under (2).

#### 5.3.10. Case studies – Category B: Less than 6 months with current employer or variable income – person residing in the UK

##### Example (a)

The applicant's partner works in the UK. She started a new job 3 months prior to the date of application and her gross annual salary is £22,000. She meets part (1) of the calculation for Category B because she is in salaried employment at the date of application and her gross annual salary at the date of application meets the financial requirement.

**In addition**, she must have received in the 12 months prior to the application the level of income required to meet part (2) of the calculation for Category B. Before starting her new job, she worked for another company for 7 months during the last 12 months. Including her current and previous job, the total amount she has earned from employment in the last 12 months is £20,000.

The financial requirement is met under Category B because the applicant's partner is currently in a job paying at least £18,600 a year **and** has earned more than £18,600 from employment in the last 12 months.

##### Example (b)

The applicant's partner works in the UK. She started a new job 3 weeks ago. Her gross annual salary is £20,000. She meets part (1) of the calculation for Category B because she is in salaried employment at the date of application and her gross annual salary at the date of application meets the financial requirement.

**In addition**, she must have received in the 12 months prior to the application the level of income required to part (2) of the calculation for Category B. But she has had no other job in the last 12 months as she has been travelling.

The financial requirement is met under part (1) of Category B because the applicant's partner is currently in a job paying at least £18,600, but not under part (2) as she has not earned at least £18,600 from employment in the last 12 months. Therefore the applicant cannot meet the financial requirement using Category B.

### Example (c)

The applicant's partner lives in the UK and is a fashion photographer who does short-term contract work for several agencies. He has periods without work and the amount he is paid varies from job to job. Over the last 12 months he has earned a total of £20,000. In the most recent 6 months his gross earnings are as follows: £3500, £0, £0, £2300, £3400, £500. The application is made on the basis of meeting the financial requirement under Category B non-salaried employment.

Under part (1) of Category B, the applicant's partner's current annual employment income = (gross earnings over the last 6 months, divided by 6) multiplied by 12  
=  $((3500+0+0+2300+3400+500) \div 6) \times 12$   
=  $(9,700 \div 6) \times 12$   
= **£19,400**

Under part (2) of Category B, the applicant's partner's actual employment income over last 12 months  
= **£20,000**

So both part (1) and part (2) of Category B are met.

### 5.4. Category B: Less than 6 months with current employer or variable income – overseas sponsor returning to the UK

- 5.4.1. Where the applicant's partner is returning with the applicant to the UK to work, they do **not** have to be in employment at the date of application to rely on Category B. Instead, the financial requirement must be met and evidenced in **two parts** in the following way.
- 5.4.2. **First**, the applicant's partner must have a confirmed offer of salaried or non-salaried employment to return to in the UK (starting within 3 months of their return). This must have a gross annual starting salary (or in non-salaried employment a gross annual income from that employment, based on the rate or amount of pay and the standard or core hours to be worked provided by the employer in evidence) sufficient to meet the financial requirement, alone or in combination with any or all the sources at section 5.3.6. ([Category C: non-employment income](#), [Category D: cash savings](#) and [Category E: pension](#)).
- 5.4.3. **Second**, the couple returning to the UK must **in addition** have received **in the 12 months prior to the date of application** the level of income required to meet the financial requirement, based on:

- The gross amount of salaried or non-salaried employment income overseas of the applicant's partner;
- The gross amount of any specified non-employment income received by the applicant's partner, the applicant or both jointly, provided they continue to own the relevant asset (e.g. property, interest from shares) at the date of application; and/or
- The gross amount of any State (UK or foreign) or private pension received by the applicant's partner or the applicant.

5.4.4. So, under Category B, the assessment of the financial requirement will be based on:

- (1) The gross annual salary or income of the applicant's partner's confirmed offer of salaried or non-salaried employment in the UK. This source can be combined with [Category C: non-employment income](#), [Category D: cash savings](#) and [Category E: pension](#); and
- (2) The actual amount of gross income received from the applicant's partner's salaried or non-salaried employment overseas in the 12 months prior to the date of application. This can be combined with the actual gross income the couple received from [Category C: non-employment income](#) and [Category E: pension](#) over the same 12-month period. [Category D: cash savings](#) cannot be used under (2).

5.4.5. **Case study – Category B: Less than 6 months with current employer or variable income – overseas sponsor returning to the UK**

**Example (a)**

The applicant's partner currently lives in China and is returning to the UK with the applicant. The applicant's partner left her job in China 3 months ago to prepare for the move to the UK. She is not employed at the date of the application. From the job that she left, she received an income of £19,000 in the 12 months prior to the application. So part (2) of the Category B calculation for a returning sponsor is met because she received in the 12 months prior to the application the amount of income required to meet the level of the financial requirement.

**In addition**, the applicant's partner must also, under part (1) of the Category B calculation, have a confirmed offer of salaried or non-salaried employment to return to in the UK (starting within 3 months of her return). This must have an annual starting salary or income sufficient to meet the financial requirement, alone or in combination with other sources. She does have a confirmed job offer in the UK starting within 7 weeks of her return, with an annual starting salary of £24,000.

So part (1) of the Category B calculation for a returning sponsor is also met because she has a confirmed offer of employment in the UK to return to which has an annual starting salary sufficient to meet the financial requirement.

## **5.5. Salaried and non-salaried employment – general requirements**

- 5.5.1. Employment can be full-time or part-time.
- 5.5.2. Employment can be permanent, a fixed-term contract or with an agency.
- 5.5.3. Where the applicant's partner is a serving member of HM Armed Forces and they are posted overseas, they will be considered as a person residing in the UK for the purposes of assessing their income from salaried or non-salaried employment. They will not be treated as an overseas sponsor returning to the UK. This ensures that, in line with the military covenant, they are not disadvantaged by their military service.
- 5.5.4. Where the applicant is in the UK with permission to work and they are combining their employment income with their partner's employment income to meet the financial requirement, both employment incomes will be assessed under either Category A or Category B. The couple cannot use a combination of Category A and Category B to meet the financial requirement.
- 5.5.5. Where average is referred to in calculations of non-salaried employment this refers to the mean average. The calculation method for non-salaried employment will produce a mean average. You do not need to do anything additional to calculate this.
- 5.5.6. Overtime, commission-based pay and bonuses (which can include tips and gratuities paid via a tronc scheme registered with HMRC) will be counted as income from employment where they have been received in the 6 or 12 months prior to the date of application as applicable. Sometimes the person will receive the same amount of income from overtime each month; sometimes overtime payments will vary, with different amounts (if any) each month. All overtime in salaried employment will be calculated based on the approach to income from non-salaried employment. This will be an annualised 6-month average for the overtime which will be added to the level of the gross annual salary.
- 5.5.7. However, any future earnings that a person may earn by way of overtime, commission-based pay or bonuses will not count as income towards the financial requirement. This exclusion also applies where an applicant's partner seeks to rely on a job offer in the UK that will start within three months of their return. There is one exception to this: in respect of such a job offer in the UK, gross "on-target" earnings which may be expected from satisfactory performance in the standard or core hours of work can be included. This must be evidenced in the letter from the employer or signed contract of employment which must be submitted.

For further details please see section 5.5.22.

### 5.5.8. Case study – Calculation of commission based pay

#### Example (a)

The applicant's partner currently lives in Thailand and is returning to the UK with the applicant.

The applicant's partner is employed at the date of application and is relying on Category A. He works as a car salesman in Thailand in salaried employment. In the 6 months prior to the date of application his gross annual salary was £15,000. He also received commission based pay for each of the 6 months prior to the date of application which varied as follows: £500, £1000, £400, £200, £200, and £800.

The income from commission based pay that can be added to the salaried employment  
= (total commission earned over the last 6 months, divided by 6) multiplied by 12  
=  $((500+1000+400+200+250+800) \div 6) \times 12$   
=  $(3150 \div 6) \times 12$   
= **£6,300**

This annualised income from commission based pay can then be added to the salaried income of £15,000 to provide a gross annual salary at the date of application of **£21,300**.

In addition, the applicant's partner has a confirmed job offer with a car dealership in the UK to start within 8 weeks of his return to the UK. The annual starting salary for this job is £18,000. His signed contract of employment sets out that gross "on-target" earnings of £2,000 may be expected from satisfactory performance in the standard hours of work.

The addition of the OTE means that the applicant's partner meets the financial requirement using Category A as the income from this job offer that counts under the Immigration Rules will be **£20,000**.

The contract also indicated that the applicant's partner would earn future commission of 10% on all sales. However this future commission cannot be included towards the financial requirement.

5.5.9. The gross amount of any cash income may be counted towards the financial requirement, where the correct tax has been paid on that income and where all the relevant evidential requirements in Appendix FM-SE are met. Where a person's payslips show their gross cash income and the tax paid, and their specified bank statements show all of that post-tax income, they can count the gross amount of the cash income shown on the payslips towards the financial requirement. But, where that person's specified bank statements only

show a proportion of that post-tax income, only the amount shown on the bank statements can be counted towards the financial requirement.

