

STATEMENT OF CHANGES IN IMMIGRATION RULES

*Presented to Parliament pursuant to section 3(2) of
the Immigration Act 1971*

*Ordered by the House of Commons to be printed
8 November 2013*

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ISBN: 9780102987140

Printed in the UK by The Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office

ID: 2602375 11/13 34428 19585

Printed on paper containing 75% recycled fibre content minimum.

STATEMENT OF CHANGES IN IMMIGRATION RULES

The Home Secretary has made the changes hereinafter stated in the rules laid down by her as to the practice to be followed in the administration of the Immigration Acts for regulating entry into and the stay of persons in the United Kingdom and contained in the statement laid before Parliament on 23 May 1994 (HC 395) as amended. The amending statements were laid before, or presented to, Parliament on 20 September 1994 (Cm 2663), 26 October 1995 (HC 797), 4 January 1996 (Cm 3073), 7 March 1996 (HC 274), 2 April 1996 (HC329), 30 August 1996 (Cm 3365), 31 October 1996 (HC 31), 27 February 1997 (HC 338), 29 May 1997 (Cm 3669), 5 June 1997 (HC 26), 30 July 1997 (HC 161), 11 May 1998 (Cm 3953), 8 October 1998 (Cm 4065), 18 November 1999 (HC 22), 28 July 2000 (HC 704), 20 September 2000 (Cm 4851), 27 August 2001 (Cm 5253), 16 April 2002 (HC 735), 27 August 2002 (Cm 5597), 7 November 2002 (HC 1301), 26 November 2002 (HC 104), 8 January 2003 (HC 180), 10 February 2003 (HC 389), 31 March 2003 (HC 538), 30 May 2003 (Cm 5829), 24 August 2003 (Cm 5949), 12 November 2003 (HC 1224), 17 December 2003 (HC 95), 12 January 2004 (HC 176), 26 February 2004 (HC 370), 31 March 2004 (HC 464), 29 April 2004 (HC523), 3 August 2004 (Cm 6297), 24 September 2004 (Cm 6339), 18 October 2004 (HC 1112), 20 December 2004 (HC 164), 11 January 2005 (HC 194), 7 February 2005 (HC 302), 22 February 2005 (HC 346), 24 March 2005 (HC 486), 15 June 2005 (HC 104), 12 July 2005 (HC 299), 24 October 2005 (HC 582), 9 November 2005 (HC 645), 21 November 2005 (HC 697), 19 December 2005 (HC 769), 23 January 2006 (HC 819), 1 March 2006 (HC 949), 30 March 2006 (HC 1016), 20 April 2006 (HC 1053), 19 July 2006 (HC 1337), 18 September 2006 (Cm 6918), 7 November 2006 (HC 1702), 11 December 2006 (HC 130), 19 March 2007 (HC 398), 3 April 2007 (Cm 7074), 4 April 2007 (Cm 7075), 7 November 2007 (HC 28), 13 November 2007 (HC 40), 19 November 2007 (HC 82), 6 February 2008 (HC 321), 17 March 2008 (HC 420), 9 June 2008 (HC 607), 10 July 2008 (HC 951), 15 July 2008 (HC 971), 4 November 2008 (HC 1113), 9 February 2009 (HC 227), 9 March 2009 (HC 314), 24 April 2009 (HC 413), 9 September 2009 (Cm 7701), 23 September 2009 (Cm 7711), 10 December 2009 (HC 120), 10 February 2010 (HC 367), 18 March 2010 (HC 439), 28 June 2010 (HC 59), 15 July 2010 (HC 96), 22 July 2010 (HC 382), 19 August 2010 (Cm 7929), 1 October 2010 (Cm 7944), 21 December 2010 (HC 698), 16 March 2011 (HC 863), 31 March 2011 (HC 908), 13 June 2011 (HC 1148), 19 July 2011 (HC 1436), 10 October 2011 (HC 1511), 7 November 2011 (HC 1622), 8 December 2011 (HC 1693), 20 December 2011 (HC 1719), 19 January 2012 (HC 1733), 15 March 2012 (HC 1888), 4 April 2012 (Cm 8337), 13 June 2012 (HC 194), 9 July 2012 (HC 514), 19 July 2012 (Cm 8423), 5 September 2012 (HC 565), 22 November 2012 (HC 760), 12 December 2012 (HC 820), 20 December 2012 (HC 847), 30 January 2013 (HC 943), 7 February 2013 (HC 967), 11 March 2013 (HC 1038), 14 March 2013 (HC 1039), 9 April 2013 (Cm 8599), 10 June 2013 (HC 244), 31 July 2013 (Cm 8690), 6 September 2013 (HC 628) and 9 October 2013 (HC 686).

Implementation

The changes set out in this statement take effect on 1 December 2013.

The changes set out in paragraphs 1-9, 15-16, 22-26, 28-31 and 33-50 shall apply to all applications decided on or after 1 December 2013. Otherwise, if an application is made before 1 December 2013 and the application has not been decided before that date, it will be decided in accordance with the rules in force on 30 November 2013.

Review

Before the end of each review period, the Secretary of State undertakes to review all of the relevant Immigration Rules including any Relevant Rule amended or added by these changes. The Secretary of State will set out the conclusions of the review in a report and publish the report.

The report must in particular:

- a) consider each of the Relevant Rules and whether or not each Relevant Rule achieves its objectives and is still appropriate; and
- b) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

“Review period” means:

- a) the period of five years beginning on 6 April 2012, and
- b) each successive period of five years.

If a report under this provision is published before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is published.

“Relevant Rule” means an Immigration Rule which imposes a net burden (or cost) on business or civil society organisations.

Changes

1. In paragraph 6 delete the definition of “**must not be leading an independent life**” and substitute:

“**“must not be leading an independent life”** or “**is not leading an independent life**” means that the applicant does not have a partner as defined in Appendix FM; is living with their parents (except where they are at boarding school, college or university as part of their full-time education); is not employed full-time (unless aged 18 years or over); is wholly or mainly dependent upon their parents for financial support (unless aged 18 years or over); and is wholly or mainly dependent upon their parents for emotional support.”.

2. In paragraph 6 delete the definition of “**intention to live together permanently with the other**” and insert:

“**“intention to live permanently with the other”** or “**intend to live together permanently**” means an intention to live together, evidenced by a clear commitment from both parties that they will live together permanently in the UK immediately following the outcome of the application in question or as soon as circumstances permit thereafter. However, where an application is made under Appendix Armed Forces the words “in the UK” in this definition do not apply.”.

3. After paragraph 46A(vi) insert:

“(via) except to the extent permitted by sub-paragraph (viii), does not intend to study at a maintained school; and”.

4. In paragraph 46A(vii) after “accepted for” insert “or intends to follow”.
5. In paragraph 46A(viii)(b) delete “state maintained” and insert “public”.
6. At the end of paragraph 46A, which becomes sub-paragraph (1), insert:

“(2) In sub-paragraph (1)(via) a “maintained school” is one which provides a free education and is primarily funded from public funds.”.
7. Paragraph 276ADE is renumbered as sub-paragraph (1) of that paragraph.
8. In paragraph 276ADE(1)(vi), as renumbered, before “is aged” insert “subject to sub-paragraph (2),”.
9. In paragraph 276ADE after sub-paragraph (1) insert:

“(2) Sub-paragraph (1)(vi) does not apply, and may not be relied upon, in circumstances in which it is proposed to return a person to a third country pursuant to Schedule 3 to the Asylum and Immigration (Treatment of Claimants, etc) Act 2004.”.
10. After paragraph 276DH and after the heading “HM Forces” insert:

“Transitional provisions and interaction between paragraphs 276E to 276AI of Part 7 and Appendix Armed Forces

276DI. From 1 December 2013, Appendix Armed Forces will apply to all applications to which paragraphs 276E to 276AI of this Part applied on or before 30 November 2013, except where the provisions of 276E to 276AI are preserved and continue to apply in accordance with paragraph 276DL.

276DJ. The requirements to be met under paragraphs 276E to 276AI from 1 December 2013 may be modified or supplemented by the requirements in Appendix Armed Forces or Appendix FM-SE.

276DK. The requirements in paragraphs 8 and 9 of Appendix Armed Forces apply to applications made under paragraphs 276E to 276AI where the decision is made on or after 1 December 2013 (and irrespective of the date of the application).

276DL. Paragraphs 276E-276AI also continue to apply to applications:

(i) made before 1 December 2013 under paragraphs 276E to 276AI but which have not been decided before that date; and

(ii) by persons who have been granted entry clearance or limited leave to enter or remain under paragraphs 276E to 276AI before 1 December 2013 or in

accordance with sub-paragraph (i) above and, where it is a requirement of Part 7, that leave to enter or remain is extant.”.

11. In paragraph A280(d) delete “on or after 9 July 2012,” and insert:

“in the period beginning with 9 July 2012 and ending on 30 November 2013, including those that have not been decided before 1 December 2013,”.

12. At the end of paragraph A280(d), which becomes sub-paragraph (i), insert after the table:

“(ii) Subject to the following provisions, from 1 December 2013, Appendix Armed Forces applies to all applications for entry clearance, leave to enter or remain as the fiancé(e), proposed civil partner, spouse, civil partner, unmarried partner, same sex partner or child of a British citizen or settled person who is a full-time member of HM Forces.

(iii) Except, from 1 December 2013, the provisions in paragraph A280(d)(i) continue to apply to persons who were granted entry clearance, limited leave to enter or remain under Part 8 before 1 December 2013 where that leave is extant.

(iv) Applications may continue to be made under paragraphs 297 to 316F of Part 8 by the child of a British citizen or settled person who is a full-time member of HM Forces regardless of the date of application and paragraph A280(b) continues to apply to these applications as appropriate.

(v) A new application by a dependent relative of a British citizen or settled person who is a full time member of HM Forces may no longer be made under paragraphs 317-319 on or after 1 December 2013. Those applications must meet the requirements of Appendix FM unless an application was submitted on or before 30 November 2013. An application made by a dependent relative of a British citizen or settled person who is a full time member of HM Forces on or before 30 November 2013 will be considered under the relevant paragraphs 317-319 which apply.

(vi) For the avoidance of doubt, paragraph A280(e) will continue to apply to the spouse, civil partner, unmarried partner or same sex partner of a British citizen or settled person who is a full-time member of HM Forces who was admitted to the UK under paragraph 282(c) or 295B(c) who has not yet applied for indefinite leave to remain, including where an application relying on paragraph A280(e) is made on or after 1 December 2013.

