

January 2026

## **Entry Ban for Appendix FM Family Applications on or after 11.11.2025**

On 11.11.2025, the suitability requirements in Appendix FM of the Immigration Rules were replaced by Part Suitability. What are the differences? The short answer is that they are more stringent. A major change is the application of the Re-Entry Ban to Appendix FM applications.

## **Part 1: What is Appendix FM of the Immigration Rules?**

Appendix FM of the Immigration Rules is a route for

- a) Partners seeking permission to enter or remain in the UK on the basis of their family life with a person who is:
  - a British Citizen
  - settled in the UK.
  - in the UK with Protection Status
  - in the UK with permission to stay as a stateless person
  - in the UK with limited leave under Appendix EU or
  - in the UK with limited leave as a worker or business person under Appendix ECAA Extension of Stay or the European Community Association Agreement (ECAA) with Turkey prior to 1 January 2021
- b) A parent of a child who is not the partner of the other parent, seeking permission to enter or remain in the UK on the basis of their family life with a child who is a British Citizen, settled in the UK or in the UK with limited leave under Appendix EU.

## **Part 2: The Re-Entry Ban for Previous Breach of Immigration Law**

The re-entry ban for a previous breach of immigration law did not apply to Appendix FM applications. It now does under Part Suitability. The implication of this is that an applicant, aged 18 or over, who had previously breached immigration law in the UK, will be barred from being granted entry clearance until the end of the re-entry ban period applicable to them. Any application that is made within the re-entry ban period will be refused on a mandatory basis.

### **2.1 What is a breach of immigration laws?**

An applicant will be treated as having breached immigration laws if aged 18 or over<sup>1</sup> they:

- a) Overstayed their permission or
- b) Breached a condition attached to their permission, unless entry clearance or further permission has subsequently been granted in the knowledge of the breach or
- c) Were or still are an illegal entrant, or
- d) Used deception in relation to a previous application (whether or not successfully)

### **2.2 Disregarding a Period of Overstaying**

A period of overstaying will be disregarded, and the person will not be caught by the re-entry ban, where they left the UK voluntarily, not at the expense of the Secretary of State and:

- a) The person overstayed for 90 days or less, where the overstaying began before 6 April 2017 or
- b) The person overstayed for 30 days or less, where the overstaying began on or after 6 April 2017 or

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<sup>1</sup> SU1 11.4 Part Suitability

c) SU1 13.1 Part Suitability applies to the period of overstaying <sup>2</sup>

Further, provided a legal challenge is brought not more than 3 months after the date of decision to refuse or cancel permission, a period of overstaying will not be counted, and the person will not be caught by the re-entry ban, where the overstaying arose from a decision to refuse an application or cancel permission, which was subsequently withdrawn or quashed or reconsidered by direction of a court or tribunal<sup>3</sup>.

### 2.3 When will an applicant not be treated as an overstayer?

An applicant will not be treated as an overstayer if:

- a) An application was made within 14 days of their previous permission expiring, and the decision maker considers there was a good reason beyond the control of the applicant or their representative why the application could not be made in-time, or
- b) An application was made, following the refusal of a previous application for permission, which was made in-time, and within 14 days of:
  - The refusal of the previous application or
  - The expiry of any permission extended by statute under Section 3 C of the Immigration Act 1971 or
  - The expiry of the time limit for making an in- time application for administrative review or appeal or
  - An administrative review or appeal being concluded, withdrawn, abandoned or lapsing
- c) The period of overstaying was between 24 January 2020 and 31 August 2020 or
- d) The applicant has or had permission on the Hong Kong BN (O) route and the period of overstaying was between 1 July 2020 and 31 January 2021 or

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<sup>2</sup> SU1 11.5 Part Suitability

<sup>3</sup> SU1 11.6 Part Suitability

- e) The period of overstaying is between 1 September 2020 and 28 February 2023, and is covered by an exceptional assurance or written notice given to the person by the Home Office, stating that they would not be considered an overstayer for the period specified in the notice.

### **Part 3: Time Period for the Re-Entry Ban**

The re-entry ban period is dependent on when the immigration breach took place, when the person left the UK, whether the person left voluntarily or at public expense, whether the person was deported or removed from the UK at public expense, and whether deception was used in an application.

The relevant time period is calculated from the date the applicant left the UK after their breach. Where the person used deception in an application, the relevant time period is calculated from the date of the refusal decision.

The following table from the *Home Office Guidance Part Suitability: previous breach UK immigration laws Version 1.0 11 Nov 2025* sets out the applicable re-entry ban period:

Time from date the person left the UK (or date of refusal of the application under row (f))	This applies where the applicant	And the applicant left the UK	And the applicant left the UK
<b>(a) 12 months</b>	left voluntarily	at their own expense	Not applicable
<b>(b) 2 years</b>	left voluntarily	at public expense	Within 6 months of being given notice of liability for removal or when they no longer had appeal or administrative review, whichever is later.