- 5.5.10. Where the applicant's partner (and/or the applicant if they are in the UK with permission to work) is in salaried or non-salaried employment, this may include work overseas, subject to the couple meeting the requirement that they intend to live together permanently in the UK.
- 5.5.11. Where the applicant's partner is working overseas and transfers with the same employer to a job in the UK, that employment may be used to meet both the overseas employment income and the confirmed job offer in the UK required under Category A or Category B.
- 5.5.12. Where a person is a director of a limited company in the UK and receives a salary from that company, that salaried income can be counted under Category A or Category B, provided that the limited company is **not** of a type specified in paragraph 9(a) of Appendix FM-SE (i.e. it is not in sole or limited family ownership). Evidence of the type of company must be provided, which can include the latest Annual Return filed at Companies House.
- 5.5.13. Paragraph 9(a) of [Appendix FM-SE](#) states that the specified type of limited company is one in which:
- (i) the person is a director of the company (or another company within the same group); and
  - (ii) shares are held (directly or indirectly) by the person, their partner or the following family members of the person or their partner, parent, grandparent, child, stepchild, grandchild, brother, sister, uncle, aunt, nephew, niece or first cousin; and
  - (iii) any remaining shares are held (directly or indirectly) by fewer than five other persons.
- 5.5.14. Where a person receives a salary from employment as a director of a limited company in the UK of the type specified in paragraph 9(a), that salaried income can only be counted under Category F or Category G, as appropriate. See [section 9](#) of this guidance.
- 5.5.15. In respect of an equity partner, e.g. in a law firm, the income they draw from the partnership will be treated as income from salaried employment and they must provide evidence of the employment and their income from it accordingly.
- 5.5.16. A person working as a subcontractor under the Construction Industry Scheme (CIS), administered by HMRC (and under which the contractor deducts tax and National Insurance contributions from the payments made to the subcontractor), can, as an alternative to meeting the requirements of Appendix FM-SE in respect of self-employment, choose instead to count their CIS income as income from salaried employment. If they do, they must meet the requirements of paragraph 2 of Appendix FM-SE for specified evidence for salaried employment, subject to reflecting their status as a CIS contractor rather than an employed person. So, they must provide CIS payment slips in place of payslips, a letter from the CIS contractor in place of an employer's letter and the required personal bank statements. If a person cannot provide this evidence, or it is not clear that they are covered by the CIS scheme, their income should be treated as income from self-employment and the relevant self-employment evidence must be provided. See [section 9](#) of this guidance.

5.5.17. Those working in the UK and employed by a non-resident employer company will have a HMRC employee payroll scheme. The employee is not being paid gross, even though they may often receive the gross funds and then pay over the income tax and employee National Insurance contributions themselves.

5.5.18. Where the applicant's partner (and/or the applicant if they are in the UK with permission to work) is in receipt of maternity, paternity, adoption or sick pay, or has been so in the 6 months prior to the date of application, the relevant date for considering the length of employment and the income from the employment can be either:

- The date of application; or
- The date of commencement of the maternity, paternity, adoption or sick leave.

**But** the specified time periods for any other sources of income that are being combined with the employment income will remain as otherwise set out in this guidance.

5.5.19. Any period of **unpaid** maternity, paternity, adoption, parental or sick leave in the 12 months prior to the date of application will not be counted towards any period relating to employment, or any period relating to income from employment, for which Appendix FM-SE provides. For example, if a person takes 2 weeks' unpaid parental leave, this period will be discounted and will not be considered to have broken any continuous period relating to their employment or to their income from employment, and the person can show that they meet the annualised average income required over a period of 6 months and 2 weeks prior to the date of application.

5.5.20. Maternity pay, paternity pay and adoption pay which is paid overseas to a sponsor returning to the UK with the applicant to work can be counted towards the financial requirement.

#### 5.5.21. **Case studies – Maternity, paternity, adoption, parental and sick leave**

##### **Example (a)**

The applicant's partner is in the UK, has recently had a baby and returned to work from maternity leave 2 months prior to the date of application. Her contracted salary is £19,400 a year. She has been with her current employer for 2 years but, as she has not been earning the required level of income for all of the last 6 months because of her maternity leave, the period to be assessed can be the 6 months before she began her maternity leave.

### **Example (b)**

The applicant's partner is relying on Category A non-salaried employment but had 2 weeks' unpaid sick leave 2 months prior to the date of application. This 2 week period will be discounted for the purposes of the application and it will not break the 6 month period of continuous employment required. So the applicant's partner can show that they meet the annualised average income required over a period of 6 months and 2 weeks prior to the date of application.

5.5.22. [Appendix FM-SE](#) specifies further details in relation to paid employment:

#### **18. When calculating income from salaried employment under paragraphs 12A and 13 to 16, this paragraph applies:**

(a) Basic pay, skills-based allowances, and UK location-based allowances will be counted as income provided that:

(i) They are contractual; and

(ii) Where these allowances make up more than 30% of the total salary, only the amount up to 30% is counted.

(b) Overtime, commission-based pay and bonuses (which can include tips and gratuities paid via a tonic scheme registered with HMRC) will be counted as income, where they have been received in the relevant period(s) of employment or self-employment relied upon in the application.

(bb) In respect of a person in salaried employment at the date of application, the amount of income in sub-paragraph (b) which may be added to their gross annual salary, and counted as part of that figure for the purposes of paragraph 13(a)(i) or 13(b)(i), is the annual equivalent of the person's average gross monthly income from that income in their current employment in the 6 months prior to the date of application.

(c) UK and overseas travel, subsistence and accommodation allowances, and allowances relating to the cost of living overseas will not be counted as income.

(d) Gross income from non-salaried employment will be counted on the same basis as income from salaried employment, except as provided in paragraph 18(e) and 18(f), and the requirements of this Appendix for specified evidence relating to salaried employment shall apply as if references to salary were references to income from non-salaried employment.

Non-salaried employment includes that paid at an hourly or other rate (and the number and/or pattern of hours required to be worked may vary) or paid an amount which varies according to the work undertaken.

Whereas salaried employment includes that paid at a minimum fixed rate (usually annual) and subject usually to a contractual minimum number of hours to be worked.

(e) For the purpose of paragraph 13(a)(i), in respect of a person in non-salaried employment at the date of application “the level of gross annual salary relied upon in the application” shall be no greater than the annual equivalent of the person’s average gross monthly income from non-salaried employment in the 6 months prior to the date of application, where that employment was held throughout that period.

(f) For the purpose of paragraph 13(b)(i), “the gross annual salary from employment as it was at the date of application” of a person in non-salaried employment at the date of application shall be considered to be the annual equivalent of the person’s average gross monthly income from non-salaried employment in the 6 months prior to the date of application, regardless of whether that employment was held throughout that period.

(g) For the purpose of paragraphs 13(c)(ii) and 13(d)(i), “the gross annual salary in the salaried employment in the UK to which they are returning” of a person who is returning to the UK to take up non-salaried employment in the UK starting within 3 months of their return is the gross annual income from that employment, based on the rate or amount of pay, and the standard or core hours of work, set out in the document(s) from the employer provided under paragraph 4. Notwithstanding paragraph 18(b), this may include the gross “on-target” earnings which may be expected from satisfactory performance in the standard or core hours of work.

## **5.6. Salaried and non-salaried employment – specified evidence**

5.6.1. The evidence required to demonstrate income from salaried employment (and, by virtue of paragraph 18(d), non-salaried employment) is specified in [Appendix FM-SE](#):

### **2. In respect of salaried employment in the UK (except where paragraph 9 applies<sup>1</sup>), all of the following evidence must be provided:**

(a) Payslips covering:

(i) a period of 6 months prior to the date of application if the person has been employed by their current employer for at least 6 months (and where paragraph 13(b) of this Appendix does not apply); or

(ii) any period of salaried employment in the period of 12 months prior to the date of application if the person has been employed by their current employer for less than 6 months (or at least 6 months but the person does not rely on paragraph 13(a) of this Appendix), or in the financial year(s) relied upon by a self-employed person.

---

<sup>1</sup> See sections 5.5.12. to 5.5.14. of this guidance.

(b) A letter from the employer(s) who issued the payslips at paragraph 2(a) confirming:

- (i) the person's employment and gross annual salary;
- (ii) the length of their employment;
- (iii) the period over which they have been or were paid the level of salary relied upon in the application; and
- (iv) the type of employment (permanent, fixed-term contract or agency).

(c) Personal bank statements corresponding to the same period(s) as the payslips at paragraph 2(a), showing that the salary has been paid into an account in the name of the person or in the name of the person and their partner jointly.

(d) Where the person is a director of a limited company based in the UK, evidence that the company is not a type specified in paragraph 9(a). This can include the latest Annual Return filed at Companies House.

In addition to the evidence listed above, paragraph 2A of Appendix FM-SE specifies that P60(s) for the relevant period(s) of employment (if issued) and a signed contract(s) of employment may also be submitted in respect of paid employment in the UK. If they are not submitted, the decision-maker may grant the application if otherwise satisfied that the requirements of Appendix FM-SE relating to that employment are met, or they may ask for the documents to be submitted in accordance with paragraph D of the Appendix.

**3. In respect of salaried employment outside of the UK, evidence should be a reasonable equivalent to that set out in paragraph 2 and (where relevant) paragraph 2A.**

**4. In respect of a job offer in the UK (for an applicant's partner or parent's partner returning to salaried employment in the UK at paragraphs E-ECP.3.2.(a) and E-ECC.2.2.(a) of Appendix FM) a letter from the employer must be provided:**

(a) confirming the job offer, the gross annual salary and the starting date of the employment which must be within 3 months of the applicant's partner's return to the UK; or

(b) enclosing a signed contract of employment, which must have a starting date within 3 months of the applicant's partner's return to the UK.