(vii) The requirements in paragraphs 8 and 9 of Appendix Armed Forces apply to applications for entry clearance, leave to enter or remain as the fiancé(e), proposed civil partner, spouse, civil partner, unmarried partner, same sex partner, or child or other dependent relative of a British citizen or settled person who is a full-time member of HM Forces making an application under Part 8 (where paragraph A280 (d) has permitted such an application) where the decision is made on or after 1 December 2013 (and irrespective of the date of the application).”.

13. In paragraph 320(2), after “(2)” delete “320(2)”.

14. In paragraph 320(7B)(vii), delete “s.134 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012” and substitute “section 22 of the Criminal Justice Act 2003”.
15. In paragraph 320(18A), delete “within the 12 months preceding the date of the application,” and substitute “within the 12 months prior to the date on which the application is decided,”.
16. In paragraph 322(1C)(iv), after “24 months” delete “preceding the date of the application,” and substitute “prior to the date on which the application is decided,”.
17. In paragraph 345(2A)(iii) after “Regulation (EC) No 343/2003” insert “or Regulation (EC) No 604/2013”.
18. In Appendix 1 in paragraph 2 for “(r)”, on the second occasion it occurs, substitute “(s)” and for “(s)” substitute “(t)”.
19. After Appendix A, insert Appendix Armed Forces.

“APPENDIX ARMED FORCES

PART 1

GENERAL

WHO THESE RULES APPLY TO

1. The rules contained in this Appendix apply to those seeking to enter or remain in the United Kingdom as:
 - (a) a foreign or Commonwealth member of HM Forces (on discharge);
 - (b) a partner or child of a member of HM Forces;
 - (c) a partner or child of a member of non-HM Forces who is exempt from immigration control by virtue of section 8(4)(b) or (c) of the Immigration Act 1971;
 - (d) a member of non-HM Forces who is not exempt from immigration control; and
 - (e) a partner or child of a member of non-HM Forces who is not exempt from immigration control.

INTERPRETATION AND GENERAL PROVISIONS

2. In this Appendix (including as it applies to applications under Part 7 or 8 of these Rules):

- (a) an application for leave to enter or remain includes an application for variation of leave to enter or remain;
- (b) a reference to a British Citizen in the United Kingdom includes:
- (i) a British Citizen who is coming to the United Kingdom with the applicant as the applicant's partner or parent; and
 - (ii) a British Citizen who has naturalised having accrued 5 years' reckonable service in HM Forces;
- (c) "Gurkha" means a member of HM Forces who is serving or has served in the Brigade of Gurkhas of the British Army under the Brigade of Gurkhas' terms and conditions of service;
- (d) "a member of HM Forces" is a person who, subject to sub-paragraphs (e) and (f), is a member of the regular forces within the meaning of the Armed Forces Act 2006;
- (e) a person is not to be regarded as a member of HM Forces if the person is treated as a member of a regular force by virtue of:
- (i) section 369 of the Armed Forces Act 2006, or
 - (ii) section 4(3) of the Visiting Forces (British Commonwealth) Act 1933;
- (f) a reference to a member of HM Forces includes a person who was a member of HM Forces but was discharged within the period of 2 years prior to the date of the application under these Rules made in relation to that member;
- (g) "a member of non-HM Forces" means a member of other armed forces who is:
- (i) exempt from immigration control under section 8(4)(b) or (c) of the Immigration Act 1971, or
 - (ii) not exempt from immigration control;
- (h) "partner" means (unless the context otherwise requires):
- (i) the applicant's spouse;
 - (ii) the applicant's civil partner;
 - (iii) the applicant's fiancé(e) or proposed civil partner; or
 - (iv) a person who has been living together with the applicant in a relationship akin to a marriage or civil partnership for at least 2 years prior to the date of the application;
- (i) a reference to a person who is present and settled in the UK includes a person who is being admitted for settlement on the same occasion as the applicant;
- (j) "reckonable service" is the service which counts towards pension, which starts from the first day of paid service in HM Forces;
- (k) "specified" means specified in Appendix FM-SE and Appendix O to these Rules;

(l) where a financial or maintenance requirement applies in this Appendix, paragraphs A. to 21 of Appendix FM-SE to these Rules shall apply as appropriate.

3. If an Entry Clearance Officer, or the Secretary of State, has reasonable cause to doubt the genuineness of any document submitted in support of an application, and having taken reasonable steps to verify the document, is unable to verify that it is genuine, the document will be discounted for the purposes of the application.
4. A reference to an application being considered under this Appendix includes, where relevant, an application considered under Part 7 or 8 of these Rules which requires compliance with this Appendix.
5. Paragraphs 277-280, 289AA, 295AA and 296 of Part 8 of these Rules apply to applications made under this Appendix.

LEAVE TO ENTER

6. The requirements to be met by a person seeking leave to enter the United Kingdom under this Appendix are that the person:
 - (a) must have a valid entry clearance for entry in a route under this Appendix; and
 - (b) must produce to the Immigration Officer on arrival a valid national passport or other document satisfactorily establishing their identity and nationality.
7. If a person does not meet the requirements of paragraph 6, entry will be refused.

PART 2

SUITABILITY REQUIREMENTS

8. An application under this Appendix will be refused on the grounds of suitability if any of the provisions in this paragraph apply:
- (a) in respect of applications for entry clearance, the Secretary of State has personally directed that the exclusion of the applicant from the United Kingdom is conducive to the public good;
 - (b) the applicant is currently the subject of a deportation order;
 - (c) subject to sub-paragraph (d), permitting the applicant to enter, or remain in, the United Kingdom is not conducive to the public good because he or she has been convicted of an offence for which he or she has been sentenced to a period of imprisonment of:
 - (i) at least 4 years; or
 - (ii) at least 12 months, but less than 4 years, unless:
 - (aa) in respect of applications for entry clearance: a period of 10 years has passed since the end of the sentence; or
 - (bb) in respect of applications for indefinite leave to remain: a period of 15 years has passed since the end of the sentence; or
 - (iii) in respect of applications for entry clearance or indefinite leave to remain, less than 12 months, unless:
 - (aa) in respect of applications for entry clearance: a period of 5 years has passed since the end of the sentence; or
 - (bb) in respect of applications for indefinite leave to remain: a period of 7 years has passed since the end of the sentence;
 - (d) in respect of applications for entry clearance, where sub-paragraph (c) applies, unless refusal would be contrary to the Human Rights Convention or the Convention and Protocol Relating to the Status of Refugees, it will only be in exceptional circumstances that the public interest in maintaining refusal will be outweighed by compelling factors;
 - (e) in respect of applications for limited leave to remain or indefinite leave to remain, in the view of the Secretary of State,
 - (i) the applicant's offending has caused serious harm; or
 - (ii) the applicant is a persistent offender who shows a particular disregard for the law;
 - (f) in respect of applications for indefinite leave to remain, the applicant has, within the 24 months prior to the date on which the application is decided, been convicted of or

admitted an offence for which they received a non-custodial sentence or other out of court disposal that is recorded on their criminal record;

(g) permitting the applicant to enter, or remain in, the UK is not conducive to the public good because, for example, their conduct (including convictions which do not fall within sub-paragraph (c) or (f) as appropriate, character, associations, or other reasons, make it undesirable to grant them entry clearance or allow them to remain in the UK;

(h) in respect of applications for entry clearance, the applicant left or was removed from the United Kingdom pursuant to a condition attached to a conditional caution given under section 22 of the Criminal Justice Act 2003 less than 5 years before the date on which the application is decided;

(i) the applicant has failed without reasonable excuse to comply with a requirement to:

(i) attend an interview;

(ii) provide information;

(iii) provide physical data; or

(iv) undergo a medical examination or provide a medical report; or

(j) it is undesirable to grant entry clearance to the applicant for medical reasons.

9. An application under this Appendix will normally be refused on the grounds of suitability if any of the provisions in this paragraph apply:

(a) whether or not to the applicant's knowledge:

(i) false information, representations or documents have been submitted in relation to the application (including false information submitted to any person to obtain a document used in support of the application); or

(ii) there has been a failure to disclose material facts in relation to the application;

(b) one or more relevant NHS bodies (within the meaning of paragraph 6 of these Rules) has notified the Secretary of State that:

(i) the applicant has failed to pay charges in accordance with the relevant NHS regulations on charges to overseas visitors; and

(ii) the outstanding charges have a total value of at least £1000;

(c) a maintenance and accommodation undertaking has been requested or required under this Appendix or paragraph 35 of these Rules or otherwise and has not been provided;

(d) in respect of applications for entry clearance, the exclusion of the applicant from the United Kingdom is conducive to the public good because:

(i) within the 12 months prior to the date on which the application is decided, the person has been convicted of or admitted an offence for which they received a non-custodial sentence or other out of court disposal that is recorded on their criminal record; or

(ii) in the view of the Secretary of State:

(aa) the person's offending has caused serious harm; or

(bb) the person is a persistent offender who shows a particular disregard for the law.

10. In respect of applications for limited leave to remain or indefinite leave to remain, when considering whether the presence of the applicant in the UK is not conducive to the public good any legal or practical reasons why the applicant cannot presently be removed from the United Kingdom must be ignored.

PART 3

DISCHARGED MEMBERS OF HM FORCES

GENERAL ELIGIBILITY REQUIREMENTS

11. The general eligibility requirements to be met for entry clearance (and limited or indefinite leave to enter) or for limited or indefinite leave to remain as a discharged member of HM Forces are that:

- (a) the applicant:
 - (i) has completed at least 4 years' reckonable service in HM Forces; or
 - (ii) meets the medical discharge criteria in paragraph 12; and

- (b) on the date on which the application is made:
 - (i) the applicant has been discharged from HM Forces for a period of less than 2 years; or
 - (ii) in the case of an applicant who was medically discharged more than 2 years before, new information regarding his or her prognosis is being considered by the Secretary of State; or
 - (iii) the applicant has been granted his or her most recent period of limited leave:
 - (aa) under paragraph 15 or 19 of this Appendix as a foreign or Commonwealth citizen who has been discharged from HM Forces; or
 - (bb) under paragraph 276KA or 276QA of these Rules; or
 - (cc) under the concession which existed outside these Rules, whereby the Secretary of State exercised her discretion to grant leave to enter or remain to members of HM Forces who have been medically discharged; and

- (c) in relation to an application made by a Gurkha, the Gurkha is a citizen or national of Nepal.

