

Research Briefing

By Melanie Gower,
Louisa Brooke-Holland

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Nationality and immigration requirements for the UK's armed forces



Summary

- 1 Nationality requirements for the armed forces
- 2 Visa arrangements for 'military migrants' and families
- 3 Topical issues

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Summary

Who can join the UK armed forces? Nationality and residence requirements

People applying to join the UK's armed forces must be either a British or Commonwealth citizen or from the Republic of Ireland (either as a sole or dual national). Gurkhas serve under special and unique arrangements. They remain citizens of Nepal during their service in the Brigade of Gurkhas.

Previously, anyone who wished to join the armed forces also had to meet residency requirements. These have varied over the years. In November 2018 the five-year residency criterion for Commonwealth applicants to the regular armed forces was removed.

Immigration arrangements for military migrants and their family members

Non-British citizens who enlist in HM Forces automatically become exempt from UK immigration control. This means that they do not need immigration permission or a visa to enter and remain in the UK.

Non-British family members of serving armed forces members are not exempt from immigration control. They may be eligible for family visas as a partner or child if they meet the requirements. These include that the sponsoring partner meets the financial (minimum) income requirement of £18,600 per year (or more if non-British children are also included).

Once service has ended the veteran (and family members) must apply for a visa to remain in the UK or leave the country. Commonwealth/Gurkha ex-servicemen and their families may be eligible for Indefinite Leave in the UK after 4 years' service.

Topical issues

The Home Office is "listening carefully" to stakeholders' concerns that aspects of the immigration requirements might unfairly affect military migrants and their families. Examples raised by campaigners are:

- (In)adequacy of historical measures to ensure military migrants were aware of the need to apply for an immigration status after discharge, and remedies available to those who failed to apply.
- The impacts of visa application fees on armed forces members/veterans and their families, and the absence of specific fee waivers/concessions for them.

- The impact of the minimum income requirement for partner/family visas in armed forces cases.

Government proposal for immigration fee waiver

Further to discussions between the Home Office and Ministry of Defence, the Ministry of Defence launched a public consultation on a proposal for an immigration fee waiver for non-British armed forces personnel. The consultation ran for 6 weeks between late May and early July 2021. The Government has not yet formally responded to the consultation.

The Government's proposal would waive the Indefinite Leave application fee for serving members of HM Regular Armed Forces, where they have served at least their initial engagement period of 12 years and wish to remain in the UK after they leave service.

People who are medically discharged before 12 years because of an illness or injury directly attributable to their service would also be eligible for a fee waiver.

The Government does not propose waiving the costs of other visa fees or for applications to naturalise as a British citizen.

The proposed policy would not apply retrospectively and would not offer reimbursement of immigration fees already paid.

Stakeholders have said that the proposal is insufficient. The Royal British Legion is calling for fee waivers for people applying for Indefinite Leave after 4 years' service, and for family members of non-British 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. They can be either a 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.¹

¹ 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

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. 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.²

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.³ A wide variety of countries are represented, 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

² Library briefing paper '[Gurkhas: Terms and Conditions of Service](#)', 12 June 2009, SN04671 provides a helpful historical overview of Gurkhas and the British Army.

³ [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](#)

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.⁴

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".⁵ A Defence Minister at the time said these measures would help recruitment, particularly among ethnic minorities.⁶

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.⁷

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.⁸

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".⁹

⁴ ["Army nationality and return of service report"](#), DASA (Army), 6 July 2010

⁵ [HL Deb 18 February 1998 c47WA](#)

⁶ [HL Deb 18 February 1998 c47WA](#)

⁷ [HC Deb 11 July 2013 c32WS: "UK residency rules for Armed Forces recruits"](#), 12 July 2013

⁸ [HCWS726](#), 12 March 2016

⁹ [HCWS1062](#), 5 November 2018

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.¹⁰

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”.¹¹ 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”.¹²

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

1 Impact of Covid-19 on Commonwealth recruitment

The Covid-19 pandemic has affected recruitment from the Commonwealth. Baroness Goldie explained the impact on recruitment for personnel born in Commonwealth countries in response to a written question in September 2020:

Recruitment of Commonwealth citizens has never stopped. Prior to the COVID-19 Pandemic, both the Army and the Royal Air Force (RAF) had received large numbers of applications from Commonwealth citizens. The Army therefore stopped accepting new applications in September 2019 and the RAF stopped accepting applications from outside the UK in November 2019. The Royal Navy (RN)/Royal Marines (RM) has continued to accept new applications.