**5. In respect of statutory or contractual maternity, paternity or adoption pay all of the following, and in the respect of parental leave in the UK only the evidence at paragraph 5(c), must be provided:**

(a) Personal bank statements corresponding to the same period(s) as the payslips at paragraph 5(b), showing that the salary has been paid into an account in the name of the person or in the name of the person and their partner jointly.

(b) Payslips covering:

- (i) a period of 6 months prior to the date of application or to the commencement of the maternity, paternity or adoption leave, if the applicant has been employed by their current employer for at least 6 months (and where paragraph 13(b) does not apply); or
- (ii) any period of salaried employment in the period of 12 months prior to the date of application or to the commencement of the maternity, paternity or adoption leave, if the applicant has been employed by their current employer for less than 6 months (or at least 6 months but the person does not rely on paragraph 13(a)).

(c) A letter from the employer confirming:

- (i) the length of the person's employment;
- (ii) the gross annual salary and the period over which it has been paid at this level;
- (iii) the entitlement to maternity, paternity, parental or adoption leave; and
- (iv) the date of commencement and the end-date of the maternity, paternity, parental or adoption leave.

In addition to the evidence listed above, P60(s) for the relevant period(s) of employment (if issued) and a signed contract(s) of employment may also be submitted in respect of paid employment in the UK. If they are not submitted, the decision-maker may grant the application if otherwise satisfied that the requirements of Appendix FM-SE relating to that employment are met, or they may ask for the documents to be submitted in accordance with paragraph D of the Appendix.

**6. In respect of statutory or contractual sick pay in the UK all of the following must be provided:**

(a) Personal bank statements corresponding to the same period(s) as the payslips at paragraph 6(b), showing that the salary has been paid into an account in the name of the person or in the name of the person and their partner jointly.

(b) Payslips covering:

- (i) a period of 6 months prior to the date of application or to the commencement of the sick leave, if the applicant has been employed by their current employer for at least 6 months (and where paragraph 13(b) does not apply); or
- (ii) any period of salaried employment in the period of 12 months prior to the date of application or to the commencement of the sick leave, if the applicant has been employed

by their current employer for less than 6 months (or at least 6 months but the person does not rely on paragraph 13(a)).

(c) A letter from employer confirming:

- (i) the length of the person's employment;
- (ii) the gross annual salary and the period over which it has been paid at this level;
- (iii) that the person is in receipt of statutory or contractual sick pay; and
- (iv) the date of commencement of the sick leave.

In addition to the evidence listed above, P60(s) for the relevant period(s) of employment (if issued) and a signed contract(s) of employment may also be submitted in respect of paid employment in the UK. If they are not submitted, the decision-maker may grant the application if otherwise satisfied that the requirements of Appendix FM-SE relating to that employment are met, or they may ask for the documents to be submitted in accordance with paragraph D of the Appendix.

## **6. Non-employment income**

### **6.1. Category C: Non-employment income – requirements**

#### **6.1.1. The following are sources of non-employment income which can be counted towards the financial requirement:**

- Property rental.
- Dividends or other income from investments, stocks and shares, bonds or trust funds.
- Interest from savings.
- Maintenance payments from a former partner of the applicant in relation to the applicant or any children of the applicant and their former partner. Also, maintenance payments from a former partner of the applicant's partner in relation to that partner.
- UK Maternity Allowance, Bereavement Allowance, Bereavement Payment and Widowed Parent's Allowance.
- Payments under the War Pensions Scheme, the Armed Forces Compensation Scheme and the Armed Forces Attributable Benefits Scheme.
- A maintenance grant or stipend (not a loan) associated with undergraduate study or postgraduate study or research.
- Ongoing insurance payments.
- Ongoing payments from a structured legal settlement.

6.1.2. Unless otherwise specified, the specified non-employment income which the applicant's partner and/or the applicant have received in the 12 months prior to the date of application can be counted towards the financial requirement.

6.1.3. The relevant asset on which any income is based must be in the name of the applicant, their partner or both jointly and held or owned at the date of application.

6.1.4. The asset owned at the date of application does not need to have been owned for 12 months prior to the date of application, but it must have been a source of income for at least part of that 12 month period. For example, the asset is owned at the date of application, has been owned for the last 3 months and has been a source of income during that period of 3 months: that income can be counted towards the financial requirement.

6.1.5. The gross amount of any cash income may be counted towards the financial requirement, where the correct tax has been paid on that income and where all the relevant evidential requirements in Appendix FM-SE are met. Where a person's relevant specified evidence relating to permitted sources of non-employment income shows their gross cash income and the tax paid, and their specified bank statements in relation to the permitted non-employment income show all of that post-tax income, they can count the gross amount of the cash income shown on the specified documentation towards the financial requirement (or the net income in relation to dividends). But, where that person's specified bank

statements relating to permitted non-employment income only show a proportion of that post-tax income, only the amount shown on the bank statements can be counted towards the financial requirement.

- 6.1.6. A director of a limited company in the UK who receives dividend income from the company can count this income as non-employment income under Category C, unless the company is of a type specified in paragraph 9(a) of Appendix FM-SE (i.e. it is in sole or limited family ownership). If it is, this non-employment income will be considered under Category F or Category G as appropriate: see section 6.3. of this guidance for further information.
- 6.1.7. Payments under the War Pensions Scheme, the Armed Forces Compensation Scheme and the Armed Forces Attributable Benefits Scheme can be included as non-employment income, provided that (a) they are not considered as pension income: see paragraph 8.2.1. of this guidance, and (b) they are not listed in paragraph 4.2.1. as a source that is not permitted to be used towards the financial requirement.
- 6.1.8. Income from a maintenance grant or stipend (not a loan) associated with undergraduate study or postgraduate study or research received by the applicant's partner or the applicant can be counted towards the financial requirement. The person must be currently in receipt of the grant or stipend or will be within 3 months of the date of application, and the grant or stipend must be payable for a period of at least 12 months from the date of application or from the date on which payment of the grant or stipend will commence. Where the grant or stipend is paid on a tax-free basis, see section 6.4. of this guidance for further information.
- 6.1.9. Income from Category C can be combined with income from [Category A and Category B: salaried and non-salaried employment](#), [Category D: cash savings](#) and [Category E: pension](#) in order to meet the financial requirement.

## **6.2. Property rental – further guidance**

- 6.2.1. [Appendix FM-SE](#) specifies further requirements for property rental income:

**20(c) Any rental income from property, in the UK or overseas, must be from a property that is:**

- (i) owned by the person;
- (ii) not their main residence and will not be so if the application is granted, except in the circumstances specified in paragraph 20(e); and
- (iii) if ownership of the property is shared with a third party, only income received from their share of the property can be counted.

(cc) The amount of rental income from property received before any management fee was deducted may be counted.

(d) Equity in a property cannot be used to meet the financial requirement.

(e) Where the applicant and their partner are resident outside the UK at the date of application, rental income from a property in the UK that will become their main residence if the application is granted may only be counted under paragraph 13(c)(i) and paragraph 13(d)(ii).

6.2.2. Therefore, income from a room in the main residence rented to a lodger cannot be counted. Income from a property that is rented out for all or part of the year (e.g. a holiday let) can be counted.

6.2.3. Where the applicant and their partner are resident in the UK at the date of application, rental income from a property in the UK cannot be counted as income if that property will become the couple's main residence if the application is granted.

6.2.4. Where the couple are returning to the UK from overseas, rental income from a property in the UK that will become the couple's main residence if the application is granted can be combined with the applicant's partner's overseas employment income to meet that part of the financial requirement. However, it **cannot** be combined with the income from the applicant's partner's job offer in the UK as the couple's home in the UK will no longer be a source of income once the couple have returned here.

### **6.3. Dividends and other investment income – further guidance**

6.3.1. If income has been earned from investments, shares and/or stocks in the 12 months prior to the date of application and the relevant asset was then sold, we will consider it to be held at the date of application and that income may be counted towards the financial requirement, provided that investments, shares and/or stocks of an equivalent volume have since been purchased in the same company and are held at the date of application.

6.3.2. Where a person is relying on dividends from a UK limited company and they are also a director of that company, to count this dividend income under Category C evidence must be provided to show that the company is not of a type specified in paragraph 9(a) of [Appendix FM-SE](#), which is one in which:

- (i) the person is a director of the company (or another company within the same group); and
- (ii) shares are held (directly or indirectly) by the person, their partner or the following family members of the person or their partner, parent, grandparent, child, stepchild, grandchild, brother, sister, uncle, aunt, nephew, niece or first cousin; and
- (iii) any remaining shares are held (directly or indirectly) by fewer than five other persons.

Where the company is of this type, income from dividends will be considered under Category F or Category G as appropriate. See [section 9](#) of this guidance.