MEDICAL DISCHARGE

12. The medical discharge criteria are satisfied where the applicant was medically discharged from HM Forces:

- (a) where the cause was attributable to service in HM Forces and it came about owing to deployment in an operational theatre; or

- (b) where the cause was attributable to service in HM Forces, it did not come about owing to deployment in an operational theatre but it is appropriate to grant leave to enter or remain in the United Kingdom following an assessment of the following factors:

- (i) the seriousness of the illness or injury;
- (ii) the need for further medical treatment in relation to the illness or injury and the availability of such medical treatment in the applicant's country of origin;
- (iii) the prognosis for recovery, including whether the injury or illness will affect the applicant's ability to support themselves in their country of origin; and
- (iv) the length of reckonable service in HM Forces at the time of the applicant's discharge.

INDEFINITE LEAVE TO ENTER

13. Entry clearance and indefinite leave to enter as a foreign or Commonwealth citizen discharged from HM Forces will be granted to an applicant who:
- (a) is outside the United Kingdom;
 - (b) has made a valid application for entry clearance and indefinite leave to enter as a foreign or Commonwealth citizen discharged from HM Forces;
 - (c) does not fall to be refused on the grounds of suitability under paragraph 8 or 9; and
 - (d) meets the general eligibility requirements in paragraph 11.

LEAVE TO REMAIN

14. Limited leave to remain as a foreign or Commonwealth citizen discharged from HM Forces will be granted to an applicant who:
- (a) is in the United Kingdom;
 - (b) is not in breach of immigration laws, except that any period of overstaying for a period of 28 days or less will be disregarded;
 - (c) has made a valid application for limited leave to remain as a foreign or Commonwealth citizen discharged from HM Forces;
 - (d) does not fall to be refused on the grounds of suitability under paragraph 8 or 9; and
 - (e) meets the general eligibility requirements in paragraph 11.
15. Limited leave to remain granted under paragraph 14 will normally be granted for a period not exceeding 30 months and will be subject to such conditions as the Secretary of State considers appropriate.

INDEFINITE LEAVE TO REMAIN

16. Indefinite leave to remain as a foreign or Commonwealth citizen discharged from HM Forces will be granted to an applicant who:
- (a) is in the United Kingdom;

- (b) is not in breach of immigration laws, except that any period of overstaying for a period of 28 days or less will be disregarded;
- (c) has made a valid application for indefinite leave to remain as a foreign or Commonwealth citizen discharged from HM Forces;
- (d) does not fall to be refused on the grounds of suitability under paragraph 8 or 9; and
- (e) meets the general eligibility requirements in paragraph 11.

CIRCUMSTANCES IN WHICH LIMITED LEAVE TO REMAIN MAY BE GRANTED TO APPLICANTS FOR INDEFINITE LEAVE TO REMAIN UNDER PARAGRAPH 16

17. Limited leave to remain as a foreign or Commonwealth citizen discharged from HM Forces may be granted to a person who fails to meet the requirements for indefinite leave to remain in paragraph 16 of this Appendix by reason only of failing to meet the suitability requirements in paragraph 8 or 9 in respect of a grant of indefinite leave to remain (but not a grant of limited leave to remain).
18. Limited leave to remain as a foreign or Commonwealth citizen discharged from HM Forces may be granted to a person (P) who fails to meet the requirements for indefinite leave to remain in paragraph 16 of this Appendix by reason only of being unable to meet the medical discharge criteria in paragraph 12 , provided that the following conditions are met:
 - (a) P has been medically discharged from HM Forces;
 - (b) the cause of P's discharge was attributable to service in HM Forces; and
 - (c) before P can return to P's country of origin it is appropriate to grant limited leave to remain to facilitate:
 - (i) further medical treatment for P; or
 - (ii) a period of recovery for P.
19. Limited leave to remain granted under paragraph 17 or 18 will normally be granted for a period not exceeding 30 months and will be subject to such conditions as the Secretary of State considers appropriate.

PART 4

PARTNERS OF MEMBERS OF HM FORCES

GENERAL ELIGIBILITY REQUIREMENTS

20. The general eligibility requirements to be met by the partner (P) of a member of HM Forces are that on the date the application is made:

(a) P's sponsor is a member of HM Forces (as defined in paragraph 2(d) of this Appendix) who:

- (i) is exempt from immigration control; or
- (ii) has leave to enter or remain under paragraphs 13-19 of this Appendix or paragraphs 276E-QA of these Rules; or
- (iii) is being granted leave to enter or remain under paragraphs 13-19 of this Appendix or paragraphs 276E-QA of these Rules at the same time as P; or
- (iv) is a British Citizen;

(b) P and P's sponsor:

- (i) are both aged 18 or over;
- (ii) must not be within a prohibited degree of relationship;
- (iii) must intend to live together permanently; and
- (iv) must have met in person;

(c) the relationship between P and P's sponsor is genuine and subsisting; and

(d) any previous relationship of P or P's sponsor must have broken down permanently, unless it is a relationship which falls within paragraph 278(i) of these Rules.

21. If P and P's sponsor are married or in a civil partnership, it must be a valid marriage or civil partnership as specified in Appendix FM-SE.

22. If P is the fiancé(e) or proposed civil partner of P's sponsor, P must be seeking entry to the UK to enable their marriage or civil partnership to take place.

LEAVE TO ENTER

23. Entry clearance and leave to enter as the partner of a member of HM Forces will be granted to an applicant who:

(a) is outside the United Kingdom;

- (b) has made a valid application for entry clearance and leave to enter as the partner of a member of HM Forces;
- (c) does not fall to be refused on the grounds of suitability under paragraph 8 or 9;
- (d) meets the general eligibility requirements in paragraph 20;
- (e) meets the English language requirement in Part 11 of this Appendix; and
- (f) meets the financial requirements in Part 12 of this Appendix.

24. Entry clearance and leave to enter granted under paragraph 23 will normally be:

- (a) for whichever is the shortest period of:
 - (i) 5 years;
 - (ii) the remaining duration of the applicant's partner's enlistment;
 - (iii) the remaining duration of the applicant's partner's extant leave under paragraph 276KA or 276QA of these Rules or paragraph 15 or 19 of this Appendix or under the concession which existed outside these Rules whereby the Secretary of State exercised her discretion to grant leave to enter or remain to a member of HM Forces who has been medically discharged; or
 - (iv) in the case of a fiancé(e) or proposed civil partner, a period not exceeding 6 months; and
- (b) subject to the following conditions:
 - (i) no recourse to public funds; and
 - (ii) in the case of a fiancé(e) or proposed civil partner, a prohibition on employment.

INDEFINITE LEAVE TO ENTER

25. Entry clearance and indefinite leave to enter as the partner of a member of HM Forces will be granted to an applicant who:

- (a) is outside the United Kingdom;
- (b) has made a valid application for entry clearance and indefinite leave to enter as the partner of a member of HM Forces;
- (c) has a partner who:
 - (i) is a foreign or Commonwealth citizen who is a member of HM Forces with at least 5 years' reckonable service in HM Forces; or
 - (ii) has been granted indefinite leave to enter or remain under paragraph 13 or 16 of this Appendix or paragraphs 276E-Q of these Rules and is in the United Kingdom; or
 - (iii) is a British Citizen;
- (d) does not fall to be refused on the grounds of suitability under paragraph 8 or 9;
- (e) meets the general eligibility requirements in paragraph 20;

- (f) can demonstrate sufficient knowledge of the English language and sufficient knowledge about life in the UK in accordance with the requirements of Appendix KoLL to these Rules;
- (g) meets the financial requirements in Part 12 of this Appendix; and
- (h) has completed a continuous period of 60 months with leave under this Appendix as the partner of the same member of HM Forces, excluding any period of entry clearance or limited leave as a fiancé(e) or proposed civil partner.

26. Entry clearance and limited leave to enter as a partner (excluding as a fiancé(e) or proposed civil partner) of a member of HM Forces for a period of 30 months may be granted:

- (a) where an applicant fails to meet the requirements of paragraph 25 by reason only of failing to meet the requirements of paragraph 25(c)(i) or (ii), provided that the applicant's sponsor has been granted leave to enter or remain under paragraph 15 or 19 of this Appendix; or
- (b) where an applicant fails to meet the requirements of paragraph 25 by reason only of failing to meet the requirements of paragraph 25(f).

27. Entry clearance and limited leave to enter granted under paragraph 26 will be subject to a condition of no recourse to public funds.

LEAVE TO REMAIN

28. Limited leave to remain as the partner of a member of HM Forces will be granted to an applicant who:

- (a) is in the United Kingdom, but not:
 - (i) as a visitor;
 - (ii) with valid leave that was granted for a period of 6 months or less, unless that leave:
 - (aa) is as a fiancé(e) or proposed civil partner; or
 - (bb) was granted pending the outcome of family court or divorce proceedings; or
 - (iii) on temporary admission or temporary release;
- (b) is not in breach of immigration laws, except that any period of overstaying for a period of 28 days or less is to be disregarded;
- (c) has made a valid application for limited leave to remain as the partner of a member of HM Forces;
- (d) does not fall to be refused on the grounds of suitability under paragraph 8 or 9;
- (e) meets the general eligibility requirements in paragraph 20;
- (f) is not a fiancé(e) or proposed civil partner of the member of HM Forces, unless:

- (i) the applicant is in the United Kingdom with leave as a fiancé(e) or proposed civil partner under paragraph 23 (and that earlier leave was granted in respect of the current sponsor);
 - (ii) there is good reason why the marriage or civil partnership has not taken place during that period of leave; and
 - (iii) there is evidence that the marriage or civil partnership will take place within the next 6 months;
- (g) meets the English language requirement in Part 11 of this Appendix; and
- (h) meets the financial requirements in Part 12 of this Appendix.

29. Limited leave to remain granted under paragraph 28 will normally be granted:

- (a) for whichever is the shortest period of:
 - (i) 5 years;
 - (ii) the remaining duration of the applicant's partner's enlistment; or
 - (iii) the remaining duration of the applicant's partner's extant leave under paragraph 276KA or 276QA of these Rules or paragraph 15 or 19 of this Appendix or under the concession which existed outside these Rules whereby the Secretary of State exercised her discretion to grant leave to enter or remain to a member of HM Forces who has been medically discharged; or
 - (iv) in the case of a fiancé(e) or proposed civil partner, a period not exceeding 6 months; and
- (b) subject to the following conditions:
 - (i) no recourse to public funds; and
 - (ii) in the case of a fiancé(e) or proposed civil partner, a prohibition on employment.

30. An applicant granted limited leave to remain under paragraph 29 will be eligible to apply for settlement after a continuous period of 60 months with such leave under this Appendix as the partner of the same member of HM Forces, excluding any period of entry clearance or limited leave as a fiancé(e) or proposed civil partner.

