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Nationality and immigration requirements for the UK's armed forces

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Summary

Applicants to join the UK armed forces must be either British, a Commonwealth citizen or from the Republic of Ireland, either as a sole or dual national.

Nationality requirements

To join the UK armed forces applicants must be either a British National, a British Citizen as defined by the *British Nationality Act 1981*, a Commonwealth citizen or a citizen of the Republic of Ireland. Gurkhas serve under special and unique arrangements and remain citizens of Nepal during their service in the Brigade of Gurkhas.¹

Holders of dual nationality are eligible to join the armed forces as long as one of those nationalities is British and they can prove they are not required for national service in their other country, either now or in the future.

Residency requirements

Previously anyone who wished to join the armed forces had to also meet the requisite residency requirements.

The residency requirements for joining the armed forces are generally in line with the Home Office rules for attaining British citizenship under the *British Nationality Act 1981*. Under that legislation, applicants must have resided in the UK for a minimum of five years immediately prior to application or have resided in the UK for a minimum of three years if married to a British citizen.

However, the residency requirements have been changed by successive governments. In November 2018 the Government removed the five-year residency criterion for Commonwealth applicants to the regular Armed Forces.²

Immigration requirements

While serving in the armed forces a Commonwealth citizen is exempt from immigration control under the *Immigration Act 1971*. This means that the Commonwealth citizen does not require immigration permission or a visa to enter and remain in the UK. Once service in the armed forces has ended the Commonwealth ex-serviceman will need to apply for immigration permission to remain in the UK or they will need to leave the country.

Non-EU family members of serving Commonwealth citizens are not exempt from the requirement to have immigration permission or a visa to enter and remain in the UK. The same applies for non-EU family members of serving British citizens. Family members may be eligible for family visas as a partner/spouse or child if they meet the requirements. The main requirement is that the 'sponsoring' partner/spouse meets the financial (minimum) income requirement of £18,600 per annum. In some instances, this income can be supplemented by assets and/or the partner/spouse's UK income.

The impact of the minimum income requirement on serving armed forces members has been the subject of parliamentary, media and stakeholder criticism, with the Armed Families Federation (AFF) suggesting earlier in 2019 that at least 500 troops are affected.³

¹ Library briefing paper '[Gurkhas: Terms and Conditions of Service](#)', 12 June 2009, SN04671 provides a helpful historical overview of Gurkhas and the British Army.

² [HCWS1062](#), 5 November 2018

³ '[Commonwealth soldiers don't earn enough to bring families with them](#)', *The Times*, 9 February 2019

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Commonwealth ex-servicemen and their families may be eligible for settlement (known as 'indefinite leave to remain') in the UK after 4 years' service if they meet the immigration rules.

Immigration fees

Family members of both Commonwealth and British servicemen need to pay the relevant immigration fees for both the initial leave to enter or remain on a family visa, and for indefinite leave to remain if they choose to settle in the UK. The current fee for indefinite leave to remain is £2,389 per applicant – for a family of four non-EU citizens the total fees are almost £10,000.

The fees for indefinite leave to remain have come under substantial criticism, with campaigners and MPs arguing that they do not reflect the nation's respect for the service and sacrifice of troops. A cross party group of MPs is calling on the Government to abolish the fees for indefinite leave to remain for ex-servicemen and their families. The Royal British Service Legion is also running a campaign called '[Stop the service charge](#)' which encourages individuals to write to their MP against fees for indefinite leave to remain for Commonwealth personnel.

1. Nationality requirements for the armed forces

Applicants to join the UK armed forces must be either British, a Commonwealth citizen or from the Republic of Ireland, either as sole or dual national.

The Ministry of Defence has on occasion reviewed and revised the nationality eligibility criteria and United Kingdom residency rules. Prior to 1998 all applicants were required to spend a minimum of five years residency in the UK immediately prior to application before being accepted into the services. This five-year requirement for Commonwealth citizens was suspended in 1998, reintroduced in 2013 and removed in 2018.

1.1 Nationality requirements

To join the UK armed forces applicants must be either a British National, a British Citizen as defined by the *British Nationality Act 1981*, a Commonwealth citizen or a citizen of the Republic of Ireland.

Some roles have stricter nationality and residency requirements than others for security reasons.