## 6.4. Maintenance grant or stipend – further guidance

- 6.4.1. Where an academic maintenance grant or stipend is, or will be, paid on a tax-free basis, the amount of the gross equivalent can be counted towards the financial requirement. The person must be currently in receipt of the grant or stipend or will be within 3 months of the date of application, and the grant or stipend must be payable for a period of at least 12 months from the date of application or from the date on which payment of the grant or stipend will commence.
- 6.4.2. The third column of the table below sets out the equivalent tax-free level of grant or stipend required to meet the financial requirement:

Those being sponsored	Gross level of financial requirement	Equivalent tax-free income
Partner only	£18,600	£15,800
Partner and one child	£22,400	£18,400
Partner and two children	£24,800	£20,000
Partner and three children	£27,200	£21,700

- 6.4.3. A tax-free grant or stipend can be combined with income on which tax has been paid and with current cash savings. The decision-maker should add together:
- (i) The annual tax-free amount of the grant or stipend;
  - (ii) The annual post-tax (net) amount of any employment or other income (if the requirements of Appendix FM-SE in respect of that income are met); and
  - (iii) The relevant amount of current cash savings (if the requirements of Appendix FM-SE in respect of those cash savings are met).

To see if the total meets the amount required in the third column of the table in section 6.4.2.

### 6.4.4. Case studies – Tax-free maintenance grant or stipend

#### Example (a)

The applicant's partner is in receipt of a tax-free academic stipend of £12,000 a year and also has **post-tax** employment income of £4,500 a year. Her combined net income is £16,500 (£12,000 + £4,500). There are no sponsored children.

The applicant's partner has an income which is more than the equivalent net amount (£15,800) needed to meet the gross level of the financial requirement (£18,600).

### **Example (b)**

The applicant's partner is in receipt of a tax-free academic stipend of £19,000 a year. The applicant's partner is also sponsoring the applicant's child from a previous relationship. So the applicant's partner has the net income of at least £18,400 a year needed to meet the gross level of the financial requirement (£22,400).

## **6.5. Non-employment income – specified evidence**

6.5.1. The evidence required to demonstrate non-employment income is specified in [Appendix FM-SE](#):

**10. In respect of non-employment income all the following evidence, in relation to the form of income relied upon, must be provided:**

**(a) To evidence property rental income:**

(i) Confirmation that the person or the person and their partner jointly own the property for which the rental income is received, through:

- (1) A copy of the title deeds of the property or of the title register from the Land Registry (or overseas equivalent); or
- (2) A mortgage statement.

(ii) Personal bank statements for the 12-month period prior to the date of application showing the rental income was paid into an account in the name of the person or of the person and their partner jointly.

(iii) A rental agreement or contract.

**(b) To evidence dividends (except where paragraph 9 applies<sup>2</sup>) or other income from investments, stocks, shares, bonds or trust funds:**

(i) A certificate showing proof of ownership and the amount(s) of any investment(s).

(ii) A portfolio report (for a financial institution regulated by the Financial Conduct Authority (and Prudential Regulation Authority where applicable) in the UK) or a dividend voucher showing the company and person's details with the person's net dividend amount and tax credit.

(iii) Personal bank statements for the 12-month period prior to the date of application showing that the income relied upon was paid into an account in the name of the person or of the person and their partner jointly.

(iv) Where the person is a director of a limited company based in the UK, evidence that the company is not of a type specified in paragraph 9(a). This can include the latest Annual Return filed at Companies House.

---

<sup>2</sup> See section 6.3.2. of this guidance.

**(c) To evidence interest from savings:**

(i) Personal bank statements for the 12-month period prior to the date of application showing the amount of the savings held and that the interest was paid into an account in the name of the person or of the person and their partner jointly.

**(d) To evidence maintenance payments (from a former partner of the applicant to maintain their and the applicant's child or children or the applicant, or from a former partner of the applicant's partner to maintain the applicant's partner):**

(i) Evidence of a maintenance agreement through any of the following:

- (1) A court order;
- (2) Written voluntary agreement; or
- (3) Child Support Agency documentation.

(ii) Personal bank statements for the 12-month period prior to the date of application showing the income relied upon was paid into an account in the name of the applicant.

**(e) Pension income – see Category E, below.**

**(f) To evidence UK Maternity Allowance, Bereavement Allowance, Bereavement Payment and Widowed Parent's Allowance:**

(i) Department for Work and Pensions documentation confirming the person or their partner is or was in receipt of the benefit in the 12-month period prior to the date of application.

(ii) Personal bank statements for the 12-month period prior to the date of application showing the income was paid into the person's account.

**(ff) Subject to paragraph 12, to evidence payments under the War Pensions Scheme, the Armed Forces Compensation Scheme or the Armed Forces Attributable Benefits Scheme which are not treated as a pension for the purpose of paragraph 10(e)(i):**

(i) Veterans Agency or Department for Work and Pensions documentation in the form of an award notification letter confirming the person or their partner is or was in receipt of the payment at the date of application.

(ii) Personal bank statements for the 12-month period prior to the date of application showing the income was paid into the person's account.

**(g) Maintenance grant or stipend income (not a loan) associated with undergraduate study or postgraduate study or research:**

(i) Documentation from the body or company awarding the grant or stipend confirming that the person is currently in receipt of the grant or stipend or will be within 3 months of the date of application, confirming that the grant or stipend will be paid for a period of at least 12 months from the date of application or from the date on which payment of the grant or

stipend will commence, and confirming the annual amount of the grant or stipend. Where the grant or stipend is or will be paid on a tax-free basis, the gross equivalent amount may be counted as income.

(ii) Personal bank statements for any part of the 12-month period prior to the date of the application during which the person has been in receipt of the grant or stipend showing the income was paid into the person's account.

**(h) To evidence ongoing insurance payments (such as, but not exclusively, payments received under an income protection policy):**

(i) documentation from the insurance company confirming:

(a) that in the 12 months prior to the date of application the person has been in receipt of insurance payments and the amount and frequency of the payments.

(b) the reason for the payments and their expected duration.

(c) that, provided any relevant terms and conditions continue to be met, the payment(s) will continue for at least the 12 months following the date of application.

(ii) personal bank statements for any part of the 12-month period prior to the date of application showing the insurance payments were paid into the person's account.

**(i) To evidence ongoing payments (other than maintenance payments under paragraph 10(d)) arising from a structured legal settlement (such as, but not exclusively, one arising from settlement of a personal injury claim):**

(i) documentation from a court or the person's legal representative confirming:

(a) that in the 12 months prior to the date of application the person has been in receipt of structured legal settlement payments and the amount and frequency of those payments.

(b) the reason for the payments and their expected duration.

(c) that the payment(s) will continue for at least the 12 months following the date of application.

(ii) personal bank statements for any part of the 12-month period prior to the date of application showing the payments were paid into the person's account, either directly or via the person's legal representative.

## 7. Cash savings

### 7.1. Category D: Cash savings – requirements

- 7.1.1. An amount based on the cash savings **above** £16,000 held by the applicant, their partner, or both jointly for at least the 6 months prior to the date of application and under their control can count towards the financial requirement where applicable. (£16,000 is the level of savings at which a person generally ceases to be eligible for income-related benefits).
- 7.1.2. Category D: Cash savings can be combined with income from [Category A: salaried and non-salaried employment](#), part (1) of [Category B: salaried and non-salaried employment](#), [Category C: non-employment income](#) and [Category E: pension](#) in order to meet the financial requirement.
- 7.1.3. Category D: Cash savings **cannot** be combined with self-employment income, or with income from employment as a director of a specified limited company in the UK, under either Category F or Category G: see [section 9](#) of this guidance. Category D: Cash savings also **cannot** be combined with part (2) of Category B: salaried and non-salaried employment: see [section 5](#) of this guidance.
- 7.1.4. For those in paid employment at the date of application, **current** cash savings may be used to make up any deficit in the **current** gross annual income of that employment (and/or in the confirmed employment in the UK to which they are returning, in the case of overseas sponsors), in order to meet the financial requirement.
- 7.1.5. However, those who have held that employment at the level of income relied upon for less than 6 months at the date of application have **in addition** to show that they meet the financial requirement over the 12 months prior to the date of application. In doing so, they cannot combine their **current** cash savings with their **past** earnings over that earlier period, because this would not be an accurate indicator of the real level of financial resources available to the couple. It could also lead to the same money being counted twice, once as earnings and later as savings. A similar approach is taken towards those in self-employment, or in employment as a director of a specified limited company, who have to show their **past** earnings over the previous financial year(s): see [section 9](#) of this guidance for further details.

### 7.2. Calculating Cash Savings – Appendix FM

- 7.2.1. The following calculations are to be used for those applying as a Partner or Child under Appendix FM to the Immigration Rules.

7.2.2. At the entry clearance/initial leave to remain stage and the further leave stage, the amount of cash savings above £16,000 must be divided by 2.5 (to reflect the 2.5 year or 30-month period before the applicant will have to make a further application) to give the amount which can be used in meeting the financial requirement. The following equation is to be used:

$$(x \text{ minus } 16,000) \text{ divided by } 2.5 = y$$

Where **x** is the total amount of cash savings held by the applicant, their partner, or both jointly for at least the 6 months prior to the date of application and under their control.

And **y** is the amount which can be used towards the financial requirement.

7.2.3. At the indefinite leave to remain stage, the whole of the amount above £16,000 can be used. And the following equation is to be used:

$$(x \text{ minus } 16,000) = y$$

7.2.4. The following table sets out some examples where £18,600 is the level of financial requirement and cash savings are being used to meet this level.