INDEFINITE LEAVE TO REMAIN

31. Indefinite leave to remain as the partner of a member of HM Forces will be granted to an applicant who:

- (a) is in the United Kingdom;
- (b) is not in breach of immigration laws, except that any period of overstaying for a period of 28 days or less is to be disregarded;
- (c) has a partner who:

- (i) is a foreign or Commonwealth citizen who is a member of HM Forces with at least 5 years' reckonable service in HM Forces; or
 - (ii) has been granted, or is being granted at the same time as the applicant, indefinite leave to enter or remain under paragraph 13 or 16 of this Appendix or paragraphs 276E-Q of these Rules; or
 - (iii) is a British Citizen;
- (d) does not fall to be refused on the grounds of suitability under paragraph 8 or 9;
 - (e) meets the general eligibility requirements in paragraph 20;
 - (f) can demonstrate sufficient knowledge of the English language and sufficient knowledge about life in the UK in accordance with the requirements of Appendix KoLL to these Rules;
 - (g) meets the financial requirements in Part 12 of this Appendix; and
 - (h) has completed a continuous period of 60 months with leave under this Appendix as the partner of the same member of HM Forces, excluding any period of entry clearance or limited leave as a fiancé(e) or proposed civil partner.

32. Limited leave to remain as the partner (excluding as a fiancé(e) or proposed civil partner) of a member of HM Forces for a period of 30 months may be granted where the applicant fails to meet the requirements for indefinite leave to remain in paragraph 31:

- (a) by reason only of failing to satisfy the suitability requirements in paragraph 8 or 9 in respect of a grant of indefinite leave to remain (but not a grant of limited leave to remain); or
- (b) by reason only of failing to meet the requirements of paragraph 31(c)(i) or (ii), provided that the applicant's sponsor has been granted leave to enter or remain under paragraph 15 or 19 of this Appendix; or
- (c) by reason only of failing to meet the requirements of paragraph 31(f).

33. Limited leave to remain granted under paragraph 32 will be subject to a condition of no recourse to public funds.

PART 5

**BEREAVED PARTNERS OF MEMBERS OF HM
FORCES**

GENERAL ELIGIBILITY REQUIREMENTS

34. The general eligibility requirements to be met by a bereaved partner of a member of HM Forces are that:

- (a) the applicant's partner at the time of the applicant's last grant of leave as a partner (other than as a fiancé(e) or proposed civil partner) was:
 - (i) a foreign or Commonwealth citizen who was a serving member of HM Forces; or
 - (ii) a discharged member of HM Forces who had been granted, or was seeking at the same time as the applicant, leave to enter or remain under paragraphs 13-19 of this Appendix or paragraphs 276E-QA of these Rules; or
 - (iii) a British Citizen in HM Forces;
- (b) the applicant's partner has died;
- (c) at the time of the applicant's partner's death the applicant and the partner:
 - (i) were both aged 18 or over;
 - (ii) were not within a prohibited degree of relationship;
 - and
 - (iii) had met in person; and
- (d) at the time of the applicant's partner's death the relationship between the applicant and the partner was genuine and subsisting and each of the parties intended to live together permanently.

INDEFINITE LEAVE TO ENTER

35. Entry clearance and indefinite leave to enter as a bereaved partner of a member of HM Forces will be granted to an applicant who:

- (a) is outside the United Kingdom as a result of accompanying their sponsor on an overseas posting;
- (b) has made a valid application for entry clearance and indefinite leave to enter as the bereaved partner of a member of HM Forces;
- (c) does not fall to be refused on the grounds of suitability under paragraph 8 or 9; and
- (d) meets the general eligibility requirements in paragraph 34.

INDEFINITE LEAVE TO REMAIN

36. Indefinite leave to remain as a bereaved partner of a member of HM Forces will be granted to an applicant who:

- (a) is in the United Kingdom;
- (b) has made a valid application for indefinite leave to remain as the bereaved partner of a member of HM Forces;
- (c) does not fall to be refused on the grounds of suitability under paragraph 8 or 9; and
- (d) meets the general eligibility requirements in paragraph 34.

37. Limited leave to remain as a bereaved partner of a member of HM Forces for a period of 30 months may be granted to a person who fails to meet the requirements for indefinite leave to remain in paragraph 36 by reason only of failing to meet the suitability requirements in paragraph 8 or 9 in respect of a grant of indefinite leave to remain (but not a grant of limited leave to remain).

38. Limited leave to remain granted under paragraph 37 will be subject to a condition of no recourse to public funds.

PART 6

PARTNERS OF MEMBERS OF HM FORCES WHO ARE THE VICTIM OF DOMESTIC VIOLENCE

GENERAL ELIGIBILITY REQUIREMENTS

39. The general eligibility requirements to be met by the partner of a member of HM Forces who is a victim of domestic violence are that:

- (a) the applicant is in the UK and was:
 - (i) last admitted to the UK under paragraph 276AD of these Rules or paragraph 23, 26, 28 or 32 of this Appendix; or
 - (ii) granted leave to remain under the concession which exists outside these Rules, whereby the Secretary of State exercises her discretion to grant leave to remain to a victim of domestic violence;

- (b) the leave referred to in sub-paragraph (a) was as the partner (other than a fiancé(e) or proposed civil partner) of a member of HM Forces who is:
 - (i) a British Citizen; or
 - (ii) a foreign or Commonwealth citizen with at least 4 years' reckonable service in HM Forces at the date of application under this paragraph;

- (c) the applicant does not fall to be refused on grounds of suitability under paragraph 8 or 9;

- (d) the applicant has made a valid application for indefinite leave to remain as a victim of domestic violence; and

- (e) the applicant must provide evidence that during the last period of limited leave as a partner the applicant's relationship with their partner broke down permanently as a result of domestic violence.

INDEFINITE LEAVE TO REMAIN

40. Indefinite leave to remain as the partner of a member of HM Forces who is a victim of domestic violence will be granted to an applicant who meets the general eligibility requirements in paragraph 39.

41. Limited leave to remain for a period of 30 months may be granted to a partner of a member of HM Forces who is a victim of domestic violence who fails to meet the requirements for indefinite leave to remain in paragraph 40 by reason only of failing to meet the suitability requirements in paragraph 8 or 9 in respect of a grant of indefinite leave to

remain (but not a grant of limited leave to remain). This will be subject to such conditions as the Secretary of State considers appropriate.

PART 7

CHILDREN OF MEMBERS OF HM FORCES

GENERAL ELIGIBILITY REQUIREMENTS

42. The general eligibility requirements to be met by the child of a member of HM Forces are that:

- (a) the applicant is the child of a parent who is:
 - (i) a foreign or Commonwealth citizen who is a serving member of HM Forces; or
 - (ii) a discharged member of HM Forces who has been granted, or who is being granted at the same time as the applicant, leave to enter or remain under paragraphs 13-19 of this Appendix or paragraphs 276E-QA of these Rules; or
 - (iii) a member of HM Forces who is a British Citizen; and

- (b) the applicant meets one of the following criteria:
 - (i) the applicant's other parent must:
 - (aa) also come within paragraph 42(a); or
 - (bb) have been granted leave to enter or remain under paragraphs 23-33 of this Appendix or paragraph 276S, 276V or 276AE of these Rules; or
 - (cc) be being granted leave to enter or remain under paragraphs 23-33 of this Appendix or paragraph 276S, 276V or 276AE of these Rules at the same time as the applicant; or
 - (dd) have died; or
 - (ii) the parent under paragraph 42(a) has sole responsibility for the applicant's upbringing; or
 - (iii) there are serious and compelling family or other considerations which make the applicant's exclusion from the United Kingdom undesirable and suitable arrangements have been made for their care.

LEAVE TO ENTER

43. Entry clearance and leave to enter as the child of a member of HM Forces will be granted to an applicant who:

- (a) was either:
 - (i) under 18 years of age at the date of application; or
 - (ii) aged 18 or over at the date of application; and was last granted leave to remain under paragraph 43 or 47 of this Appendix or paragraph 276AH of these Rules;
- (b) is outside the United Kingdom;

- (c) is not married or in a civil partnership;
- (d) has not formed an independent family unit;
- (e) is not leading an independent life;
- (f) has made a valid application for entry clearance and leave to enter as the child of a member of HM Forces;
- (g) does not fall to be refused on the grounds of suitability under paragraph 8 or 9;
- (h) meets the general eligibility requirements in paragraph 42;
- (i) meets the financial requirements in Part 12 of this Appendix; and
- (j) has not applied and does not qualify for indefinite leave to enter under paragraph 45.

44. Entry clearance and leave to enter granted under paragraph 43 will be granted:

- (a) for whichever is the shortest period of:
 - (i) 5 years; or
 - (ii) the remaining duration of the applicant's parent's enlistment; or
 - (iii) the remaining duration of the applicant's parent's leave; and
- (b) subject to a condition of no recourse to public funds.

INDEFINITE LEAVE TO ENTER

45. Entry clearance and indefinite leave to enter as the child of a member of HM Forces will be granted to an applicant who:

- (a) was either:
 - (i) under 18 years of age at the date of application; or
 - (ii) aged 18 or over at the date of application and was last granted leave to remain under paragraph 43 or 47 of this Appendix or paragraph 276AH of these Rules;
- (b) is outside the United Kingdom;
- (c) is not married or in a civil partnership;
- (d) has not formed an independent family unit;
- (e) is not leading an independent life;
- (f) has made a valid application for entry clearance and indefinite leave to enter as the child of a member of HM Forces;
- (g) is the child of:
 - (i) a foreign or Commonwealth citizen who is a serving member of HM Forces who has completed at least 5 years' reckonable service; or
 - (ii) a person who has been granted indefinite leave to enter or remain under paragraph 13 or 16 of this Appendix or paragraphs 276E-Q of these Rules and is in the UK; or
 - (iii) a member of HM Forces who is a British Citizen;
- (h) meets one of the following criteria:

- (i) the applicant's other parent must:
 - (aa) come within paragraph 45(g); or
 - (bb) have been granted indefinite leave to enter or remain under paragraph 25 or 31 of this Appendix or paragraph 276S or 276V of these Rules; or
 - (cc) be being granted indefinite leave to enter or remain under paragraph 25 or 31 of this Appendix or paragraph 276S or 276V of these Rules at the same time as the applicant; or
 - (dd) have died; or
- (ii) the parent under paragraph 45(g) has sole responsibility for the applicant's upbringing; or
- (iii) there are serious and compelling family or other considerations which make the applicant's exclusion from the United Kingdom undesirable and suitable arrangements have been made for their care;
- (i) does not fall to be refused on the grounds of suitability under paragraph 8 or 9;
- (j) meets the general eligibility requirements in paragraph 42;
- (k) where the applicant is aged 18 or over, can demonstrate sufficient knowledge of the English language and about life in the United Kingdom, in accordance with the requirements of Appendix KoLL to these Rules;
- (l) will be accommodated adequately by the parent or parents the applicant is seeking to join without recourse to public funds in accommodation which the parent or parents the applicant is seeking to join, own or occupy exclusively; and
- (m) will be maintained adequately by the parent or parents the applicant is seeking to join, without recourse to public funds.

