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**CHAPTER 8 FAMILY MEMBERS
SECTION 3 - FIANCÉ(E)S AND PROPOSED CIVIL PARTNERS**

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**CHAPTER 8
SECTION 3****FIANCE(E)S AND PROPOSED CIVIL PARTNERS****1. INTRODUCTION**

Paragraph 289AA of HC 395 as amended by HC 538, HC 582 and HC 1113 provides that nothing in the Rules shall be construed as permitting a person to be granted entry clearance, leave to enter or extension of stay as a fiancé(e) or proposed civil partner if the applicant or the sponsor will be aged under 21, on the date of arrival in the United Kingdom, or (as the case may be) on the date on which the leave to enter or extension of stay would be granted.

A person who intends to marry or form a civil partnership with a person who is **present** and **settled** in the United Kingdom or who on the same occasion is being **admitted for settlement** may be admitted as a fiancé(e) or proposed civil partner. Two points should be noted:

- it is not the intention to penalise an applicant because the sponsor has temporarily travelled abroad to assist the applicant in making their application;
- the rule covers British citizen sponsors as well as other nationals who are settled in this country.

A British citizen who has been resident abroad but who returns to this country to live is not admitted for settlement. In such cases the requirement of "present and settled" is that the British sponsor should become ordinarily resident on his return to the United Kingdom and is intending to make the UK his home with the applicant.

See Chapter 19, Section 2 - "Ordinary residence".

The "no switching" into marriage or civil partnership provision for those with limited leave of 6 months or less does not apply to those given leave to enter the United Kingdom for 6 months as a fiancé(e) or proposed civil partner.

2. LEAVE TO ENTER AS A FIANCÉ(E) OR PROPOSED CIVIL PARTNER OF A PERSON SETTLED IN THE UNITED KINGDOM

The requirements to be met by a person seeking leave to enter as a fiancé(e) or proposed civil partner are contained in paragraph 289AA and 290 of HC 395 as amended and **must** be referred to when reading the following advice.

2.1. Key points

The main points on which the immigration officer needs to be satisfied are that:

- the passenger holds a valid entry clearance as the fiancé(e) or proposed civil partner of a person settled in the United Kingdom or being admitted at the same occasion for settlement; and
- there is no reason to believe that false representations were made in order to obtain the entry clearance or that circumstances have changed since its issue.

2.2. Further guidance

Most passengers seeking leave to enter under these provisions of the Rules will be in possession of an entry clearance on arrival and detailed examination is unlikely to be necessary before leave to enter is granted. However, where a passenger does arrive without a valid entry clearance for this purpose it will be necessary to establish whether there are any compelling compassionate circumstances which would prevent refusal of leave to enter and removal.

Visitors who seek leave to enter for marriage/ forming a civil partnership are to be considered under paragraph 56D HC 395 (see IDI chapter 2 section 2.11).

2.3. Granting leave to enter

Passengers who hold an entry clearance as a fiancé(e) or proposed civil partner should be granted leave to enter for 6 months on Code 3 and advised to apply to the UK Border Agency for an extension of stay once the marriage or civil partnership has taken place and before their leave expires.

2.4. Statistical codes

M	Fiancé(e)
PCP	Proposed civil partner

2.5. Refusal of leave to enter

- Where a **non-visa national** seeks entry in this capacity without a valid United Kingdom entry clearance issued for this purpose and no compassionate circumstances exist, he should be refused entry under paragraph 292 of HC 395 as amended by HC 582.
- A **visa national** seeking entry without a valid United Kingdom visa falls to be refused under paragraph 320(5). See **Chapter 9, Section 2** to these instructions.
- Where a passenger seeking entry in this capacity holds an paragraph 321 (See **Chapter 9, Section 3** to these instructions).
- In the case of a person returning to the United Kingdom from a temporary absence abroad, within a period for which he was previously given leave, reference **must** be made, before refusal, to **Chapter 1, Section 9, "Persons returning to resume previous leave"**.

ANNEX L provides examples of refusal formulae.

2.6. On entry refusal codes

E4 Lack of required non-settlement entry clearance, including those set aside on grounds of misrepresentation, forgery, failure to disclose material facts or where a change of circumstances has removed the basis of claim to admission.

2.7. Right of appeal and corresponding refusal form

See chapter 12 for details on appeal rights.

3. LEAVE TO REMAIN AS A FIANCÉ(E) OR PROPOSED CIVIL PARTNER OF A PERSON SETTLED IN THE UNITED KINGDOM

The requirements to be met by a person seeking to remain in the United Kingdom as a fiancé(e) or proposed civil partner are set out in paragraph 293 of HC 395 as amended and ***must*** be referred to when reading the following advice.

3.1. Key points

Caseworkers must satisfy themselves that:

- s/he was admitted with a valid United Kingdom entry clearance as a fiancé(e) or proposed civil partner; and
- there is good cause as to why the marriage or civil partnership did not take place within the initial period of leave; and
- there is satisfactory evidence that the marriage or civil partnership will take place at an early date; and
- the provisions of paragraph 290 of HC 395 as amended continue to be met.

3.2. Further guidance

There is no provision in the Immigration Rules for a person admitted in another temporary capacity to be granted leave to remain as a fiancé(e) or proposed civil partner and such applications should normally be refused. However, where we are satisfied that there are ***exceptional compassionate circumstances***, such as the serious terminal illness of one of the parties to the marriage or civil partnership, consideration may be given to granting leave on a discretionary basis. The maintenance and accommodation requirements must, though, still be met.

Whether a case can be considered as suitable for the grant of discretionary leave will depend on the individual circumstances of the case. However the inconvenience or the

expense of having to travel home to obtain a visa is not sufficient reason to grant outside the Rules.

3.3. Granting leave to remain

If all the requirements of paragraph 293 of HC 395 as amended are met leave to remain should be granted for 6 months Code 3. The applicant should be advised to submit an application for further leave once the marriage or civil partnership has taken place and that if they fail to marry or form their civil partnership within the next 6 months then any further application for leave to remain as a fiancé(e) or proposed civil partner will be refused.

3.4. Statistical codes

- M1 Extension - Admitted with fiancé(e) entry clearance
- M2 Extension - Exceptionally outside the Rules
- M3 Extension – Admitted with proposed civil partner entry clearance

3.5. Refusal of leave to remain

Applications for leave to remain as the fiancé(e) or proposed civil partner of a person settled in the United Kingdom should be refused if all the requirements of paragraph 293 of HC 395 as amended are not met unless there are exceptional compassionate grounds to exercise discretion.

Chapter 9, Section 1 "Adverse decisions - General Guidance" provides important advice about the decision making process and should be consulted whenever an application falls to be refused.

Refusal of extension of stay as a fiancé(e) or proposed civil partner is under paragraph 295 of HC 395 on the grounds that each of the provisions of paragraph 293 (as amended) are not satisfied.

ANNEX L provides examples of refusal formulae.

3.6. Statistical codes

- M5 Refusal - Marriage not within a reasonable time
- M6 Refusal - Maintenance and accommodation (fiancé(e))
- M8 Refusal – Maintenance and accommodation (proposed civil partner)
- M9 Refusal – Registration of civil partnership not within a reasonable time