When the COVID-19 restrictions were implemented in March 2020, the RN/RM and RAF continued with the selection and initial training of all applicants who were already in the UK, including those from the Commonwealth. For those applicants based outside the UK, they continued to be proactively managed virtually, but their applications and the recruitment process could not be completed until candidates were once again able to fly to the UK and could meet any COVID-19 restrictions placed on their entry, such as quarantine measures.

The Army temporarily paused all face-to-face selection until June and all Basic Training until May, but applicants continued to be managed

¹⁰ 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 (RADC) and the Queen Alexandra's Royal Army Nursing Corps (QARANC) [HC Deb 2 February 2009 c34WS](#)

¹¹ [HC Deb 11 July 2013 c32WS](#)

¹² [HCWS1062](#), 5 November 2018

and nurtured. Since selection and training has resumed, the Army has continued to process those applicants already in the UK, and those who had applied prior to September 2019. The Army continues to have enough applications from Commonwealth citizens to meet demand for the current Recruiting Year, and will not therefore be accepting new applications, other than for the Royal Corps of Music. ([HL8254](#), answered on 24 September 2020).

2 Visa arrangements for 'military migrants' and families

2.1 Whilst serving: exemption from immigration control

When a non-British citizen enlists in HM Forces they automatically become exempt from UK immigration control under [section 8\(4\)\(a\) of the Immigration Act 1971](#) and their passport is endorsed to show this.¹³

Exemption from immigration control means that no immigration permission (or visa) is required to enter and remain in the UK. Any existing UK visa restrictions are suspended whilst the individual is serving in the armed forces.

Naturalising as a British citizen

Some non-British serving armed forces members can apply to naturalise as British citizens whilst serving. Unlike other applicants, armed forces members can use time spent in the UK and on overseas assignments to satisfy the five-year residency requirement for naturalisation. Gurkhas must remain Nepali citizens whilst in the Brigade of Gurkhas but can naturalise as British if they transfer to the wider Armed Forces.

Those that naturalise whilst in service do not then need to make a further immigration application upon discharge. The naturalisation application fee (currently £1,330) is lower than the fee for Indefinite Leave (£2,389).

2.2 Upon discharge: requirement to apply for immigration permission

Exemption from UK immigration control ceases when the person is discharged from the armed forces.

They have 28 days following their discharge to apply to remain in the UK if they have not already done so. The Government confirmed in March 2021 that

¹³ HM Forces means a serving member of the regular forces of the Royal Navy, British Army (including the Brigade of Gurkhas) or Royal Air Force.

it would increase the length of time that an application can be made to 18 weeks in advance of discharge, rather than 10 weeks as previously.¹⁴

Once a valid application is lodged individuals may legally remain in the UK whilst it is being processed.

Commonwealth/Gurkha citizens who have served in the British military may apply for temporary or permanent immigration permission, depending on their circumstances and the requirements as set out in the [Immigration Rules Appendix Armed Forces](#).

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 Home Office guidance on [Armed forces: exempt from immigration control](#) v3, 27 November 2015, briefly refers to the process involved:

To enable discharged members of HM Forces who wish to, to apply for indefinite leave to remain following discharge, MOD or the individual themselves should provide the Home Office with their date of discharge. Home Office will then grant a period of 28 days leave to remain outside the rules to enable the person to submit their application for indefinite leave to remain (ILR).

This may not always be necessary because in practice the majority submit applications for indefinite leave to remain several weeks before discharge and these applications are processed before the 28 days has been granted. However where ILR is refused 28 days should be granted.