46. Entry clearance and limited leave to enter as a child of a member of HM Forces for a period of 30 months may be granted subject to a condition of no recourse to public funds where:

- a) an applicant fails to meet the requirements for indefinite leave to enter in paragraph 45 by reason solely of failing to meet the requirements of paragraph 45(k); or
- b) an applicant fails to meet the requirements of paragraph 45 by reason only of failing to meet the requirements of paragraph 45(g)(i) or (ii), provided that the applicant's sponsor has been granted leave to enter or remain under paragraph 15 or 19 of this Appendix.

LEAVE TO REMAIN

47. Limited leave to remain as the child of a member of HM Forces will be granted to an applicant who:

- (a) was either:
 - (i) under 18 years of age at the date of application; or

- (ii) aged 18 or over at the date of application and who was last granted leave under paragraph 43 or 47 of this Appendix or paragraph 276AH of these Rules;
- (b) is not married or in a civil partnership;
- (c) has not formed an independent family unit;
- (d) is not leading an independent life;
- (e) is not in breach of immigration laws, except that any period of overstaying for 28 days or less will be disregarded;
- (f) is in the United Kingdom;
- (g) has made a valid application for leave to remain as the child of a member of HM Forces;
- (h) does not fall to be refused on the grounds of suitability under paragraph 8 or 9;
- (i) meets:
 - (aa) the general eligibility requirements in paragraph 42; or
 - (bb) meets those general eligibility requirements, except that subparagraph (b)(ii) does not apply but the parent of the applicant falls under paragraph 49(h) and the applicant normally lives with this parent and not their other parent; and
- (j) meets the financial requirements in Part 12 of this Appendix.

48. Leave to remain granted under paragraph 47 will be:

- (a) for whichever is the shortest period of:
 - (i) 5 years; or
 - (ii) the remaining duration of the applicant's parent's enlistment; or
 - (iii) the remaining duration of the applicant's parent's leave; and
- (b) subject to a condition of no recourse to public funds.

INDEFINITE LEAVE TO REMAIN

49. Indefinite leave to remain as the child of a member of HM Forces will be granted to an applicant who has or has had leave to enter or remain under paragraph 43 or 47 of this Appendix or paragraph 276AH of these Rules and who:

- (a) was either:
 - (i) under 18 years of age at the date of application; or
 - (ii) aged 18 or over at the date of application and who was last granted leave under paragraph 43 or 47 of this Appendix or paragraph 276AH of these Rules;
- (b) is not married or in a civil partnership;
- (c) has not formed an independent family unit;
- (d) is not leading an independent life;
- (e) is in the United Kingdom;

- (f) has made a valid application for indefinite leave to remain as the child of a member of HM Forces;
- (g) is not in breach of immigration laws, except that any period of overstaying for 28 days or less will be disregarded;
- (h) is the child of:
 - (i) a foreign or Commonwealth citizen who is a serving member of HM Forces who has completed at least 5 years' reckonable service; or
 - (ii) a person who has been granted, or is being granted at the same time as the applicant, indefinite leave to enter or remain under paragraph 13 or 16 of this Appendix or paragraphs 276E-Q of these Rules; or
 - (iii) a member of HM Forces who is a British Citizen;
- (i) meets one of the following criteria:
 - (i) the applicant's other parent must:
 - (aa) also come within paragraph 49(h); or
 - (bb) have been granted indefinite leave to enter or remain under paragraph 25 or 31 of this Appendix or paragraph 276S or 276V of these Rules; or
 - (cc) be being granted indefinite leave to enter or remain under paragraph 25 or 31 of this Appendix or paragraph 276S or 276V of these Rules at the same time as the applicant; or
 - (dd) have died; or
 - (ii) the parent under paragraph 49(h) has sole responsibility for the applicant's upbringing or the applicant normally lives with this parent and not their other parent; or
 - (iii) there are serious and compelling family or other considerations which make the applicant's exclusion from the United Kingdom undesirable and suitable arrangements have been made for their care;
- (j) does not fall to be refused on the grounds of suitability under paragraph 8 or 9;
- (k) meets the general eligibility requirements in paragraph 42;
- (l) where the applicant is aged 18 or over, can demonstrate sufficient knowledge of the English language and about life in the United Kingdom, in accordance with the requirements of Appendix KoLL to these Rules;
- (m) will be accommodated adequately by the parent or parents the applicant is seeking to remain with without recourse to public funds in accommodation which the parent or parents the applicant is seeking to join own or occupy exclusively; and
- (n) will be maintained adequately by the parent or parents the applicant is seeking to join, without recourse to public funds.

50. Limited leave to remain as a child of a member of HM Forces for a period of 30 months and subject to a condition of no recourse to public funds will be granted:

- (a) where an applicant fails to meet the requirements for indefinite leave to remain in paragraph 49 by reason only of failing to satisfy the suitability requirements in

paragraph 8 or 9 in respect of a grant of indefinite leave to remain (but not a grant of limited leave to remain); or

- (b) where an applicant fails to meet the requirements for indefinite leave to remain by reason only of failing to meet the requirements in paragraph 49(l); or
- c) by reason only of failing to meet the requirements of paragraph 49(h)(i) or (ii), provided that the applicant's sponsor has been granted leave to enter or remain under paragraph 15 or 19 of this Appendix.

PART 8

**BEREAVED CHILDREN OF MEMBERS OF HM
FORCES**

GENERAL ELIGIBILITY REQUIREMENTS

51. The general eligibility requirements to be met by a bereaved child of a member of HM Forces are that:

- (a) one of their parents has died and at the time of their death was:
 - (i) a foreign or Commonwealth citizen who was a serving member of HM Forces; or
 - (ii) a discharged member of HM Forces who had been granted, or was seeking at the same time as the applicant, leave to enter or remain under paragraphs 13-19 of this Appendix or paragraphs 276E-QA of these Rules; or
 - (iii) a British Citizen who was a member of HM Forces; and
- (b) they meet one of the following criteria:
 - (i) their other parent must:
 - (aa) also come within sub-paragraph 51(a); or
 - (bb) have been granted, or be being granted at the same time as the applicant, leave to enter or remain under paragraphs 23-33 or 35-37 of this Appendix, under paragraph 276S, 276V or 276AE of these Rules or under any concession that existed outside these Rules whereby the Secretary of State exercised her discretion to grant leave to enter or remain to bereaved partners of foreign or Commonwealth members of HM Forces; or
 - (cc) have died; or
 - (ii) the parent referred to in sub-paragraph (a) had sole responsibility for their upbringing; or
 - (iii) there are serious and compelling family or other considerations which make exclusion of the applicant from the United Kingdom undesirable and suitable arrangements have been made for their care.

INDEFINITE LEAVE TO ENTER

52. Entry clearance and indefinite leave to enter as a bereaved child of a member of HM Forces will be granted to an applicant who:

- (a) was either:
 - (i) under 18 years of age at the date of application; or

- (ii) aged 18 or over at the date of application and was last granted leave to enter or remain under paragraph 43 or 47 of this Appendix or paragraph 276AH of these Rules;
- (b) is outside the United Kingdom;
- (c) is not married or in a civil partnership;
- (d) has not formed an independent family unit;
- (e) is not leading an independent life;
- (f) has made a valid application for entry clearance and indefinite leave to enter as the bereaved child of a member of HM Forces;
- (g) does not fall to be refused on the grounds of suitability under paragraph 8 or 9;
- and
- (h) meets the general eligibility requirements in paragraph 51.

INDEFINITE LEAVE TO REMAIN

53. Indefinite leave to remain as a bereaved child of a member of HM Forces will be granted to an applicant who:

- (a) is in the United Kingdom;
- (b) was either:
 - (i) under 18 years of age at the date of application; or
 - (ii) aged 18 or over at the date of application and was last granted leave to remain under paragraph 43 or 47 of this Appendix or paragraph 276AH of these Rules; and
- (c) is not married or in a civil partnership;
- (d) has not formed an independent family unit;
- (e) is not leading an independent life;
- (f) has made a valid application for indefinite leave to remain as the bereaved child of a member of HM Forces;
- (g) does not fall to be refused on the grounds of suitability under paragraph 8 or 9;
- and
- (h) meets the general eligibility requirements in paragraph 51.

54. Limited leave to remain as a bereaved child of a member of HM Forces for a period of 30 months will be granted subject to a condition of no recourse to public funds to an applicant who fails to meet the requirements for indefinite leave to remain in paragraph 53 by reason solely of failing to meet the suitability requirements in paragraph 8 or 9 in respect of a grant of indefinite leave (but not a grant of limited leave to remain).

PART 9

**MEMBERS OF ARMED FORCES WHO ARE
NOT EXEMPT FROM IMMIGRATION
CONTROL**

GENERAL ELIGIBILITY REQUIREMENTS

55. The general eligibility requirements for members of armed forces who are not exempt from immigration control are that they:

- (a) are a member of a foreign armed force;
- (b) have been invited by:
 - (i) HM Forces to undergo training in the United Kingdom which HM Forces will provide; or
 - (ii) the Ministry of Defence to study, or become familiarised with military equipment being supplied by a firm in the United Kingdom;
- (c) will leave the United Kingdom after the period of training, study or familiarisation;
- (d) can provide evidence that they are able to maintain themselves and any dependants adequately in the United Kingdom without recourse to public funds;
- (e) can provide evidence that there will be adequate accommodation, without recourse to public funds, for themselves and any dependants in the United Kingdom, including any other dependants who are not included in the application but who will live in the same household in the United Kingdom, which the applicant and their dependants own or occupy exclusively: accommodation will not be regarded as adequate if:
 - (i) it is, or will be, overcrowded; or
 - (ii) it contravenes public health regulations.

LEAVE TO ENTER

56. Entry clearance and leave to enter as a member of an armed force not exempt from immigration control will be granted to an applicant who:

- (a) is outside the United Kingdom;
- (b) has made a valid application for entry clearance and leave to enter as a member of an armed force not exempt from immigration control;
- (c) does not fall to be refused on the grounds of suitability under paragraph 8 or 9; and
- (d) meets the general eligibility requirements in paragraph 55.