Statutory basis

The *Armed Forces Act 2006* provides the statutory basis for the restriction of aliens in the armed forces. It explicitly defines aliens as “a person who is neither a citizen of the UK, the Commonwealth or the Republic of Ireland nor a British protected person”. The Act does allow the Defence Council to make regulations excluding certain aliens from its operation: this allows Gurkhas (who are aliens) to enlist in the regular armed forces. As such, aliens are not eligible for enlistment in the Regular Army, except in the Brigade of Gurkhas.⁴

Irish Nationals and Gurkhas

For separate reasons Irish nationals and Nepalese citizens have long historical ties with the UK armed forces.

Irish nationals may join the British Armed Forces because of the historical ties between the UK and the Republic of Ireland, irrespective of Ireland’s membership of the European Union. Although the Government recognises the Republic of Ireland as a sovereign and independent state, Ireland is not deemed a ‘foreign country’ under Section 2 of the *Ireland Act 1949* and the *British Nationality Act 1981*.

⁴ Armed Forces Act 2006 section 340. In 1998 the MOD reviewed the nationality eligibility criteria and concluded to not allow European Union and other foreign citizens to become members of the Armed Forces. This was explained to the Defence Committee for a 2008 report: [Recruiting and retaining Armed Forces personnel: Government response to the Committee's Fourteenth Report of Session 2007-08](#), 3 November 2008, HC 1074 2007-2008, para 13

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The latter explicitly defines the term 'foreign country' as excluding the Republic of Ireland.

Gurkhas serve under special and unique arrangements and remain citizens of Nepal during their service in the Brigade of Gurkhas.⁵

Dual nationality

Holders of dual nationality are eligible to join the armed forces as long as one of those nationalities is British and they can prove they are not required for national service in their other country, either now or in the future.

Numbers

Numbers of foreign and Commonwealth personnel in the regular armed forces fluctuates over the years. As of 1 April 2018 the number of regular Armed Forces personnel who report a country of birth that is a non-UK Commonwealth country is 8,330, or 6% of the regular armed forces who have a known country of birth.⁶ A wide variety of countries are representing, including Fiji, Ghana and South Africa.

1.2 Residency requirements

Anyone wishing to join the armed forces must also meet the requisite residency requirements.

The residency requirements for joining the armed forces are generally in line with the Home Office rules for attaining British citizenship under the *British Nationality Act 1981*. Under that legislation, applicants must have resided in the UK for a minimum of five years immediately prior to application or have resided in the UK for a minimum of three years if married to a British citizen. There are restrictions on how many days a person can spend outside the UK during this period and still be considered resident for the purposes of the BNA.

However, the residency requirements have been changed by successive governments. At the time of writing, Commonwealth applicants no longer need to fulfil the five-year residency criterion.

1998: five-year residency requirement suspended

The Ministry of Defence completed a major review of nationality issues for employment in the armed forces in 1998. Prior to 1998, the requirement for entry was that both the parents of all armed forces applicants, and applicants themselves, had to be a UK or Commonwealth citizen or Republic of Ireland National at all times; and were required to spend a minimum of five years residency in the UK immediately prior to application.⁷

⁵ Library briefing paper '[Gurkhas: Terms and Conditions of Service](#)', 12 June 2009, SN04671 provides a helpful historical overview of Gurkhas and the British Army.

⁶ [PQ183508](#), 29 October 2018. The MOD occasionally provides a detailed breakdown of country of origin in response to written questions, for example in 2006: [HC 5 June 2005 c34WA](#)

⁷ "[Army nationality and return of service report](#)", DASA (Army), 6 July 2010

This changed in 1998. The rules on the nationality of an applicants' parents (nationality extraction) were relaxed, in line with changes made for civil servants. The five-year UK residency rule was also listed: "the five year UK residency requirement for most applicants is to be relaxed to allow those who have spent less than five years in the UK entry into the Armed Forces".⁸ A Defence Minister at the time said these measures would help recruitment, particularly among ethnic minorities.⁹

2013: five-year residency requirement reintroduced

The five-year UK residency requirement for Commonwealth recruits was reintroduced in July 2013. The rule was reintroduced because the MOD was at the time reducing the size of the armed forces and reducing the recruitment intake.¹⁰