Total Savings held	Entry Clearance/Leave to Remain		Indefinite Leave to Remain	
	Amount which can be used	Income needed from other sources (that can be combined with cash savings)	Amount which can be used	Income needed from other sources (that can be combined with cash savings)
<b>£62,500</b>	$(62500 - 16000) \div 2.5$ <b>= £18,600</b>	None	$(62500 - 16000)$ <b>= £46,500</b>	None
<b>£40,500</b>	$(40500 - 16000) \div \text{by } 2.5$ <b>= £9,800</b>	£8,800	$(40500 - 16000)$ <b>= £24,500</b>	None
<b>£33,000</b>	$(33000 - 16000) \div 2.5$ <b>= £6,800</b>	£11,800	$(33000 - 16000)$ <b>= £17,000</b>	£1,600
<b>£25,000</b>	$(25000 - 16000) \div 2.5$ <b>= £3,600</b>	£15,000	$(25000 - 16000)$ <b>= £9,000</b>	£9,600
<b>£17,500</b>	$(17500 - 16000) \div 2.5$ <b>= £600</b>	£18,000	$(17500 - 16000)$ <b>= £1,500</b>	£17,100
<b>£16,500</b>	$(16500 - 16000) \div 2.5$ <b>= £200</b>	£18,400	$(16500 - 16000)$ <b>= £500</b>	£18,100

### **7.3. Calculating Cash Savings – Appendix Armed Forces**

- 7.3.1. The following calculations are to be used for those applying as a Partner or Child under Appendix Armed Forces to the Immigration Rules.
- 7.3.2. At the entry clearance/initial leave to remain stage and the further leave stage, the amount of cash savings above £16,000 must be divided by the length of leave being granted (in years or as part of a year) to give the amount which can be used in meeting the financial requirement. This approach reflects the fact that partners and children granted leave under Appendix Armed Forces are granted different periods of leave to applicants under Appendix FM. Some applicants under Appendix Armed Forces will receive 5 years' leave but some will get a shorter period, e.g. in line with the remaining duration of their partner or parent's enlistment.

The following equation is to be used:

$$(x \text{ minus } 16,000) \text{ divided by } z = y$$

Where **x** is the total amount of cash savings held by the applicant, their partner, or both jointly for at least the 6 months prior to the date of application and under their control.

**y** is the amount which can be used towards the financial requirement.

And **z** is the length of leave being granted in years or as part of a year. To convert the number of months being granted to a yearly figure for use in this calculation, the following equation is to be used:

(Number of months leave being granted, to the nearest whole month) divided by 12 = length of leave being granted in years, to the nearest two decimal places.

- 7.3.3. The following table sets out some examples where £25,000 in cash savings is held and where £18,600 is the level of financial requirement at the entry clearance/leave to remain stage. The length of leave being granted in these examples varies from 15 to 60 months.

Length of leave being granted, to the nearest whole month	Length of leave in years, to two decimal places (using a minimum 12 months)	Amount of savings which can be used	Income needed from other sources such as employment income of the HM Forces sponsor
15 months	$15 \div 12 = 1.25$	$(25000 - 16000) \div 1.25 = \mathbf{\pounds 7,200}$	£11,400
20 months	$20 \div 12 = 1.67$	$(25000 - 16000) \div 1.67 = \mathbf{\pounds 5,389.22}$	£13,210.78
25 months	$25 \div 12 = 2.08$	$(25000 - 16000) \div 2.08 = \mathbf{\pounds 4,326.92}$	£14,273.08
30 months	$30 \div 12 = 2.50$	$(25000 - 16000) \div 2.50 = \mathbf{\pounds 3,600}$	£15,000
35 months	$35 \div 12 = 2.92$	$(25000 - 16000) \div 2.92 = \mathbf{\pounds 3,082.19}$	£15,517.81
40 months	$40 \div 12 = 3.33$	$(25000 - 16000) \div 3.33 = \mathbf{\pounds 2,702.70}$	£15,897.30
45 months	$45 \div 12 = 3.75$	$(25000 - 16000) \div 3.75 = \mathbf{\pounds 2,400}$	£16,200
50 months	$50 \div 12 = 4.17$	$(25000 - 16000) \div 4.17 = \mathbf{\pounds 2,158.27}$	£16,441.73
55 months	$55 \div 12 = 4.58$	$(25000 - 16000) \div 4.55 = \mathbf{\pounds 1,965.07}$	£16,634.93
60 months	$60 \div 12 = 5.00$	$(25000 - 16000) \div 5.00 = \mathbf{\pounds 1,800}$	£16,800

#### 7.4. Cash savings – further guidance

- 7.4.1. Savings must be held in cash in a personal bank/savings account in the name of the applicant, their partner or the couple jointly. The savings can be from any legal source, including a gift from a family member or other third party, provided the source of the cash savings is declared. The applicant and/or their partner must confirm that the money, which cannot be borrowed, is under their control and evidence that it has been held in their bank account for at least the 6 months prior to the date of application.

7.4.2. Savings can be held in any form of bank/savings account. This bank/savings account can be a deposit or investment account. Deposit accounts are usually easily identifiable. An investment account must also meet **all** of the other cash savings requirements to be considered as a bank/savings account for the purposes of the cash savings rules at paragraphs 11 and 11A(a).

7.4.3. The following table illustrates all the requirements that must be met:

<b>Summary of all the requirements that must be met for funds to be considered as cash savings held in a deposit or investment account</b>	
<b>1</b>	The account is held within a bank or building society
<b>2</b>	The bank/building society is a financial institution regulated by the appropriate regulatory body for the country in which that institution is operating
<b>3</b>	The bank/building society is not on the list of excluded institutions under the Immigration Rules
<b>4</b>	The account is a current account or a savings account
<b>5</b>	Regular bank statements are provided
<b>6</b>	The statements cover the necessary time period required in the Immigration Rules
<b>7</b>	The savings are held in cash
<b>8</b>	The savings can be immediately withdrawn (with or without penalty)
<b>9</b>	The funds are under the control of the person and/or their partner for the necessary time period required in the Immigration Rules
<b>10</b>	The source of the funds is legal
<b>11</b>	The source of the funds has been declared

7.4.4. For example, in the UK a 'stocks and shares' Individual Savings Account (ISA) does meet the definition of a savings account and the funds can be considered as cash savings if all the requirements above are met. Likewise, a pension savings account from which savings can be immediately withdrawn (like the 401K in the US).

7.4.5. Funds that are held in an account at the date of application that do not meet **all** of the requirements listed in the above table cannot be considered as cash savings that meet the

requirements of Paragraph 11 and 11A(a) in Appendix FM of the rules. An example of an account that generally does not meet **all** of these requirements is a brokerage account in which funds are used by stockbrokers to purchase shares for the account holder. It does not meet the criteria of being a current account or a savings account. A brokerage account may also fail to meet other criteria such as not being held in a bank or building society.

- 7.4.6. Income from shares, e.g. dividends, can be counted as non-employment income (see [section 6](#) of this guidance). Alternatively, the investments such as those held in a brokerage account can be liquidated into cash savings prior to the application - see paragraphs 7.4.8. to 7.4.9.
- 7.4.7. If a penalty would be deducted from the cash savings if they were to be withdrawn from the account without notice, the amount of the penalty should not be deducted from the level of savings held at date of application.
- 7.4.8. Funds held as cash savings by the applicant, their partner or both jointly at the date of application can have been transferred from investments, stocks, shares, bonds or trust funds within the period of 6 months prior to the date of application, provided that:
- (i) The funds have been in the ownership and under the control of the applicant, their partner or both jointly for at least the period of 6 months prior to the date of application.
  - (ii) The ownership of the funds in the form of investments, stocks, shares, bonds or trust funds; the cash value of the funds in that form at or before the beginning of the period of 6 months prior to the date of application; and the transfer of the funds into cash, are evidenced by a portfolio report or other relevant documentation from a financial institution regulated by the appropriate regulatory body for the country in which that institution is operating.
  - (iii) The requirements of Appendix FM-SE in respect of the cash savings held at the date of application are met, except that the period of 6 months prior to the date of application in paragraph 11(a) will be reduced by the amount of that period in which the relevant funds were held in the form of investments, stocks, shares, bonds or trust funds.
- 7.4.9. This means that, where the cash savings have previously been held as investments, stocks, shares, bonds or trust funds that were owned by and under the control of the applicant, their partner or both jointly, this ownership period can be counted towards the 6 month period. So money held as cash savings at the date of application can have been liquidated by the same owner(s) from investments and may have been held as investments for the first part of the period of 6 months prior to the date of application and as cash savings for the rest of that 6 month period (see the table in 7.4.3. for a summary of the cash savings requirements). Evidence must be provided showing that:

- The investments, stocks, shares, bonds or trust funds were in the ownership and under the control of the applicant, their partner or both jointly for that part of the 6 month period prior to the date of application before they were liquidated into cash savings;
- The value of the investments, stocks, shares, bonds or trust funds at or before the beginning of that 6 month period was at least equivalent to the amount of the cash savings relied upon in the application; and
- The cash savings meet the requirements of Appendix FM-SE.