57. Entry clearance and leave to enter granted under paragraph 56 will be granted:

- (a) for whichever is the shorter period of:
 - (i) 4 years; and
 - (ii) the duration of the training, study or familiarisation; and

- (b) subject to the following conditions:
 - (i) no recourse to public funds; and
 - (ii) a prohibition on employment other than that for the purposes for which the applicant was granted leave to enter.

58. Entry clearance and leave to enter granted under paragraph 56 may be granted subject to the conditions in paragraph 57(b) for an additional period of 3 months beyond the end of the training, study or familiarisation where:

- (a) such leave is required in order to enable the applicant to meet third country transit regulations which require passengers to have 3 months' extant leave in the United Kingdom;
- (b) travel to the third country forms part of the training, study or familiarisation; and
- (c) the total period of leave granted does not exceed 4 years.

LEAVE TO REMAIN

59. Limited leave to remain as a member of an armed force not exempt from immigration control will be granted to an applicant who:

- (a) is in the United Kingdom;
- (b) was last granted leave to enter or remain under paragraph 56 or 59 of this Appendix or under the concession which existed outside these Rules whereby the Secretary of State exercised her discretion to grant leave to enter or remain to members of armed forces who are not exempt from immigration control;
- (c) is not in breach of immigration laws, except that any period of overstaying for 28 days or less will be disregarded;
- (d) has made a valid application for leave to remain as a member of an armed force not exempt from immigration control;
- (e) does not fall to be refused on the grounds of suitability under paragraph 8 or 9; and
- (f) meets the general eligibility requirements in paragraph 55.

60. Limited leave to remain granted under paragraph 59 will be granted:

- (a) for whichever is the shorter period of:
 - (i) 4 years; or
 - (ii) the duration of the training, study or familiarisation; andprovided the total period of leave granted (including any leave granted under paragraph 57 or 59) does not exceed 4 years; and
- (b) subject to the following conditions:
 - (i) no recourse to public funds; and
 - (ii) a prohibition on employment other than that for the purposes for which the applicant was granted leave to remain.

61. Limited leave to remain granted under paragraph 59 may be granted subject to the conditions in paragraph 60(b) for an additional 3 months beyond the end of the training, study or familiarisation where:

- (a) such leave is required in order to enable the applicant to meet third country transit regulations which require passengers to have 3 months' extant leave in the United Kingdom;
- (b) travel to the third country forms part of the training, study or familiarisation; and
- (c) the total period of leave granted (including any leave granted under paragraph 57 or 59) does not exceed 4 years.

PART 10

DEPENDANTS OF NON-HM FORCES

GENERAL ELIGIBILITY REQUIREMENTS

62. The general eligibility requirements to be met by dependants of a member of non-HM Forces are that:
- (a) the applicant is sponsored by:
 - (i) a serving armed forces member who is exempt from immigration control under section 8(4)(b) or (c) of the Immigration Act 1971; or
 - (ii) a serving armed forces member who:
 - (aa) has leave to enter or remain under paragraph 56 or 59 of this Appendix or under any concession that existed outside these Rules whereby the Secretary of State exercised her discretion to grant leave to enter or remain to members of armed forces who are not exempt from immigration control; or
 - (bb) is being granted leave to enter or remain under paragraph 56 or 59 of this Appendix at the same time as the applicant;
 - (b) the applicant's sponsor is:
 - (i) the applicant's partner (except a fiancé(e) or proposed civil partner) where:
 - (aa) both parties are aged 18 or over;
 - (bb) both parties intend to live with the other during their stay in the United Kingdom; and
 - (cc) the relationship is genuine and subsisting; or
 - (ii) the applicant's parent and the applicant:
 - (aa) is not married or in a civil partnership;
 - (bb) has not formed an independent family unit; and
 - (cc) is not leading an independent life;
 - (c) the applicant must provide evidence that their partner or parent (as the case may be) is able to maintain and accommodate themselves, the applicant and any dependants adequately in the United Kingdom without recourse to public funds;
 - (d) the applicant must provide evidence that there will be adequate accommodation, without recourse to public funds, for the applicant, the applicant's sponsor and any other family members of the applicant, including other family members who are not included in the application but who will live in the same household, which the applicant, the applicant's sponsor and the other family members own or occupy exclusively: accommodation will not be regarded as adequate if-
 - (i) it is, or will be, overcrowded; or
 - (ii) it contravenes public health regulations; and
 - (e) the applicant intends to leave the United Kingdom at the end of their sponsor's period of posting, training, study or familiarisation in the United Kingdom.
63. Where the sponsor is the applicant's parent, the applicant must meet one of the following criteria:

- (a) their other parent must:
 - (i) also meet the criteria set out in paragraph 62(a)(i) or (ii); or
 - (ii) either:
 - (aa) have been granted leave to enter or remain as a partner in relation to that member of non-HM Forces under paragraph 56 or 59 of this Appendix or paragraph 276AE of these Rules or under any concession that existed outside these Rules whereby the Secretary of State exercised her discretion to grant leave to enter or remain to partners of non-exempt members of armed forces; or
 - (bb) be being granted leave to enter or remain under paragraph 56 or 59 at the same time as the applicant; or
 - (iii) have died; or
- (b) the parent they are joining in paragraph 62(a) has sole responsibility for their upbringing; or
- (c) there are serious and compelling family or other considerations which make the applicant's exclusion from the United Kingdom undesirable and suitable arrangements have been made for their care.

LEAVE TO ENTER

64. Entry clearance and leave to enter as the dependant of a member of non-HM Forces will be granted to an applicant who:

- (a) is outside the United Kingdom;
- (b) if the sponsor is the applicant's parent, was under 18 years of age at the date of application;
- (c) has made a valid application for entry clearance and leave to enter as the dependant of a member of non-HM Forces;
- (d) does not fall to be refused on the grounds of suitability under paragraph 8 or 9; and
- (e) meets the general eligibility requirements in paragraph 62 and where relevant one of the criteria in paragraph 63.

65. Entry clearance and leave to enter granted under paragraph 64 will be granted:

- (a) for whichever is the shorter period of:
 - (i) in respect of an application from the dependant of an armed forces member who is not exempt from immigration control, 4 years; or
 - (ii) in respect of an application from the dependant of an armed forces member who is exempt from immigration control under section 8(4)(b) or (c) of the Immigration Act 1971, 5 years; and
 - (iii) the duration of the sponsor's period of posting, training, study or familiarisation in the United Kingdom; and
- (b) subject to the following conditions:
 - (i) no recourse to public funds; and

- (ii) in respect of applications from dependants of armed forces members who are not exempt from immigration control and are being granted leave to enter for less than 6 months, a prohibition on employment.

LEAVE TO REMAIN

66. Leave to remain as the dependant of a member of non-HM Forces will be granted to an applicant who:

- (a) is in the United Kingdom;
- (b) if the sponsor is the applicant's parent:
 - (i) was under 18 years of age at the date of application; or
 - (ii) was aged 18 or over at the date of application and was last granted leave to remain as a dependant in relation to that member of non-HM Forces under paragraph 64 or 66 of this Appendix or paragraph 276AH of these Rules or under any concession that existed outside these Rules whereby the Secretary of State exercised her discretion to grant leave to enter or remain to children of non-exempt members of armed forces;
- (c) is not in breach of immigration laws, except that any period of overstaying for 28 days or less will be disregarded;
- (d) has made a valid application for leave to remain as the dependant of a member of non-HM Forces;
- (e) does not fall to be refused on the grounds of suitability under paragraph 8 or 9; and
- (f) meets the general eligibility requirements in paragraph 62 and where relevant one of the criteria in paragraph 63.

67. Leave to remain granted under paragraph 66 will be granted:

- (a) for whichever is the shorter period of:
 - (i) in respect of an application from the dependant of an armed forces member who is not exempt from immigration control, 4 years; or
 - (ii) in respect of an application from the dependant of an armed forces member who is exempt from immigration control under section 8(4)(b) or (c) of the Immigration Act 1971, 5 years; or
 - (iii) the duration of the sponsor's posting, training, study or familiarisation; and
- (b) subject to the following conditions:
 - (i) no recourse to public funds; and
 - (ii) in respect of applications from dependants of armed forces members who are not exempt from immigration control and are being granted leave to remain for less than 6 months, a prohibition on employment.

PART 11

ENGLISH LANGUAGE REQUIREMENT

MEETING THE ENGLISH LANGUAGE REQUIREMENT IN APPLICATIONS FOR LEAVE TO ENTER OR REMAIN

68. Where an English language requirement applies to an application for leave to enter or remain made by a partner under this Appendix, and if the applicant has not met the requirement in a previous application for leave as a partner, the applicant must provide specified evidence set out in Appendix FM-SE and Appendix O that they:

- (a) are a national of a majority English speaking country listed in paragraph 70 of this Part;
- (b) have passed an English language test in speaking and listening at a minimum of level A1 of the Common European Framework of Reference for Languages with a provider approved by the Secretary of State;
- (c) have an academic qualification recognised by UK NARIC to be equivalent to the standard of a Bachelor's or Master's degree or PhD in the UK, which was taught in English; or
- (d) are exempt from the English language requirement under paragraph 69 of this Part.

EXEMPTIONS FROM THE ENGLISH LANGUAGE REQUIREMENT

69. The applicant is exempt from the English language requirement if at the date of application:

- (a) the applicant is aged 65 or over;
- (b) the applicant has a disability (physical or mental condition) which prevents the applicant from meeting the requirement; or
- (c) there are exceptional circumstances which prevent the applicant from being able to meet the requirement, which for an application for entry clearance is prior to entry to the UK.

MAJORITY ENGLISH SPEAKING COUNTRIES

70. For the purposes of paragraph 68(a) of this Part the applicant must be a national of :

Antigua and Barbuda,
Australia,
the Bahamas,
Barbados,
Belize,
Canada,
Dominica,
Grenada,
Guyana,
Jamaica,

New Zealand,
St Kitts and Nevis,
St Lucia,
St Vincent and the Grenadines,
Trinidad and Tobago, or
the United States of America.

PART 12

FINANCIAL REQUIREMENTS

This Part applies where the financial requirements in Part 12 must be met in an application for leave to enter or remain made under this Appendix by a partner or child of a member of HM Forces. Paragraphs A. to 21 of Appendix FM-SE to these Rules apply to applications to which this Part applies. References in this Part to the applicant's parent or the applicant's parent's partner relate only to applications made by a child under this Appendix. References in this Part to a partner or to the applicant's partner do not refer to the partner of a child making an application under this Appendix.