2016: five-year residency requirement waived for 200 Commonwealth citizens

In 2016 the five-year residency rule for Commonwealth citizens was waived to allow for 200 Commonwealth citizens to fill a limited number of roles which require specialist skills.¹¹

2018: five-year residency requirement removed

In November 2018 the Government announced plans to remove the residency requirement: "we have now decided to remove the five-year UK residency criterion for Commonwealth citizens and increase recruitment to 1,350 across the Royal Navy, British Army and Royal Air Force".¹²

The Army will limit the overall numbers recruited. In 2009 the Army introduced a cap of 15% on the proportion of foreign and Commonwealth personnel serving in three identified Corps. The Army will now extend this 15% across all Cap Badges.¹³

Non-British recruits to the Reserves

In 2013 the Government introduced a requirement for non-British recruits to the Reserves to have Indefinite Leave to Remain in the UK. The Ministry of Defence said this is to "create consistency in the recruitment practices of all three services".¹⁴ This policy was reaffirmed in the 2018 written statement: "the requirement for individuals to have Indefinite Leave to Remain (ILR) or Indefinite Leave to Enter (ILE) to join the Reserves has not been changed".¹⁵

⁸ [HL Deb 18 February 1998 c47WA](#)

⁹ [HL Deb 18 February 1998 c47WA](#)

¹⁰ [HC Deb 11 July 2013 c32WS: "UK residency rules for Armed Forces recruits"](#), 12 July 2013

¹¹ [HCWS726](#), 12 March 2016

¹² [HCWS1062](#), 5 November 2018

¹³ In 2009 the Government introduced an upper limit of 15% on the number of foreign (Irish) and Commonwealth citizens serving in the Royal Logistic Corps (RLC), the Royal Army Dental Corps (RADDC) and the Queen Alexandra's Royal Army Nursing Corps (QARANC) [HC Deb 2 February 2009 c34WS](#)

¹⁴ [HC Deb 11 July 2013 c32WS](#)

¹⁵ [HCWS1062](#), 5 November 2018

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Information on the nationality eligibility criteria for each of the Services is available at: [Royal Navy](#), [Army](#) and [Royal Air Force](#).

2. Immigration control for Commonwealth Armed Forces members and families

2.1 Exemption from immigration control while serving

When a non-British citizen enlists in the British armed forces they automatically become exempt from UK immigration control under [section 8\(4\)\(a\) of the Immigration Act 1971](#). Exemption from immigration control means that no immigration permission (or visa) is required to enter and remain in the UK.

The UK Border Agency provides an 'Exempt UK Immigration Control' passport endorsement in the individual's passport, which suspends any existing UK visa restrictions, whilst the individual is serving in the armed forces.

Exemption from UK immigration control ceases on discharge from the armed forces. If a further immigration application has not already been made, individuals have 28 days following their discharge to apply to remain in the UK. Once a valid application is lodged individuals may legally remain in the UK whilst it is being processed. If no further applications are lodged the ex-serviceman would need to leave the UK.

2.2 Visa requirements for family members of armed forces members

British citizens, refugees, and settled persons in the UK can bring non-EU family members to live in the UK if they meet the immigration rules for family visas. A member of HM forces (within the meaning of the Armed Forces Act 2006) who is exempt from immigration control or has leave to enter or remain in the UK is also able to sponsor non-EU family members if they meet the eligibility criteria. EU and EEA-citizen family members of Commonwealth or British armed forces members currently do not need to apply for a family visa as they can move to the UK under free movement law.

Family members of serving armed forces personnel are not exempt from immigration control. Non-British family members of both British and Commonwealth personnel serving in the British armed forces must have visas to live in the UK. For a family visa, they must meet the immigration rules applicable to non-EU family members of British citizens. However, there are some more favourable rules for family visas for armed forces members which are set out in [Appendix Armed Forces to the Immigration Rules](#).