If this evidence is not provided, the cash savings previously held as investments, stocks, shares, bonds or trust funds cannot be counted towards the financial requirement.

7.4.10. Funds held as cash savings by the applicant, their partner or both jointly at the date of application can be from the proceeds of the sale of property within the period of 6 months prior to the date of application, provided that:

- (i) The property was in the form of a dwelling, other building or land.
- (ii) The property (or relevant share of the property) was owned by the applicant, their partner or both jointly at the beginning of the 6 month period prior to the date of application.
- (iii) The funds deposited as cash savings are the net proceeds of the sale, once any mortgage or loan secured on the property (or relevant share of the property) has been repaid and once any taxes and professional fees associated with the sale have been paid.
- (iv) If the ownership of the property was shared with a third party, only the proceeds of the sale of the share of the property owned by the applicant, their partner or both jointly may be counted.

7.4.11. This means that, where the cash savings held at the date of application are the proceeds of an applicable property sale; the period the property was owned in the 6 months prior to the date of application, before it was sold to produce cash savings, can be counted towards the 6 month period. So money held as cash savings at the date of application can have resulted from the sale of a property for the first part of the period of 6 months prior to the date of application and as cash savings for the rest of that 6 month period if the decision-maker is satisfied that all the requirements in paragraph 7.4.10. have been met in addition to the requirements being met when the funds are held as cash savings (see the table in 7.4.3. for a summary of the cash savings requirements). The rules do not specify what evidence must be submitted as individual circumstances and local property laws and taxes will vary. However, to assist applicants and decision-makers, the rules give examples of some evidence we will take into account. But other evidence may be accepted if it indicates the requirements are met.

Examples of the evidence that can be provided include:

- Land Registry information or documentation (or a copy of this) or its overseas equivalent.
- A letter from a solicitor (or other relevant professional if the sale takes place overseas) instructed in the sale of the property confirming the sale price and other relevant information.
- A letter from a lender (a bank or building society) on its headed stationery regarding the repayment of a mortgage or loan secured on the property.
- Confirmation of payment of taxes or professional fees associated with the sale.

In the UK property taxes are generally stamp duty, capital gains tax and inheritance tax but not all will apply to every property sale. In some cases no property taxes may be due. Professional fees in the UK would generally be regarded as estate agent fees or equivalents and legal fees. Overseas the type of taxes and professional fees due when a property is sold will vary.

If the documentation mentioned in the rules is provided this does not necessarily mean that the requirement is met. The decision-maker must be satisfied that the documents provided, whether mentioned in the rules or not (for example relating to ownership and net proceeds of sale), demonstrate that all the requirements are met. Additional information may be requested so that the decision-maker is satisfied that the rules are met. If the requisite evidence is not provided, the cash savings previously held as property cannot be counted towards the financial requirement.

#### 7.4.12. Case studies – Cash savings previously held as investments or property

##### **Example (a)**

The applicant's partner has an investment portfolio worth approximately £1m, although this value fluctuates. In order to meet the financial requirement, she liquidates part of her investment 2 months prior to the date of application and transfers £62,500 in cash to her personal savings account. She is able to provide a portfolio report showing that the value of the liquidated assets was at least £62,500 7 months prior to the date of application. The cash savings meet the requirements of Appendix FM-SE at the date of application and, by combining the period the money was held as investments with the period the money has been held as cash savings, the funds have been owned by the applicant's partner and under their control for at least the 6 months prior to the date of application.

So the financial requirement is met through Category D cash savings.

### **Example (b)**

The applicant and his partner own two properties, one in the UK and one overseas. They have owned both properties which are residential homes for over 10 years. They sell the overseas property prior to returning to the UK. The property is sold 3 months prior to the date of application and the applicant has provided evidence showing that the net proceeds from the sale amount to £70,500 after payment of professional fees and taxes. The applicant has provided a solicitor's letter confirming ownership and the sale of the property and a further letter from the solicitor showing the financial transactions and that all outstanding fees are paid. He has also provided a letter from the mortgage lender showing the original purchase price and outstanding mortgage at time of sale and that this has been paid, together with bank statements to show the transfer of the proceeds into the couple's joint account. The cash savings now held at the date of application meet the requirements of Appendix FM-SE because taking account of the period they were held as property, the funds have been held by the applicant and under their control for at least the 6 months prior to the date of application. In addition the specified evidence required for the period the money has been held as cash savings has been provided.

So the financial requirement is met through Category D cash savings.

7.4.13. [Appendix FM-SE](#) specifies further requirements for **cash savings**:

**11A.** In respect of cash savings:

- (a) The savings may be held in any form of bank/savings account (whether a deposit or investment account), provided that the account allows the savings to be accessed immediately (with or without a penalty for withdrawing funds without notice. This can include savings held in a pension savings account which can be immediately withdrawn.
- (b) Paid out competition winnings or a legacy which has been paid can contribute to cash savings.

### **7.5. Cash savings – specified evidence**

7.5.1. The evidence required for cash savings is specified in [Appendix FM-SE](#):

**11. In respect of cash savings the following must be provided:**

- (a) Personal bank statements showing that at least the level of cash savings relied upon in the application has been held in an account(s) in the names of the person and their partner jointly throughout the period of 6 months prior to the date of application.
- (b) A declaration by the account holder(s) of the source(s) of the cash savings.

## 8. Pension

### 8.1. Category E: Pension – requirements

- 8.1.1. The gross **annual** income from any State (UK Basic State Pension and Additional or Second State Pension, HM Forces Pension or foreign) or private pension received by the applicant's partner or the applicant can be counted towards the financial requirement.
- 8.1.2. The annual pension income may be counted where the pension has become a source of income at least 28 days prior to the application.
- 8.1.3. This source can be combined with income from [Category A: salaried and non-salaried employment](#), part (1) of [Category B: salaried and non-salaried employment](#), [Category C: non-employment income](#) and [Category D: cash savings](#) in order to meet the financial requirement.
- 8.1.4. The gross **amount** of any State (UK or foreign) or private pension **received** by the applicant's partner or the applicant in the 12 months prior to the date of application can be combined with part (2) of Category B: salaried and non-salaried employment.

### 8.2. Pension – Specified Evidence

- 8.2.1 The evidence required to demonstrate Pension income is specified in [Appendix FM-SE: 10\(e\) To evidence a pension, all the following evidence must be provided:](#)
- (i) Official documentation from:
- (1) The Department for Work and Pensions (in respect of the Basic State Pension and the Additional or Second State Pension) or other government department or agency, including the Veterans Agency;
  - (2) An overseas pension authority; or
  - (3) A pension company,
- confirming pension entitlement and amount.
- (ii) At least one personal bank statement in the 12-month period prior to the date of application showing payment of the pension into the person's account.
- (iii) For the purposes of sub-paragraph (i), War Disablement Pension, War Widow's/Widower's Pension and any other pension or equivalent payment for life made under the War Pensions Scheme, the Armed Forces Compensation Scheme or the Armed Forces Attributable Benefits Scheme may be treated as a pension, unless excluded under paragraph 21 of this Appendix.

## 9. Self-employment or Director of a specified limited company in the UK

### 9.1. Category F: Last full financial year

- 9.1.1. Where the applicant's partner (and/or the applicant if they are in the UK with permission to work) is in self-employment, or is the director of a specified limited company in the UK, at the date of application, they can use income from **the last full financial year** to meet the financial requirement.

### 9.2. Category G: Average of last two full financial years

- 9.2.1. Where the applicant's partner (and/or the applicant if they are in the UK with permission to work) is in self-employment, or is the director of a specified limited company in the UK, at the date of application, they can choose instead to rely on Category G. This allows them to use **an average of the income received in the last two full financial years** to meet the financial requirement.
- 9.2.2. A reference to the "average" of the income received in the last two full financial years in Category G is a reference to the mean average.

### 9.3. Self-employment or Director of a specified limited company in the UK – general requirements

- 9.3.1. For those self-employed as a sole trader, as a partner or in a franchise, the relevant financial year(s) will be that covered by the self-assessment tax return and in the UK this runs from 6 April to 5 April the following year. Where the applicant is relying on their partner's income from self-employment overseas, the relevant financial year(s) will reflect the requirements of the taxation system of that country.
- 9.3.2. For those employed as a director of a specified limited company in the UK, the relevant financial year(s) will be that covered by the Company Tax Return CT600 and corresponds to the 12-month accounting year of the company.
- 9.3.3. The evidence submitted must cover the relevant financial year(s) most recently ended.
- 9.3.4. If a person has different financial years, e.g. because they are both self-employed and a director of a specified limited company, their income from the self-assessment tax return and Company Tax Return financial years **cannot** be combined to meet the financial requirement. Including income from differently based financial years would not be a fair or accurate way of calculating a person's annual income.