FINANCIAL REQUIREMENTS FOR APPLICATIONS FOR LEAVE TO ENTER

71. The applicant must provide specified evidence, from the sources listed in paragraph 73, of:

- (a) a specified gross annual income of at least:
 - (i) £18,600;
 - (ii) an additional £3,800 for the first child; and
 - (iii) an additional £2,400 for each additional child; alone or in combination with
- (b) specified savings of:
 - (i) £16,000; and
 - (ii) additional savings of an amount equivalent to the difference – multiplied by the length in years of the period of limited leave for which the applicant has applied – between the gross annual income from the sources listed in paragraph 73(a)-(f) and the total amount required under paragraph 71(a); or
- (c) the requirements in paragraph 74 are met.

72. In paragraph 71 “child” means a dependent child of the applicant or of the applicant's parent who is:

- (a) under the age of 18 years, or who was under the age of 18 years when they were first granted entry under this route;
- (b) applying for entry clearance or has limited leave to enter or remain in the United Kingdom under this Appendix;
- (c) not a British Citizen or settled in the United Kingdom; and
- (d) not an EEA national with a right to be admitted under the Immigration (EEA) Regulations 2006.

73. When determining whether the financial requirements in paragraph 71 are met only the following sources will be taken into account:

- (a) income of the applicant's partner or the applicant's parent's partner from specified employment or self-employment, which, in respect of a partner (or applicant's parent's partner) returning to the United Kingdom with the applicant, can include specified employment or self-employment overseas and in the United Kingdom;

- (b) income of the applicant's parent from specified employment or self-employment if they are in the United Kingdom unless they are working illegally;
- (c) specified pension income of the applicant and their partner or of the applicant's parent and that parent's partner;
- (d) any specified maternity allowance or bereavement benefit in the UK, or any specified benefit relating to service in HM Forces, received by the applicant and their partner or by the applicant's parent and that parent's partner;
- (e) other specified income of the applicant and their partner or of the applicant's parent and that parent's partner; and
- (f) income from the sources at sub-paragraphs (b), (d) and (e) of a dependent child of the applicant or the applicant's parent under paragraph 72 who is aged 18 or over; and
- (g) specified savings of the applicant and their partner; or of the applicant's parent and that parent's partner; or of a dependent child of the applicant or the applicant's parent under paragraph 72 who is aged 18 or over.

74. The requirements to be met under this paragraph are:

(a) the applicant's partner or the applicant's parent's partner must be receiving one or more of the following:

- (i) Disability Living Allowance;
- (ii) Severe Disablement Allowance;
- (iii) Industrial Injury Disablement Benefit;
- (iv) Attendance Allowance;
- (v) Carer's Allowance;
- (vi) Personal Independence Payment;
- (vii) Armed Forces Independence Payment or Guaranteed Income Payment under the Armed Forces Compensation Scheme; or
- (viii) Constant Attendance Allowance, Mobility Supplement or War Disablement Pension under the War Pensions Scheme; and

(b) the applicant must provide evidence that their partner (or their parent's partner) is able to maintain and accommodate themselves, the applicant (and their parent) and any dependants adequately in the UK without recourse to public funds.

75. The applicant must provide evidence that there will be adequate accommodation, without recourse to public funds, for the family, including other family members who are not included in the application but who live in the same household, which the family own or occupy exclusively: accommodation will not be regarded as adequate if:

- (a) it is, or will be, overcrowded; or
- (b) it contravenes public health regulations.

FINANCIAL REQUIREMENTS FOR APPLICATIONS FOR LEAVE TO REMAIN

76. The applicant must provide specified evidence, from the sources listed in paragraph 78, of:

- (a) a specified gross annual income of at least:
 - (i) £18,600;
 - (ii) an additional £3,800 for the first child; and
 - (iii) an additional £2,400 for each additional child; alone or in combination with
- (b) specified savings of:
 - (i) £16,000; and
 - (ii) additional savings of an amount equivalent to the difference – multiplied by the length in years of any period of limited leave for which the applicant has applied – between the gross annual income from the sources listed in paragraph 78(a)-(f) and the total amount required under paragraph 76(a); or
- (c) the requirements in paragraph 79 are met.

77. In paragraph 76, “child” means a dependent child of the applicant or of the applicant’s parent who is:

- (a) under the age of 18 years, or who was under the age of 18 years when they were first granted entry under this route;
- (b) applying for entry clearance or is in the United Kingdom;
- (c) not a British Citizen or settled in the United Kingdom; and
- (d) not an EEA national with a right to remain in the United Kingdom under the Immigration (EEA) Regulations 2006.

78. When determining whether the financial requirements in paragraph 76 are met only the following sources may be taken into account:

- (a) income of the applicant’s partner or of the applicant’s parent’s partner from specified employment or self-employment;
- (b) income of the applicant (where aged 18 or over) or of the applicant’s parent from specified employment or self-employment unless they are working illegally;
- (c) specified pension income of the applicant and their partner or of the applicant’s parent and that parent’s partner;
- (d) any specified maternity allowance or bereavement benefit in the UK, or any specified benefit relating to service in HM Forces, received by the applicant or their partner or by the applicant’s parent and that parent’s partner;
- (e) other specified income of the applicant and their partner or of the applicant’s parent and that parent’s partner;
- (f) income from the sources at sub-paragraphs (b), (d) or (e) of a dependent child of the applicant or their parent under paragraph 77 who is aged 18 years or over; and
- (g) specified savings of the applicant and their partner; of the applicant’s parent and that parent’s partner; or of a dependent child of the applicant or the applicant’s parent under paragraph 77 who is aged 18 or over.

79. The requirements to be met under this paragraph are:

- (a) the applicant's partner or the applicant’s parent’s partner must be receiving one or more of the following:
 - (i) Disability Living Allowance;

- (ii) Severe Disablement Allowance;
 - (iii) Industrial Injury Disablement Benefit;
 - (iv) Attendance Allowance;
 - (v) Carer's Allowance;
 - (vi) Personal Independence Payment;
 - (vii) Armed Forces Independence Payment or Guaranteed Income Payment under the Armed Forces Compensation Scheme; or
 - (viii) Constant Attendance Allowance, Mobility Supplement or War Disablement Pension under the War Pensions Scheme; and
- (b) the applicant must provide evidence that their partner (or their parent's partner) is able to maintain and accommodate themselves, the applicant (and their parent) and any dependants adequately in the UK without recourse to public funds.

80. The applicant must provide evidence that there will be adequate accommodation, without recourse to public funds, for the family, including other family members who are not included in the application but who live in the same household, which the family own or occupy exclusively: accommodation will not be regarded as adequate if:

- (a) it is, or will be, overcrowded; or
- (b) it contravenes public health regulations.”

- 20. In Appendix FM in paragraph S-EC.1.3. delete “at the date of application” and substitute “currently”.
- 21. In Appendix FM in paragraph S-EC.1.8. delete “section 134 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012” and substitute “section 22 of the Criminal Justice Act 2003”.
- 22. In Appendix FM in paragraph S-EC.2.5.(a) delete “within the 12 months preceding the date of the application,” and substitute “within the 12 months prior to the date on which the application is decided,”.
- 23. In Appendix FM in paragraph E-ECP.3.2.(c) after “in the UK” insert “or any specified payment relating to service in HM Forces received by the applicant or partner”.
- 24. In Appendix FM in paragraph E-ECP.3.3.(v) after “carer’s allowance;” delete “or”.
- 25. In Appendix FM in paragraph E-ECP. 3.3.(vi) after “personal independence payment;” delete “and”.
- 26. In Appendix FM after paragraph E-ECP.3.3.(vi) insert:
 - “(vii) Armed Forces Independence Payment or Guaranteed Income Payment under the Armed Forces Compensation Scheme; or
 - (viii) Constant Attendance Allowance, Mobility Supplement or War Disablement Pension under the War Pensions Scheme; and”.

27. In Appendix FM in paragraph S-LTR.1.2. delete “at the date of application” and substitute “currently”.
28. In Appendix FM in paragraph E-LTRP.3.2.(d) after “in the UK” insert “or any specified payment relating to service in HM Forces received by the applicant or partner”.
29. In Appendix FM in paragraph E-LTRP.3.3.(v) after “carer’s allowance;” delete “or”.
30. In Appendix FM in paragraph E-LTRP.3.3.(vi) after “personal independence payment;” delete “and”.
31. In Appendix FM after paragraph E-LTRP.3.3.(vi) insert:

“(vii) Armed Forces Independence Payment or Guaranteed Income Payment under the Armed Forces Compensation Scheme; or

(viii) Constant Attendance Allowance, Mobility Supplement or War Disablement Pension under the War Pensions Scheme; and”.
32. In Appendix FM in paragraph S-ILR.1.2. delete “at the date of application” and substitute “currently”.
33. In Appendix FM in paragraph S-ILR.1.6. after “24 months” delete “preceding the date of the application,” and substitute “prior to the date on which the application is decided,”.
34. In Appendix FM in paragraph E-ECC.2.2.(d) after “in the UK” insert “or any specified payment relating to service in HM Forces received by the applicant’s parent and that parent’s partner”.
35. In Appendix FM in paragraph E-ECC.2.3.(v) after “carer’s allowance;” delete “or”.
36. In Appendix FM in paragraph E-ECC.2.3.(vi) after “personal independence payment;” delete “and”.
37. In Appendix FM after paragraph E-ECC.2.3.(vi) insert:

“(vii) Armed Forces Independence Payment or Guaranteed Income Payment under the Armed Forces Compensation Scheme; or

(viii) Constant Attendance Allowance, Mobility Supplement or War Disablement Pension under the War Pensions Scheme; and”.
38. In Appendix FM in paragraph E-LTRC.2.2.(d) after “in the UK” insert “or any specified payment relating to service in HM Forces received by the applicant’s parent and that parent’s partner”.
39. In Appendix FM in paragraph E-LTRC.2.3.(v) after “carer’s allowance;” delete “or”.
40. In Appendix FM in paragraph E-LTRC.2.3.(vi) after “personal independence payment;” delete “and”.