In summary the main requirements for a spouse/partner visa are:

- Applicant has 'sponsorship' by a British citizen, settled person or refugee family member

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- Sponsoring family member (or the couple in some circumstances) has an income of a minimum £18,600 per annum
- For partners, the relationship must be either civil partnership or marriage, or living together in a relationship for at least 2 years, or fiancé(e) or proposed civil partner and will marry or enter into a civil partnership within 6 months of arriving in the UK
- Applicant and partner intend to live together permanently in the UK
- Applicant must show good knowledge of English¹⁶

The additional, more favourable rules for family members of armed forces members are:

- For some applicants, an initial grant of 5 years leave to remain (as opposed to the 2.5 year initial grant which must be renewed for non-armed forces family members)
- Exemption from the minimum income requirement for those in receipt of certain payments related to service in HM Armed Forces (under the Armed Forces Compensation Scheme or War Pensions Scheme)
- A potentially shorter route to indefinite leave to remain of 4 years as compared to 5 years

The minimum income requirement

The minimum income requirement applies to all partner/spouse and dependent child family visas. The requirement applies to both British citizen armed forces members and Commonwealth citizen armed forces members who wish to bring non-EU family to the UK.

It has been a requirement under the Immigration Rules since 9 July 2012. The minimum income requirement initially did not apply to family members of Commonwealth HM armed forces personnel, but it was extended to apply to them from 1 December 2013.¹⁷ The Home Office's Statement of Intent from July 2013 explained:

The rules relating to Armed Forces families have developed in a piecemeal fashion and there are now unjustifiable differences in the way families are treated depending on the immigration status of their Armed Forces sponsor. For example, currently under Part 8 of the Immigration Rules, British personnel are required to demonstrate that their dependants can be maintained and accommodated without recourse to public funds whereas Foreign and Commonwealth citizens serving in HM Forces whose dependants currently apply under Part 7 of the rules are not expected to meet this requirement.¹⁸

¹⁶ GOV.UK, '[Family visas: apply, extend or switch: apply as a partner or spouse](#)', undated [accessed 3 July 2019]

¹⁷ See [HC 803 of 2013-14](#); see also Home Office, '[Family members of HM Forces statement of intent: Changes to the Immigration Rules from December 2013](#)', 4 July 2013

¹⁸ Home Office, '[Family members of HM Forces: statement of intent: changes to the immigration rules from December 2013](#)', July 2013, page 3 [accessed 3 July 2019]

The Home Office explained that the changes “remove unnecessary differences in treatment for family members based on the sponsor’s immigration status”.¹⁹

The minimum income requirement varies depending on the size of the family wishing to come to the UK. For partners/spouses alone the requirement is £18,600 per annum. If the family wishes to bring a child to the UK on a family visa they must show an income of an additional £3,800 per annum - bringing the minimum income threshold to £22,400 per annum. For each subsequent child the family must show an extra £2,400 earnings. The minimum income requirement does not apply to any British citizen children.

Under the current rules a family of four would need to show a minimum income of £24,800 per annum to meet the minimum income requirement.

The Home Office has published detailed guidance on the financial income requirement as it applies to HM armed forces.²⁰ The lawful UK earnings of the spouse visa applicant may be considered when considering whether the minimum income requirement is met depending on the circumstances.²¹ The couple’s cash savings above £16,000 which have been held for at least 6 months prior to application can be counted towards meeting the minimum income requirement.²² This is the same as for non-armed forces spouse visa applications, but the cash savings are calculated differently as the initial grant of leave may be for 5 years as opposed to the standard 2.5 years for spouse visas. The Home Office guidance explains:

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.²³

The Library briefing paper ‘[The financial \(minimum income\) requirement for partner visas](#)’ covers the income threshold for all spouse visas in more detail.

The impact of the minimum income requirement on armed forces

The impact of the minimum income requirement on Commonwealth personnel in the Armed Forces was raised by several Members in a

¹⁹ Home Office, ‘[Family members of HM Forces: statement of intent: changes to the immigration rules from December 2013](#)’, July 2013, page 4 [accessed 3 July 2019]

²⁰ Home Office, ‘[Immigration directorate instruction family migration: appendix FM section 1.7 appendix armed forces financial requirement](#)’, August 2017 [accessed 3 July 2019]

²¹ Home Office, ‘[Immigration directorate instruction family migration: appendix FM section 1.7 appendix armed forces financial requirement](#)’, August 2017, part 5 [accessed 3 July 2019]

²² Home Office, ‘[Immigration directorate instruction family migration: appendix FM section 1.7 appendix armed forces financial requirement](#)’, August 2017, 7.1.1 [accessed 3 July 2019]