- 9.3.5. Income under Category F or Category G can be combined with income from [salaried and non-salaried employment](#), [non-employment income](#) and [pension income](#) in order to meet the financial requirement. However, unlike with other Categories, these sources of income must fall within the relevant financial year(s) in order to be included. Under Category F or Category G, all sources of income must fall within the financial year(s) relied on and must still be a source of income at the time of application. For example, to count income from property rental the income must have been received during the relevant financial year(s) and the property must still be owned by the relevant person at the date of application.
- 9.3.6. Where a couple are using their joint income to meet the financial requirement, all of this income must fall within the financial year(s) being relied on and must still be a source of income at the time of application. For example, if the applicant is in the UK with permission to work, to combine their salaried employment income with their partner's self-employment income, they must provide evidence of the income received from this salaried employment during their self-employed partner's relevant financial year(s) and evidence of ongoing employment at the date of application.
- 9.3.7. Self-employed income can be cash-in-hand if the correct tax is paid. In line with paragraph 3.1.5 of this guidance, it would generally be expected that the person's business or personal bank statements would fully reflect all gross (pre-tax) cash income. Flexibility may only be applied where the decision-maker is satisfied that the cash income relied upon is fully evidenced by the relevant tax return(s) and the accounts information.
- 9.3.8. Where a person in self-employment, or who is the director of a specified limited company in the UK, also relies on income from other employment (salaried or non-salaried) during the relevant financial year(s), they must also provide evidence of ongoing employment (salaried or non-salaried) at the date of application.
- 9.3.9. Income from employment as a director of a limited company in the UK of a type specified in paragraph 9(a) of Appendix FM-SE, and dividends from this type of company (where the person is a director of that company), will be counted as income under Category F or Category G.
- 9.3.10. Current cash savings **cannot** be combined with income under Category F or Category G. The only practical and fair means of evidencing income from self-employment, or as a director of a specified limited company in the UK, involves the provision of information and documentation relating to tax returns. Therefore, all the income that is counted towards the financial requirement must be drawn from the last one or two full financial years. It would not be appropriate to combine that past income with current cash savings held at the date of application. To do so would not be an accurate indicator of the real level of financial resources available to the couple. It could also lead to the same money being counted twice, once as earnings and later as savings.

- 9.3.11. A self-employed person, or a director of a specified limited company in the UK, who has the necessary level of current cash savings can use these savings as their sole means of meeting the financial requirement. For information on cash savings, see [section 7](#) of this guidance.

#### **9.4. Self-employment or Director of a specified limited company in the UK – further guidance**

- 9.4.1. [Appendix FM-SE](#) specifies further requirements for combining income under Category F or Category G with other sources of income:

**13(e)** Where the person is self-employed, their gross annual income will be the total of their gross income from their self-employment, from any salaried or non-salaried employment they have had or their partner has had (if their partner is in the UK with permission to work), from specified non-employment income received by them or their partner, and from income from a UK or foreign State pension or a private pension received by them or their partner, in the last full financial year or as an average of the last two full financial years.

The requirements of this Appendix for specified evidence relating to these forms of income shall apply as if references to the date of application were references to the end of the relevant financial year(s). The relevant financial year(s) cannot be combined with any financial years(s) to which paragraph 9 applies and vice versa.

**13(f)** Where the person is self-employed, they cannot combine their gross annual income at paragraph 13(e) with specified savings in order to meet the level of income required under Appendix FM.

**13(i)** The provisions of paragraph 13 which apply to self-employment and to a person who is self-employed also apply to income from employment and/or shares in a limited company based in the UK of a type to which paragraph 9 applies and to a person in receipt of such income.

#### **9.5. Self-employment as a sole trader, as a partner or in a franchise – requirements**

- 9.5.1. A sole trader is a business that is owned and controlled by one person, although they may employ staff. A partnership is where the business is owned by two or more people (although equity partners are treated as in salaried employment for the purposes of the financial requirement: see [section 5](#) of this guidance). And a franchise allows a person the right to use an existing business idea.
- 9.5.2. Where the applicant's partner is in self-employment overseas and is returning with the applicant to the UK to work, they may rely on continuing their self-employment in the UK or on a confirmed offer of employment in the UK in order to meet the financial requirement.

Therefore, if their self-employment income overseas is sufficient to meet the financial requirement, they can also provide evidence either:

- That their self-employment is ongoing and will be continuing in the UK; or
- Of a confirmed offer of salaried or non-salaried employment in the UK, starting within 3 months of their return. (The specified evidence and calculation for this is explained in [section 5](#) of this guidance).

9.5.3. [Appendix FM-SE](#) specifies further requirements for self-employment income:

**19. When calculating income from self-employment under paragraphs 12A and 13(e)... this paragraph applies:**

(a) There must be evidence of ongoing self-employment, and (where income from salaried employment is also relied upon or where paragraph 9(c) applies) ongoing employment, at the date of application.

(b) Where the self-employed person is a sole trader or is in a partnership or franchise agreement, the income will be:

(i) the gross taxable profits from their share of the business; and

(ii) allowances or deductible expenses which are not taxed will not be counted towards income.

(c) Where income to which paragraph 19 applies is being used to meet the financial requirement for an initial application for leave to remain as a partner under Appendix FM by an applicant who used such income to meet that requirement in an application for entry clearance as a fiancé(e) or proposed civil partner under that Appendix in the last 12 months, the Secretary of State may continue to accept the same level and evidence of income to which paragraph 19 applies that was accepted in granting the application for entry clearance, provided that there is evidence of ongoing self-employment, and (where income from salaried employment is also relied upon or where paragraph 9(c) applies) ongoing employment, at the date of the application for leave to remain.

(d) The financial year(s) to which paragraph 7 refers is the period of the last full financial year(s) to which the required Statement(s) of Account (SA300 or SA302) relates.

**9.6. Sole trader, partner or franchise – specified evidence**

9.6.1. The evidence required to demonstrate income from self-employment is specified in [Appendix FM-SE](#):

**7. In respect of self-employment in the UK as a partner, as a sole trader or in a franchise, all of the following must be provided:**

- (a) Evidence of the amount of tax payable, paid and unpaid for the last full financial year.
- (b) The following documents for the last full financial year, or for the last two such years (where those documents show the necessary level of gross income as an average of those two years):
  - (i) annual self-assessment tax return to HMRC (a copy or print-out);
  - (ii) Statement of Account (SA300 or SA302).
- (c) Proof of registration with HMRC as self-employed if available.
- (d) Each partner's Unique Tax Reference Number (UTR) and/or the UTR of the partnership or business.
- (e) Where the person holds or held a separate business bank account(s), bank statements for the same 12-month period as the tax return(s).
- (f) Personal bank statements for the same 12-month period as the tax return(s) showing that the income from self-employment has been paid into an account in the name of the person or in the name of the person and their partner jointly.
- (g) Evidence of ongoing self-employment through evidence of payment of Class 2 National Insurance contributions.
- (h) One of the following documents must also be submitted:
  - (i) (aa) If the business is required to produce annual audited accounts, such accounts for the last full financial year; or
  - (bb) If the business is not required to produce annual audited accounts, unaudited accounts for the last full financial year and an accountant's certificate of confirmation, from an accountant who is a member of a UK Recognised Supervisory Body (as defined in the Companies Act 2006);
  - (ii) A certificate of VAT registration and the VAT return for the last full financial year (a copy or print-out) confirming the VAT registration number, if turnover is in excess of £79,000 or was in excess of the threshold which applied during the last full financial year;
  - (iii) Evidence to show appropriate planning permission or local planning authority consent is held to operate the type/class of business at the trading address (where this is a local authority requirement); or
  - (iv) A franchise agreement signed by both parties.
- (i) The document referred to in paragraph 7(h)(iv) must be provided if the organisation is a franchise.

**8. In respect of self-employment outside of the UK, evidence should be a reasonable equivalent to that set out in paragraph 7.**

## 9.7. Director of a specified limited company in the UK – requirements

- 9.7.1. A limited company is owned by its shareholders. Where such a shareholder is also a director employed by the company, they may be paid a salary and receive dividends, which can generally be counted, as appropriate, as employment or non-employment income under Category A, Category B or Category C. However, if the company is of the type specified in paragraph 9(a) of [Appendix FM-SE](#), the person's income will be considered under Category F or Category G. This is because in a company in sole or limited family ownership there is scope for doubt as to the effective control of the company, as the person is a director and shareholder or the other shareholders are family members of that person. In that case, instead of the employment evidence in Category A or Category B or the dividend evidence in Category C, we need evidence about the operation of the company.
- 9.7.2. Paragraph 9(a) of [Appendix FM-SE](#) states that the specified type of limited company registered in the UK is one in which:
- (i) the person is a director of the company (or another company within the same group); and
  - (ii) shares are held (directly or indirectly) by the person, their partner or the following family members of the person or their partner, parent, grandparent, child, stepchild, grandchild, brother, sister, uncle, aunt, nephew, niece or first cousin; and
  - (iii) any remaining shares are held (directly or indirectly) by fewer than five other persons.
- 9.7.3. Those who receive a salary and/or dividend income as a director of a limited company in the UK of the type specified above must provide all of the relevant specified evidence listed in [section 9.8](#).
- 9.7.4. These specified limited companies referred to in Paragraph 9(a) are only those registered in the UK. Where a person is a director of a limited company registered overseas they cannot rely on the provisions for directors of specified limited companies in Paragraph 9(a) to meet the financial requirement. Instead the director of a limited company registered overseas might be able to use their income towards the financial requirement if the income is of a type that qualifies as employment income (see specified evidence in Paragraph 3 of [Appendix FM-SE](#)) or income from self employment (see specified evidence in Paragraph 8 of [Appendix FM-SE](#) or as non-employment income (see specified evidence in Paragraph 10 of [Appendix FM-SE](#)).
- 9.7.5. [Appendix FM-SE](#) specifies further requirements for income from employment and/or shares in a specified limited company (as defined in paragraph 9(a)):

### **19. When calculating income...in relation to income from employment and/or shares in a limited company based in the UK of a type to which paragraph 9 applies, this paragraph applies:**

- (a) There must be evidence of...ongoing employment at the date of application.