Time from date the person left the UK (or date of refusal of the application under row (f))	This applies where the applicant	And the applicant left the UK	And the applicant left the UK
<b>(c) 5 years</b>	left voluntarily	at public expense	More than 6 months after being given notice of liability for removal or when they no longer had a pending appeal or administrative review, whichever is later.
<b>(d) 5 years</b>	left or was removed from the UK	as a condition of a caution issued in accordance with section 22 of the Criminal Justice Act 2003 (and providing that any condition prohibiting their return to the UK has itself expired)	Not applicable
<b>(e) 10 years</b>	was deported or removed from the UK	at public expense	Not applicable

Time from date the person left the UK (or date of refusal of the application under row (f))	This applies where the applicant	And the applicant left the UK	And the applicant left the UK
(f) 10 years	Used deception in an application (for visits this applies to applications for entry clearance only).	Not applicable	Not applicable

#### **Part 4: Discretionary Refusal Outside the Re-Entry Ban Period**

Outside the re-entry ban period, an application for entry clearance may still be refused on a discretionary basis if the applicant has previously breached immigration laws and has acted to frustrate immigration control<sup>4</sup>.

An applicant will be treated as having acted to frustrate immigration controls if aged 18 or over, they:

- a) failed to cooperate with the redocumentation, arrest or removal process or
- b) used false identity or
- c) failed to report as required or absconded from immigration custody or bail or
- d) obtained state or public authority benefits, tax credits, employment or goods or services they were not entitled to or accessed housing in the private rented sector or

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<sup>4</sup> SU1 11.2 Part Suitability

- e) used multiple identities or
- f) participated in immigration related crime<sup>5</sup>

The list is not exhaustive. The Home Office guidance says, in deciding whether to exercise discretion to refuse an application outside the re-entry ban period, all the circumstances of the case must be considered. Factors which may be relevant include:

- Why and how the breach happen
- The period between the condition being imposed and the breach
- The period since the breach
- Any other circumstances, such as the impact of a refusal on the individual or their family living in the UK<sup>6</sup>

### **Part 5: What To Do If An Applicant Is Caught By The Re-Entry Ban?**

It is possible for an applicant who is caught by the re-entry ban to be granted entry clearance/permission to enter as a partner under Appendix FM, if it is considered from the information provided, that there are exceptional circumstances which would render refusal of entry clearance or permission to enter a breach of Article 8 of the European Convention of Human Rights, because such refusal would result in unjustifiably harsh consequences for the applicant, their partner, a relevant child or another family whose Article 8 rights to family and private life would be affected by the decision to refuse the application<sup>7</sup>.

In determining whether there are exception circumstances, the decision maker must:

- a) Consider all information and evidence provided by the applicant<sup>8</sup>
- b) Take into account, as a primary consideration, the best interests of any relevant child. <sup>9</sup> This is defined as a person:

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<sup>5</sup> SU1 11.7 Part Suitability

<sup>6</sup> *Home Office Guidance Part Suitability. Previous Breach of UK Immigration Laws. Version 1.0 11.11.2025*

<sup>7</sup> GEN3.2 (2) Appendix FM

<sup>8</sup> *Home Office Family Policy. Family Life (as Partner or Parent) and Exceptional Circumstances Version 25.0. 11.11.2025*

<sup>9</sup> GEN 3.3 (1) Appendix FM

- i) Who is under 18 years at the date of application and
- ii) It is evident from the information provided by the applicant that the child would be affected by the decision to refuse the application

In general, the Home Office is unlikely to consider there are exceptional circumstances unless the situations are compelling. Examples of exceptional or compelling circumstances given in the Home Office Family Policy include:

- Inability for the family to lawfully live together in the country of relocation
- Serious Cultural Barriers to relocating overseas
- The impact of mental or physical disability or serious illness that requires ongoing medical treatment and the lack of adequate health care in the country of relocation
- Absences of governance or security in the country of relocation<sup>10</sup>

With regard to the best interests of any relevant child, the Home Office provided a non exhaustive list of factors relevant to the consideration of a child's best interests that include:

- a. whether the child's parent or parents is (are) expected to remain outside or to leave the UK
- b. the age of the child at the date of application
- c. the child's nationality, with particular importance to be accorded to British citizenship where the child has this
- d. the child's current country of residence and length of residence there

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<sup>10</sup> Home Office Family Policy. Family Life (as Partner or Parent) and Exceptional Circumstances Version 25.0. 11.11.2025



- e. the family circumstances in which the child is living
- f. the physical circumstances in which the child is living
- g. the child's relationships with their parent or parents overseas and in the UK
- h. how long the child has been in education and what stage their education has reached
- i. the child's health
- j. the child's connection with the country outside the UK in which one of their parents is currently living
- k. the extent to which the decision will interfere with, or impact, on the child's family or private life<sup>11</sup>

### **Conclusion:**

In cases where a client is potentially caught by the re- entry ban in an Appendix FM Partner or Parent application, it is important to carry out a detailed assessment before advising the client to return abroad to apply for entry clearance or permission to enter. In some cases, there may be arguable merits for a client to make an Article 8 Family and Private Life claim in the UK, instead of returning abroad to apply for entry clearance, with the potential of being caught by the re-entry ban.

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**If you would like advice or assistance on any of the issues raised in this note/article, please contact Agnes Lai by email at**

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### **Disclaimer:**

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<sup>11</sup> Home Office Family Policy. Family Life (as Partner or Parent) and Exceptional Circumstances Version 25.0. 11.11.2025

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