²³ Home Office, ‘[Immigration directorate instruction family migration: appendix FM section 1.7 appendix armed forces financial requirement](#)’, August 2017, 7.3.2 [accessed 9 July 2019]

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debate in Westminster Hall on 8 May 2019. The Parliamentary Under-Secretary (Minister of Defence) Tobias Ellwood stated:

The minimum income requirement was also raised by a number of hon. Members. The Home Office introduced new family migration rules, including a minimum income threshold—now known as the minimum income requirement—that individuals need to meet to sponsor visas for non-EU dependants to enter the UK. The minimum income requirement is £18,600 for a spouse or civil partner. That rises to £22,400 for a spouse or civil partner plus a child, and further £2,400 is required for each individual child beyond that. The minimum income requirement is designed to ensure that sponsors can support their dependants financially, so that they do not become a burden on the UK taxpayer. The requirement has been tested and upheld by the Supreme Court.

The starting salary after training for regular soldiers is £18,850, which is above the minimum income requirement. Any individual soldier who comes here and passes their basic training is not affected by the minimum income requirement, because they earn the right amount of money. The problem is if they want to bring their other half or any children—that is the dilemma that we face. For lower-ranked soldiers, sailors and air personnel, it can take up to four years for an individual salary to meet the minimum income requirement to bring a child to the UK. I agree with hon. Members that that is too long and needs to be addressed.

The immigration issues that impact on our personnel and their families have been raised as a key priority under the armed forces covenant, which we should recognise. Progress is being monitored through meetings, such as those of the Covenant Reference Group and the Ministerial Covenant and Veterans Board. We have raised the matter at every necessary level and are in discussions with the Home Office to explore whether armed forces personnel can be exempted from minimum income requirements to allow non-UK and non-EU citizens to bring family members to the UK, and whether the costs of visas during service and applying for settlement after service can be waived.²⁴

The Times reported that:

Immigration rules say that a foreign worker must earn £18,600 to apply to bring their spouse to the UK. The minimum income requirement to bring over one child is £22,400 with an additional £2,400 for each child thereafter. Visa application fees of £1,523 per person must also be paid. A soldier's basic pay after training is £18,600 a year.

Commonwealth troops require permission from their superior to take up weekend work. Alternatively, several have paid for their spouses to come to Britain in the hope that they can earn the money instead.

The Army Families Federation (AFF), which has been investigating the issue, believes that up to 500 troops are affected. It branded the situation "immoral" and pointed out that foreign soldiers were invited by Britain to "fight for Queen and country". The AFF said it had been contacted by about a dozen soldiers separated

²⁴ [HC Deb 8 May 2019 vol 659 cc342WH-343WH](#)

from their children and that army chaplains and welfare officers had also reported tearful troops in despair over their situation.²⁵

Visa fees for family visas

There are no exemptions from visa fees for family members of Armed Forces members, who must pay the same fees as all other family visa applicants. Immigration fees are liable to change and the current fees are:

- For a family visa application made outside the UK as a partner, child or parent, each applicant must pay **£1,523**
- For a family visa application made within the UK as a partner, child or parent, each applicant must pay **£1,033**²⁶

Dependents of HM Armed Forces members are however exempt from paying the immigration health surcharge.²⁷ This is significant as the immigration health surcharge for family visas is £400 per applicant per year.²⁸

Criticism of immigration fees for armed forces members and their families is covered in [Part 2.4](#) of this briefing.

2.3 Indefinite leave to remain

Once a Commonwealth citizen ceases to be a serving member of HM Armed Forces they are no longer exempt from immigration control. The individual will have 28 days from the date of discharge in which to make a valid application for immigration status or they will need to leave the UK or risk becoming an overstayer.

Commonwealth citizens who have served in the British military may apply for leave to enter or remain or indefinite leave to enter or remain in the UK depending on their circumstances and the requirements as set out in the [Immigration Rules Appendix Armed Forces](#).

Leave to enter or remain is time-limited immigration permission to reside in the UK which needs to be renewed or exchanged for another type of leave before it expires.

Indefinite leave to remain, also referred to as 'settlement' or 'permanent residence', is a permanent status which permits the holder to live indefinitely in the UK.²⁹

The visa application fees for an application made outside the UK for a family of four (partner and 2 children) come to **£4,569**.

The visa application fees for an application made within the UK for a family of four come to **£3,099**.