An [immigration information sheet](#) published by the British Army (October 2015) emphasises that service leavers must take personal responsibility for organising their immigration status:

5. (...) It is your responsibility to present your passport to your unit on an agreed date to ensure that your unit can write "ceased" and your discharge date in your passport over the exempt UK immigration control endorsement. Your unit will also notify the Home Office of your discharge date and the Home Office will cancel your exempt UK immigration control status. (...)

6. ... In short, if, for whatever reason, you have not been granted in writing 28 days' notice to regularise your immigration status by the time of your discharge it is your responsibility to rectify the situation. Do not make the mistake of ignoring your responsibilities regarding your immigration status or believe that 'the system' will look after them and act on their behalf.

If an individual does not apply for permission to remain in the UK they would need to leave the UK to avoid becoming an overstayer. If they remained in the UK they would not have a valid immigration status and would be liable to the hostile/compliant environment set of policies (i.e. charges for NHS treatment, no eligibility for welfare benefits and no right to work, rent property, open a

¹⁴ [HC Deb 15 March 2021 c15](#)

bank account or hold a driving licence) and liable to being removed from the UK.

Eligibility for Indefinite Leave after 4 years' service

Discharged members of HM Forces can apply for permission to stay in the UK permanently (i.e., Indefinite Leave) if they served a minimum of four years.

People with a shorter service history who were medically discharged can also apply.¹⁵

Service leavers must apply within two years of being discharged – i.e., those who depart the UK after discharge have a two-year window in which they can apply from overseas to return to the UK with indefinite leave.

The general eligibility criteria for Indefinite Leave are set out in paragraph 11 of [Part 3](#) of Appendix Armed Forces of the Immigration Rules.

As per Part 2 of that Appendix, there is scope to refuse applications on 'suitability' grounds (briefly, reasons related to a person's character, conduct, associations and criminal offending).

¹⁵ Paragraph 12, Immigration Rules Appendix Armed Forces

Unlike most other applicants, service leavers are not required to prove their knowledge of language and life in the UK for indefinite leave to remain (but their family members are subject to those requirements).¹⁶

There is some scope to grant temporary leave to remain to people who cannot satisfy the requirements for indefinite leave (e.g. on certain suitability grounds).¹⁷

Naturalising as a British citizen

Ex-armed forces members and their families can apply for British citizenship by naturalisation once eligible.¹⁸ They are subject to the usual fees and eligibility requirements. 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 12 months prior to applying.¹⁹

The Home Office is unable to provide a breakdown of applications for Indefinite Leave or British citizenship made by former armed forces personnel.²⁰

2 Changes affecting Gurkhas

Gurkhas and their family members are subject to the same immigration rules requirements that apply to other non-British recruits.

There have been provisions specifically affecting Gurkhas in the past. Restrictions on discharged Gurkhas' eligibility to settle in the UK were abolished in 2009.²¹ Since then, all former Gurkhas who are citizens of Nepal and have served more than four years (and their family members) have been eligible to apply for indefinite leave in the UK.²²

Previous changes made in 2004 had only provided a route to settlement for former Gurkhas who had retired after 1 July 1997 (with some limited scope for discretion in other exceptional cases). The 2009 changes removed the July 1997 cut-off date.

¹⁶ Home Office, '[Knowledge of language and life in the UK](#)', 6 April 2021, p5

¹⁷ Appendix Armed Forces, paragraph 14; 17-18

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

¹⁹ Those married to British citizens need only be free from immigration control at the time of making their application for naturalisation

²⁰ [PQ UIN 124260](#) [Immigration: Commonwealth], answered on 7 December 2020

²¹ [HC Deb 21 May 2009 c1649-50](#)

²² Settlement for pre-1 July 1997 former Gurkhas is a [policy concession](#) supplementary to the Immigration Rules. Rules on settlement for those who retired after 1 July 1997 are in the Immigration Rules Appendix Armed Forces.

2.3

Non-British family members of service personnel

Non-British family members of British or Commonwealth/Gurkha personnel serving in the British armed forces must have visas to live in the UK – they are not exempt from immigration control.