(c) Where income to which paragraph 19 applies is being used to meet the financial requirement for an initial application for leave to remain as a partner under Appendix FM by an applicant who used such income to meet that requirement in an application for entry clearance as a fiancé(e) or proposed civil partner under that Appendix in the last 12 months, the Secretary of State may continue to accept the same level and evidence of income to which paragraph 19 applies that was accepted in granting the application for entry clearance, provided that there is evidence of...ongoing employment at the date of the application for leave to remain.

(e) The financial year(s) to which paragraph 9 refers is the period of the last full financial year(s) to which the required Company Tax Return(s) CT600 relates.

## **9.8. Director of a specified limited company in the UK – specified evidence**

9.8.1. The evidence required to demonstrate income as a director of a specified limited company in the UK is specified in [Appendix FM-SE](#):

**9. In respect of income from employment and/or shares in a limited company based in the UK of a type specified in paragraph 9(a), the requirements of paragraph 9(b)-(d) shall apply in place of the requirements of paragraphs 2 and 10(b)<sup>3</sup>:**

(a) The specified type of limited company is one in which:

- (i) the person is a director of the company (or another company within the same group); and
- (ii) shares are held (directly or indirectly) by the person, their partner or the following family members of the person or their partner: parent, grandparent, child, stepchild, grandchild, brother, sister, uncle, aunt, nephew, niece or first cousin; and
- (iii) any remaining shares are held (directly or indirectly) by fewer than five other persons.

(b) All of the following must be provided:

- (i) Company Tax Return CT600 (a copy or print-out) for the last full financial year and evidence this has been filed with HMRC, such as electronic or written acknowledgment from HMRC.
- (ii) Evidence of registration with the Registrar of Companies at Companies House.
- (iii) If the company is required to produce annual audited accounts, such accounts for the last full financial year.
- (iv) If company is not required to produce annual audited accounts, unaudited accounts for the last full financial year and an accountant's certificate of confirmation, from an accountant who is a member of a UK Recognised Supervisory Body (as defined in the Companies Act 2006);

---

<sup>3</sup> Paragraphs 2 and 10(b) are the evidential requirements relating to salaried employment and income from dividends.

(v) Corporate/business bank statements covering the same 12-month period as Company Tax Return CT600.

(vi) A current Appointment Report from Companies House.

(vii) One of the following documents must also be provided:

(1) A certificate of VAT registration and the VAT return for the last full financial year (a copy or a print-out) confirming the VAT registration number, if turnover is in excess of £79,000 or was in excess of the threshold which applied during the last full financial year.

(2) Proof of ownership or lease of business premises.

(3) Original proof of registration with HMRC as an employer for the purposes of PAYE and National Insurance, proof of PAYE reference number and Accounts Office reference number. This evidence may be in the form of a certified copy of the documentation issued by HMRC.

(c) Where the person is listed as a director of the company and receives a salary from the company, all of the following documents must also be provided:

(i) Payslips and P60 (if issued) covering the same period as the Company Tax Return CT600.

(ii) Personal bank statements covering the same 12-month period as the Company Tax Return CT600 showing that the salary as a director was paid into an account in the name of the person or in the name of the person and their partner jointly.

(d) Where the person receives dividends from the company, all of the following documents must also be provided:

(i) Dividend vouchers for all dividends declared in favour of the person during or in respect of the period covered by the Company Tax Return CT600 showing the company's and the person's details with the person's net dividend amount and tax credit.

(ii) Personal bank statement(s) showing that those dividends were paid into an account in the name of the person or in the name of the person and their partner jointly.

.

## 10. Decision letter wordings

On 5 July 2013 the High Court handed down its judgment in a Judicial Review (*MM & Others*) of the minimum income threshold for non-EEA partners and dependent children under the family Immigration Rules. Those rules were brought in to make sure that family migrants coming to live in the UK would not become reliant on the taxpayer for financial support and would be able to integrate effectively. We are therefore pleased that the judgment supports the basis of our approach, including that it is appropriate, and involves no unlawful discrimination, to set a clear, national income threshold to achieve these aims.

However, we do not agree with the judgment's assessment of certain of the detailed requirements of the income threshold rules. In our view, matters of public policy, including the detail of how the income threshold should operate, are for the Government and Parliament to determine, not the Courts. We also believe that the detailed requirements of the policy, which reflect extensive consultation and consideration, are proportionate to its aims. We are therefore pursuing an appeal against the judgment, which is due to be heard by the Court of Appeal in March 2014.

Pending the final outcome of the legal challenge, the Home Secretary has decided that we should **not** refuse applications where, after full consideration (**including, where relevant, the application of the evidential flexibility policy in paragraph D of Appendix FM-SE**), the **only** grounds on which the application falls to be refused are the applicant's failure to meet the income threshold and/or the related evidential requirements under Appendix FM-SE. This includes applications under Appendix Armed Forces. Cases which fall to be refused **solely** on that basis should be put on hold locally and stored in order of date of application.

The Entry Clearance Officer (ECO) or caseworker should record on the relevant IT system that the case is on hold under this instruction, in the following terms:

"This case has been considered under Appendix FM/Appendix Armed Forces Entry Clearance/Leave to Remain as a Partner/Child. The case falls to be refused solely on the failure to meet the income threshold requirement under Appendix FM/Appendix Armed Forces and/or the related evidential requirements under Appendix FM-SE. [Give reasons]. The case is put on hold pending the outcome of the legal challenge to the income threshold."

The applicant must be notified, by whatever means (e.g. post, e-mail) the ECO or caseworker considers most effective, that their application has been put on hold.

The notification to the applicant should be in the following terms:

"Your application for entry clearance/leave to remain under paragraph [insert] of Appendix FM/Appendix Armed Forces to the Immigration Rules has been considered. Your application falls to be refused solely because you do not meet the income threshold requirement under Appendix FM/Appendix Armed Forces and/or the related evidential requirements under Appendix FM-SE. [Give reasons]."

“A decision on your application has therefore been put on hold until the Courts have decided the outcome of the Secretary of State’s appeal in a legal challenge to the income threshold requirement. More information about this hold on decisions is set out on the Home Office’s immigration website.

“Your application will be reviewed and a decision taken on it once the outcome of the legal challenge is known. This may not be for several months at least.

“In the meantime, if – by [3 weeks from the date of this notification] – you submit any further information or document(s), it must relate directly to the reasons given above as to why you do not meet the income threshold requirement. It must also relate only to your circumstances, and/or those of your sponsor, as they were at the date of your application, or in the relevant period(s) prior to that date. If, on the basis of this further information or document(s) and otherwise, your application meets all the requirements of the Immigration Rules, a decision will be taken on your application and it will be granted.

“Alternatively, you can withdraw your application at any time (and any document(s) submitted with it will be returned to you) and you can pay the relevant application fee and make a fresh application. You may wish to consider doing so for example if you wish to rely on a change in circumstances since the date of your application or on the fact a requirement relating to a period of time (e.g. in respect of employment or cash savings) is now met which was not met at the date of the application. If you withdraw your application, you will not be refunded the application fee.

“**For entry clearance applicants only:** If you wish your passport to be returned to you while your application remains on hold, [insert local arrangements for this].”

END OF NOTIFICATION

Where the ECO or caseworker refuses an entry clearance or leave to remain application under Appendix FM or Appendix Armed Forces (or Part 8 in a relevant adoption case) on one or more grounds **other than** the income threshold requirement where this applies, they should proceed to issue a decision notice/refusal letter which sets out the reasons for refusal on the non-income threshold factors.

**Where the ECO or caseworker accepts that the applicant has met the income threshold requirement where this applies**, they should make this clear in the decision notice/refusal letter. This provides clarity for applicants – and, if they appeal, at Entry Clearance Manager review, to Presenting Officers and to the Tribunal – on what the outstanding issues in the case are.

**Where the ECO or caseworker considers that the applicant has *not* met the income threshold requirement where this applies**, the decision notice/refusal letter should say:

“Your application for entry clearance/leave to remain under paragraph [insert] of Appendix FM/Appendix Armed Forces to the Immigration Rules has been considered.

“Your application is refused because you do not meet the requirements of the Immigration Rules. [Give **non**-income threshold related reasons].

“Your application also falls to be refused under the Rules because you do not meet the income threshold requirement under Appendix FM/Appendix Armed Forces and/or the related evidential requirements under Appendix FM-SE. [Give reasons].

“However, no final determination has been made at this stage as to whether you meet the income threshold and/or related evidential requirements. This is because the Courts have not yet decided the outcome of the Secretary of State’s appeal in a legal challenge to the income threshold requirement. More information about this is set out on the Home Office website.

“If you appeal against this refusal decision, a final determination as to whether you meet the income threshold and/or related evidential requirements under the Rules may be made at a later stage. In making any such determination account would be taken of any further information or document(s) regarding the income threshold and/or related evidential requirements which you enclosed with your appeal.”