²⁵ '[Commonwealth soldiers don't earn enough to bring families with them](#)', *The Times*, 9 February 2019

²⁶ GOV.UK, '[Home Office immigration and nationality fees: 29 March 2019](#)', updated 7 March 2019 [accessed 19 July 2019]

²⁷ GOV.UK, '[Pay for UK healthcare as part of your immigration application: who needs to pay](#)', undated [accessed 10 July 2019]

²⁸ GOV.UK, '[Pay for UK healthcare as part of your immigration application: how much you have to pay](#)', undated [accessed 11 July 2019]

²⁹ Indefinite leave to remain lapses after 2 years outside the UK. There is an exception for spouses of serving armed forces members where the spouse accompanies the armed forces member on an overseas posting

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The Home Office has published a [series of guidance documents](#) on how UK Visas and Immigration should deal with applications from members (or former members) of the armed forces.

The ability of Commonwealth citizens to apply for indefinite leave to remain if discharged in the UK was introduced into the immigration rules under Labour in 2004. At the time there was an exception for Gurkhas discharged prior to 1 July 1997 as the agreement made was for Gurkhas to return to Nepal at the end of their service.³⁰ For more information on immigration requirements for Gurkhas and their families see [part 2.5](#) of this briefing.

Requirements for indefinite leave to remain

A Commonwealth citizen who is discharged from the armed forces will be eligible for indefinite leave to remain if they served 4 years.³¹ Service leavers who were medically discharged may also be eligible for indefinite leave to remain.³²

Family members will also be eligible for indefinite leave to remain if:

- The service leaver completed 5 years' service; or
- The service leaver is a British citizen; or
- The service leaver has been granted indefinite leave to remain or the service leaver is being granted indefinite leave to remain at the same time as their family members³³; and
- They meet the other requirements for indefinite leave to remain

Generally the holder of a family visa will need to accrue 5 years residence in the UK to be eligible for indefinite leave to remain. Under the armed forces rules it may be possible for a family visa holder to be eligible for indefinite leave to remain after 4 years. This is because the service leaver is eligible for indefinite leave to remain after 4 years' service and the family members are eligible to apply for indefinite leave to remain if applying concurrently.

Otherwise, a service leaver and their family will need to meet the standard requirements for indefinite leave to remain under the family visa route. This includes continuing to meet the minimum income requirement.

³⁰ Gina Clayton & Georgina Firth, *Immigration & Asylum Law*, 8th edition, 2018, p 237

³¹ [Immigration rules appendix armed forces: part 3](#) [accessed 12 July 2019]

³² [Immigration rules appendix armed forces: part 3 paras 11-12](#) [accessed 12 July 2019]

³³ [Immigration rules appendix armed forces part 4 para 31](#)

Service leavers and Gurkhas are not required to prove their knowledge of language and life in the UK for indefinite leave to remain, but their family members are still subject to these requirements.³⁴

Fees for indefinite leave to remain

Ex-armed forces members are not exempt from paying the fee for indefinite leave to remain, nor are their eligible family members. The current fee for indefinite leave to remain is £2,389 per applicant.

Criticism of immigration fees for armed forces members and their families is covered in [Part 2.4](#) of this briefing.

Citizenship

Ex-Armed Forces members and their families can then apply for British citizenship by naturalisation once eligible.³⁵ Generally, to apply for naturalisation as a British citizen a person will need to have been free from immigration restrictions by holding either indefinite leave to remain or permanent residence for 1 year.³⁶

For a family of four the total application fees for indefinite leave to remain would be **£9,556**.

2.4 Criticism of visa fees for armed forces members and their families

The cost and impact of visa fees on Commonwealth armed forces families has been the subject of criticism by Parliament, the media and stakeholders. The issue was discussed in a parliamentary debate on '[Fair treatment for Commonwealth personnel in the armed forces](#)' on 8th May 2019.