Temporary permission to remain as a family member

A member of HM Forces who is exempt from immigration control or has leave to enter or remain in the UK can act as a sponsor for a family visa application.

The family visa conditions for family members of armed forces personnel generally mirror those for family members of British/settled civilian sponsors. But there are some slight differences in the way in which the minimum income requirement is assessed, and a few more favourable provisions for armed forces members family cases, as set out in [Appendix Armed Forces to the Immigration Rules](#).

Briefly, the 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 usual 2.5 year initial grant which must be renewed).
- 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 (4 years rather than 5 years).
- Dependents of HM Armed Forces members are exempt from paying the immigration health surcharge.

Indefinite Leave to Remain

Family members are 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 members²³; and
- They meet the other requirements for Indefinite Leave to Remain

²³ [Immigration rules appendix armed forces part 4 para 31](#)

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 (time spent overseas on an accompanied posting is counted as time spent in the UK). 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 after 4 years' service and the family members can apply 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.

3 Topical issues

A 2018 report by researchers at Angela Ruskin University, [Meeting the Needs of Commonwealth Personnel and Families: A Map of Service Provision](#) (March 2018) considered what issues and unmet needs Commonwealth military personnel and their families were presenting with.

The most prevalent issues identified by research participants concerned the cost of visas to enter or remain in the UK, and the complexities of the Immigration Rules. The report made several recommendations for changes to immigration provisions affecting Commonwealth personnel, including:

- An acknowledgement of the impact of visa costs and fees on military personnel.
- An urgent review of the minimum income threshold for family visas.
- The introduction of an incentivised savings plan to assist Commonwealth recruits to save for future immigration fees.
- The introduction of a training programme for new Commonwealth recruits on the immigration rules requirements, and regular updates on immigration policy throughout their careers.

3 How many people are affected?

According to recent Government figures, there are currently around 9000 non-UK personnel serving in HM Armed Forces. 2080 left between 2016 and 2019 (an average of 520 a year).²⁴

The Government has said that it has no reason to believe that most discharged non-UK service personnel do not comply with the requirement to regularise their immigration status or leave the UK. But it recognises that “Anecdotally, we are aware that some individuals are unable to meet this financial liability or choose not to do so, and, so, whilst they may not leave the UK, they are then not entitled to the benefits which come through holding valid leave to be in the UK.”²⁵

²⁴ Ministry of Defence, [Immigration Costs for Armed Forces Personnel Consultation](#), 26 May 2021, para 1

²⁵ Ministry of Defence, [Immigration Costs for Armed Forces Personnel Consultation](#), 26 May 2021, paras 1, 5

3.1

Visa and citizenship fee exemptions

Armed forces members and veterans, and their family members, are not exempt from paying immigration/citizenship application fees.²⁶

The cost and impact of visa fees on Commonwealth/Gurkha armed forces families, and the absence of a specific fee waiver/flexibility policy for them, has been the subject of criticism within Parliament, the media and by external stakeholders in recent years.²⁷ Labour has expressed support for immigration fee exemptions for non-British service personnel. Related proposals have attracted cross-party support, most recently during the passage of the Armed Forces Bill and the Nationality and Borders Bill.²⁸

Over the past three years or so the Home Office has said that it is “listening carefully” to stakeholders’ concerns and it has referred to ongoing discussions between the Home Office and Ministry of Defence.²⁹ Previously, it had ruled out 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”.³⁰

May 2021: Consultation on immigration fee waiver proposal

In late May 2021, the Ministry of Defence launched a 6-week public consultation on a [draft policy proposal](#) to waive immigration fees for certain non-UK service personnel at the end of their service.³¹

The Government has not yet formally responded to the consultation. Kevin Foster, Home Office Minister, confirmed in mid-December that “The results of the consultation have been analysed, and once collective agreement has been secured for a fully funded policy, the Government will publish its response, and make any associated changes to fees through Fees Regulations at the earliest opportunity.”³²

²⁶ Dependents of HM armed forces members are exempt from paying the immigration health surcharge.