A cross-party group of over 130 MPs, led by Richard Graham and Madeleine Moon, are calling for visas fees for Commonwealth personnel to be waived.³⁷ Richard Graham said:

Current immigration requirements oblige Commonwealth servicemen and women to pay £2,389 to apply for indefinite leave to remain after four years' service, or almost £10,000 for a family of four. That considerable cost does not reflect the nation's respect for those who are prepared, in extremis, to give their lives for our country. I have therefore written a cross-party letter with the hon. Member for Bridgend (Mrs Moon), signed by 130 Members of Parliament, to the Home Secretary to seek his support to abolish these visa fees. At a time when the UK is chair of the Commonwealth, will my right hon. Friend and the Prime Minister give their support to this great non-party political cause, which is supported by the Royal British Legion?³⁸

The Royal British Service Legion is running a campaign called '[Stop the service charge](#)' which encourages individuals to write to their MP

³⁴ Home Office, '[Knowledge of language and life in the UK](#)', 1 November 2018, page 5 [accessed 18 July 2019]

³⁵ For more information on naturalisation see GOV.UK, '[Check if you can become a British citizen](#)', undated [accessed 18 July 2019]

³⁶ Those married to British citizens need only be free from immigration control at the time of making their application for naturalisation

³⁷ See '[MPs call to abolish vis fees for Commonwealth servicemen and women](#)' on the website of Richard Graham MP, undated [accessed 10 July 2019]

³⁸ [Oral answers to questions](#), 24 April 2019, vol 658 c744

against fees for indefinite leave to remain for Commonwealth personnel. They argue:

Currently when Commonwealth personnel leave the UK Armed Forces and wish to apply to continue to live in the country they have served for years, they face thousands of pounds of fees to do so.

A Service leaver with a partner and two children will be presented with a bill of almost £10,000 to continue to live in the UK, despite their years of sacrifice and service on behalf of our nation.³⁹

The Home Office says it has no plans to remove application fees for indefinite leave to remain for armed forces families, saying "it would be unfair if certain applicants or routes benefited from free applications or reduced fees, at the expense of others".⁴⁰

This has been an issue of some concern to welfare charities who have argued that it breaches the Armed Forces Covenant's obligation to ensure that soldiers are not unfairly disadvantaged due to their service.

The Ministry of Defence has said that it "acknowledges that more needs to be done to improve awareness of non-British immigration issues amongst personnel and the Chain of Command, and this is subject to ongoing work".⁴¹

2.5 Gurkhas and their families

A Gurkha is a citizen of Nepal who has served in the British Army in the Brigade of Gurkhas. The immigration rules around settlement for discharged Gurkhas and their families are complex as several changes have been made to the immigration rules over the last 2 decades.

The current position is that Gurkhas and their family members are subject to the same immigration rules as other armed forces members under the Immigration Rules Appendix Armed Forces.

Prior to a change in immigration rules in 2009, Gurkhas who were discharged before 1 July 1997 were not eligible to apply for settlement in the UK except under the exercise of discretion in limited circumstances. The changes were announced by then-Home Secretary Jacqui Smith who said 'all former Gurkhas who retired before 1997 and who have served more than four years will now be eligible to apply for settlement in the UK.'⁴² The changes were the result of what The Guardian termed a 'vociferous and emotional campaign' spearheaded by the actor Joanna Lumley with cross-party support.⁴³

³⁹ The Royal British Legion, '[Commonwealth visa fees](#)', undated [accessed 10 July 2019]

⁴⁰ [PO 247139](#) [on Visas: Commonwealth] 29 April 2019

⁴¹ [Armed Forces Covenant Annual Report 2018](#), p 93

⁴² [HC oral statement by the Secretary of State for the Home Department \(Jacqui Smith\)](#) 21 May 2009 vol 492 c1649-1650

⁴³ '[Gurkhas granted right to settle in the UK](#)', *The Guardian*, 21 May 2009 [accessed 18 July 2019]

Prior changes to the immigration rules in 2004 permitted Gurkhas who retired after 1 July 1997 to apply for indefinite leave to remain.⁴⁴ The relevance of 1 July 1997 is that this is the date when the Gurkha Brigade was relocated from Hong Kong to the UK.⁴⁵

Gurkhas: Changes to immigration rules



those who retired **after** 1 July 1997 could apply for indefinite leave to remain



those who retired **before** 1 July 1997 can also now apply for indefinite leave to remain

⁴⁴ The changes were made in [Statement of changes HC1112](#) laid before parliament on 18 October 2004

⁴⁵ [HC oral statement by the Secretary of State for the Home Department \(Jacqui Smith\)](#) 21 May 2009 vol 492 c1649

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