²⁷ See [HC Deb 8 May 2019 c323-343WH](#); The Times, Red Box, ‘Commonwealth troops deserve better than to pay for citizenship twice’, 14 January 2021

²⁸ See for example [Armed Forces Bill 2021-22: Progress of the Bill](#), Commons Library Briefing CBP-9234; new clauses 24 and 52 [proposed for Report stage](#) of the Nationality and Borders Bill 2021/22.

²⁹ See, for example, [UIN 260724](#), answered on 10 June 2019; [UIN 282437](#), answered on 9 September 2019; [UIN 30193](#), answered on 26 March 2020

³⁰ [PQ 247139](#) [on Visas: Commonwealth] 29 April 2019

³¹ Ministry of Defence, [Immigration Costs for Armed Forces Personnel Consultation](#), 26 May 2021

³² [PQ UIN 91969](#), answered on 16 December 2021

The Government's proposed fee waiver policy

The Government proposes waiving the Indefinite Leave application fee for serving members of HM Regular Armed Forces, where they have served at least their initial engagement period of 12 years and wish to remain in the UK after they leave service.

People who are medically discharged before 12 years because of an illness of injury directly attributable to their service would also be eligible for a fee waiver.

The Government does not propose waiving the costs of other visa fees or for applications to naturalise as a British citizen.

The consultation document said that the proposed policy would start during financial year 2021/22, would not apply retrospectively and would not offer reimbursement of immigration fees already paid.

One of the consultation questions asks whether stakeholders agree with the proposed 12-year length of service requirement. The consultation justifies the 12-year criterion on the basis that “This length of time is in line with a Service Person’s initial engagement period (the length of time a service person initially signs up to serve) and takes account of the significant investment made in their skills and training.”³³

Stakeholder reactions

The Royal British Legion has been running a longstanding ‘[Stop the service charge](#)’ campaign against fees for indefinite leave to remain for Commonwealth personnel. [It argues](#) that the Government’s proposal is insufficient. It wants fee waivers for people applying for Indefinite Leave after 4 years’ service, and for family members of non-British personnel as well.

Johnny Mercer, former Minister for Defence People and Veterans, has made various criticisms of the Government’s proposal. He jointly tabled an amendment to the Nationality and Borders Bill, which would have introduced immigration fee exemptions for current and recent armed forces members. One of the issues he raised during debate on that Bill was the (in)appropriateness of the 12-year service requirement. He said:

I do not want to air dirty linen in public, but I was there when that 12-year figure was decided on. It was done on a visit. It was plucked out of the air. There is no evidence whatsoever to back it up. There is evidence in the Department that someone from a foreign or Commonwealth country who serves in the military is likely to serve between six and seven years. Twelve years is well outside that. It is well beyond what our peer nations do, it is well beyond what our allies do, and it is incredibly unkind to these individuals who have worked and served for so long.³⁴

³³ Ministry of Defence, [Immigration Costs for Armed Forces Personnel Consultation](#), 26 May 2021, paragraph 34

³⁴ [HC Deb 7 December 2021 c300](#)

3.2

Minimum income requirement for family visas

Since July 2012, a 'minimum income' requirement has formed part of the visa eligibility criteria for non-British nationals wishing to join family members in the UK who are British citizens or have permanent permission to stay.³⁵

Visa applications from family members of Commonwealth/Gurkha armed forces personnel became subject to the minimum income requirement from 1 December 2013.³⁶ This was part of a broader package of changes to the immigration rules for armed forces personnel and their family members.³⁷ The Home Office explained that the changes "remove unnecessary differences in treatment for family members based on the sponsor's immigration status".³⁸

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. The Library briefing paper '[The financial \(minimum income\) requirement for partner visas](#)' considers the requirement in more detail.

A 2019 article in The Times illustrated the potential difficulties for some armed forces families:

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.³⁹

The Home Office has published detailed guidance on the financial income requirement as it applies to HM armed forces.⁴⁰ There are some slight differences with how it is applied in civilian cases (for example, in how permissible cash savings are calculated, due to armed forces families potentially being granted different lengths of visa initially).

³⁵ EU national family members are not due to become subject to the requirement before late March 2022; Irish nationals will remain exempt.

³⁶ See [HC 803 of 2013-14](#).

³⁷ 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]

³⁸ 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]

³⁹ [Commonwealth soldiers don't earn enough to bring families with them](#), *The Times*, 9 February 2019

⁴⁰ Home Office, '[Immigration directorate instruction family migration: appendix FM section 1.7 appendix armed forces financial requirement](#)', August 2017 [accessed 3 July 2019]

Calls for exemptions for armed forces families

As with the absence of provision for immigration application fee waivers, the impact of the minimum income requirement on Commonwealth/Gurkha personnel in the Armed Forces is an ongoing matter of concern to external stakeholders and some Parliamentarians.⁴¹

3.3

Efforts to ensure awareness of Immigration Rules requirements

A PQ answered in January 2021 confirmed the various ways in which the Ministry of Defence and armed forces now try to ensure awareness amongst Commonwealth/Gurkha recruits of the need to apply for an immigration status at the end of their service:

The Ministry of Defence (MOD) takes a number of steps to ensure our Commonwealth and Gurkha personnel are informed about the process for achieving indefinite leave to remain once they leave Service. It is signposted on all the Service websites for recruits to understand prior to application, so they can make an informed choice about joining the British Armed Forces. Guidance is provided to all units to help them support their Commonwealth and Gurkha personnel throughout their career in the Armed Forces, including signposting them to sources of qualified immigration advice, to ensure that they have the information and support they need to make decisions about their and their families' immigration status, including prior to discharge. This information is also included in the Service Leavers Pack, which is provided to all those coming to the end of their careers. MOD continues to work with the Joining Forces Credit Union to provide financial education, savings packages and loan packages to help non-UK personnel pay for visa costs, should they wish to remain and settle in the United Kingdom after their service.⁴²

The Home Office and Ministry of Defence have been criticised in the past for systemic failures to follow their guidance and advise military migrants on what they needed to do to secure their immigration status upon discharge. The Ministry of Defence's 2018 Annual Report on the Armed Forces Covenant 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".⁴³

The issue was highlighted in an unsuccessful claim for judicial review brought in 2020 by eight Fijian military veterans who had been discharged between 2009 and 2013, after between seven- and twelve-years' service. They did not apply for immigration permission after leaving the armed forces. They alleged that they thought that they would be automatically granted indefinite leave after four years' service; that they were not informed that the endorsement in

⁴¹ [HC Deb 8 May 2019 vol 659 cc342WH-343WH](#)

⁴² [PQ UIN139111](#) [Armed Forces: Immigration], answered on 21 January 2021

⁴³ [Armed Forces Covenant Annual Report 2018](#), p 93

their passports exempting them from immigration controls became invalid upon discharge; and that they were not informed that they would need to apply to remain in the UK after leaving the army. Members of the group had encountered several difficulties arising from their lack of immigration status, and obstacles to regularising their status, such as the high application fees. One of the claimants [was told](#) he was liable to pay NHS charges of around £50,000 for treatment to remove a brain tumour, due to not having immigration permission to remain in the UK.

The claimants argued that they should be entitled to Indefinite Leave to Remain free of charge. [An update](#) posted by their legal representatives, Duncan Lewis Solicitors, on 21 August 2020 gave some more specific information about the claim and the remedies sought.⁴⁴ A [separate update](#) (16 September 2020) included commentary by the law firm on the Government's summary grounds of defence.

The claimants were refused permission for judicial review further to an oral renewal hearing on 1 December 2020. This was partly on the basis that their claim was out of time. The Home Secretary subsequently said that the Home Office was considering how to resolve the cases. She told the House in December 2020:

... I am well aware of these individual cases—how these individuals have been treated, and the cases and the representations they are making right now—and, quite frankly, we want to correct this.⁴⁵

⁴⁴ Duncan Lewis Solicitors, News '[Commonwealth Veterans' Legal Action Launched](#)', 21 August 2020.

⁴⁵ [HC Deb 14 December 2020 c19-20](#)

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