41. In Appendix FM after paragraph E-LTRC.2.3.(vi) insert:
- “(vii) Armed Forces Independence Payment or Guaranteed Income Payment under the Armed Forces Compensation Scheme; or
- (viii) Constant Attendance Allowance, Mobility Supplement or War Disablement Pension under the War Pensions Scheme; and”.
42. In Appendix FM-SE in paragraph A after “contained in other rules” insert “, including Appendix Armed Forces,”.
43. In Appendix FM-SE in paragraph 10(e)(i)(1) after “or agency” insert “, including the Veterans Agency”.
44. In Appendix FM-SE after paragraph 10(e)(ii) insert:
- “(iii) For the purposes of sub-paragraph (i), War Disablement Pension, War Widow’s/Widower’s Pension and any other pension or equivalent payment for life made under the War Pensions Scheme, the Armed Forces Compensation Scheme or the Armed Forces Attributable Benefits Scheme may be treated as a pension, unless excluded under paragraph 21 of this Appendix.”.
45. In Appendix FM-SE after paragraph 10(f) insert:
- “(ff) Subject to paragraph 12, to evidence payments under the War Pensions Scheme, the Armed Forces Compensation Scheme or the Armed Forces Attributable Benefits Scheme which are not treated as a pension for the purposes of paragraph 10(e)(i):
- (i) Veterans Agency or Department for Work and Pensions documentation in the form of an award notification letter confirming the person or their partner is or was in receipt of the payment at the date of application.
- (ii) personal bank statements for the 12-month period prior to the date of application showing the income was paid into the person's account.”.
46. In Appendix FM-SE in paragraph 12 delete “the applicant’s partner” and substitute “a person”.
47. In Appendix FM-SE in paragraph 12 after “Personal Independence Payment,” insert “or Armed Forces Independence Payment or Guaranteed Income Payment under the Armed Forces Compensation Scheme or Constant Attendance Allowance, Mobility Supplement or War Disablement Pension under the War Pensions Scheme,”.
48. In Appendix FM-SE in paragraph 12(a) after “Department for Work and Pensions” insert “or Veterans Agency”.
49. In Appendix FM-SE in paragraph 12A(d) after “Department for Work and Pensions” insert “or other official”.
50. In Appendix FM –SE in paragraph 21 after sub-paragraph (c) insert

“(cc) Unemployability Allowance, Allowance for a Lowered Standard of Occupation and Invalidity Allowance under the War Pension Scheme.”.

51. In Appendix T Part 1- applicable countries before “ Bangladesh” insert “Afghanistan”.

52. In Appendix T Part 2 – list of screening clinics before “Bangladesh” insert:

“Afghanistan

IOM Kabul
Blossom Hospital Street
Koloala Pushta Road
Shahr-e-Now
Kabul”

**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
PRESENTED TO PARLIAMENT ON 8 NOVEMBER 2013 (HC 803)**

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Instrument

2.1 The purposes of these changes are:

- To make changes to the rules for non-European Economic Area (non-EEA) nationality family members of HM Forces seeking to enter or stay in the United Kingdom.
- To incorporate into the rules for foreign or Commonwealth members of HM Forces applying for leave on discharge, existing discretionary policies on granting leave to those who are medically discharged.
- To create separate rules for the dependants of visiting forces who are themselves exempt from immigration control.
- To incorporate into the rules the existing discretionary policy for foreign armed forces who are not exempt from immigration control and their dependants.
- To amend the family Immigration Rules in Appendix FM and Appendix FM-SE to include certain benefits payable to members of HM Forces, discharged service personnel and surviving dependants.
- To make other minor updates and corrections.

3. Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments

3.1 The Committee is invited to note that that amended guidance on armed forces applications will be published on the Home Office website at www.ukba.homeoffice.gov.uk/ on implementation.

4. Legislative Context

4.1 The Immigration Rules, as laid before Parliament by the Home Secretary, constitute a statement of practice to be followed in the administration of the Immigration Act 1971 for regulating entry into, and stay of persons in, the United Kingdom.

4.2 This Statement of Changes in Immigration Rules will be incorporated into a consolidated version of the Immigration Rules, which can be found under the 'Policy and Law' page at www.ukba.homeoffice.gov.uk/, where there are also copies of all the Statements of Changes in Immigration Rules issued since May 2003.

4.3 The changes set out in this Statement take effect on 1 December 2013.

4.4 The changes set out in paragraphs 1-9, 15-16, 22-26, 28-31 and 33-50 shall apply to all applications decided on or after 1 December 2013. Otherwise, if an application is made before 1 December 2013 and the application has not been decided before that date, it will be decided in accordance with the rules in force on 30 November 2013.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As this Statement of Changes in the Immigration Rules is subject to a negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

What is being done and why

7.1 A summary of the policy changes contained in this Statement of Changes in Immigration Rules follows:

Changes to the rules relating to family members of HM Forces

7.2 Changes to the Immigration Rules affecting non-EEA nationality family members of British citizens and persons settled here were implemented on 9 July 2012 as part of the Government's programme of immigration reform. Those changes aimed to ensure that non-EEA family members seeking to live in the UK will not become a burden on the taxpayer and will be able to integrate effectively in British society. The resulting Immigration Rules are contained in Appendix FM and Appendix FM-SE.

7.3 Under temporary transitional arrangements, non-EEA family members of British citizens serving in HM Forces were exempted from the family Immigration Rule changes, pending a review of the rules affecting all non-EEA dependants of HM Forces personnel, including family members of foreign or Commonwealth citizens serving in HM Forces. That review has now taken place and its conclusions were announced to Parliament in a Written Ministerial Statement on 4 July 2013, which was accompanied by a Statement of Intent (www.gov.uk/government/publications/armed-forces-family-migration-statement-of-intent). This Statement of Changes gives effect to the Government's policy as set out in that Statement of Intent. The new rules for family members of HM Forces comprise a single set of requirements (Appendix Armed Forces) covering the non-EEA family members of British service personnel and also the families of foreign or Commonwealth citizens serving in HM Forces (including Gurkhas discharged since 1 July 1997).

7.4 The new rules bring together the requirements for categories of person currently dealt with under Parts 7 and 8 of the Immigration Rules and are intended to align the treatment of non-EEA family members of service personnel with the general approach to family immigration. At the same time they aim, so far as possible and appropriate, to treat all non-EEA dependants of service personnel in the same way, irrespective of the immigration status of the sponsor. They also make special arrangements, in certain respects, to cater for the situations brought about by overseas postings which are a feature of service life.

7.5 With effect from 1 December 2013 (subject to transitional arrangements), the following rules will apply:

- Service personnel who wish to sponsor their non-EEA dependants to enter or stay in the UK must meet a minimum income threshold of £18,600 for a partner, £22,400 for a partner and child and £2,400 for each additional child. Following the High Court's judgment in the case of *MM and others* and in line with the approach currently taken in respect of applications under Appendix FM, applications which fall to be refused solely because the income threshold is not met will be placed on hold until *MM and others* is determined finally by the courts. As a result of the transitional arrangements in Appendix Armed Forces, the impact on armed forces cases is expected to be slight.
- A basic English language requirement will apply to all non-EEA partners of members of HM Forces seeking to enter or stay in the UK.
- Non-EEA partners of British or foreign or Commonwealth citizens serving in HM Forces will serve a five year probationary period before being eligible to apply for settlement (indefinite leave to enter or remain).
- To qualify for settlement, non-EEA partners and children between the ages of 18 and 65 will have to demonstrate their knowledge of language and life in the UK in accordance with the provisions set out in Appendix KOLL to the Rules. This will involve passing the Life in the UK test and holding an intermediate level English language speaking and listening qualification. This requirement was introduced for dependants of British citizens (including of British citizens serving in HM Forces) on 28 October 2013 (see HC 628) and will apply to dependants of foreign or Commonwealth citizens serving in HM Forces from 1 December.

7.6 The new rules take account of the principles set out in the Armed Forces Covenant, which states that service personnel and their families should face no disadvantage as a result of service. Accordingly, Appendix Armed Forces incorporates the following provisions specifically designed to accommodate overseas postings:

- There will be greater flexibility to make applications overseas.
- The duration of a settlement visa is being extended to five years to enable a dependant to apply for settlement without having to renew their initial visa.
- Time spent overseas on an accompanied posting will be regarded as time spent in the UK for the purpose of calculating the residence required for settlement.

7.7 The new Appendix Armed Forces also removes some further anomalies and practical obstacles inherent in the existing rules. Where a serving foreign or Commonwealth member of HM Forces naturalises as a British citizen, their family will be able to continue to progress to settlement; they will no longer need to switch immigration route because their sponsor's immigration status has changed. Bereaved non-EEA partners of foreign or Commonwealth citizens serving in HM Forces will be treated in the same way as bereaved partners of British personnel and will be able to apply for settlement immediately if the sponsor dies in service, even if the death is not directly attributable to service. In addition, partners of foreign or Commonwealth personnel will be able to apply for settlement under these rules if their

relationship breaks down owing to domestic violence and their sponsor had served sufficient time to qualify for settlement (i.e. four years). The latter is a change to the policy published in the Statement of Intent, following representations from Forces welfare organisations.

7.8 Transitional arrangements will apply to family members who already hold valid leave as a dependant of a service person, and special provision will be made for those who fall to be dealt with under the new rules only because they were on an accompanied posting overseas which prevented them from submitting an application before 1 December 2013. In some cases this may involve granting leave outside the rules. Further detail is included in the statement of intent, which is available at: www.gov.uk/government/publications/armed-forces-family-migration-statement-of-intent.

Changes to the rules relating to foreign or Commonwealth members of HM Forces

7.9 The requirements for entry or stay in the UK as a foreign or Commonwealth citizen who is being discharged from HM Forces are unchanged. However, the current discretionary policy whereby an individual who has completed insufficient service to qualify for settlement on discharge may be granted leave if he or she has been medically discharged as a result of illness or injury attributable to service is being incorporated into the Rules. Provision is being created for indefinite or limited leave to be granted depending on the circumstances and severity of the illness or injury.

Changes to the rules relating to other armed forces

7.10 The new Appendix Armed Forces also makes provision for the dependants of visiting forces who are themselves exempt from immigration control under section 8(4)(b) or (c) of the Immigration Act 1971. The provisions replicate the existing rules, with the exception that the maximum period of leave available to dependants of visiting forces exempt from immigration control will increase from four years to five, for administrative and customer convenience.

7.11 Provision is also being made to enable members of foreign forces not exempt from immigration control, and their dependants, to apply to enter or stay in the UK. This includes foreign armed forces who are invited to the UK to train with HM Forces or to familiarise themselves with defence equipment under the supervision of the Ministry of Defence. The provisions replicate existing discretionary policies.

Changes relating to the family Immigration Rules (Appendix FM and Appendix FM-SE)

7.12 Changes to the family Immigration Rules in Appendix FM and Appendix FM-SE will enable specified benefits and pensions received by HM Forces, discharged personnel and surviving dependants to be taken into account when assessing the financial requirement. Further technical amendments will also ensure that the definition of ‘leading an independent life’ (for child applicants) and ‘intending to live together permanently’ (for partners) work in relation to the new rules in Appendix Armed Forces.

Minor updates and clarifications

7.13 The statement of changes also contains the following minor and technical changes:

- To clarify that child visitors may not study at state schools.
- To make clear that the private life rule in paragraph 276ADE, which provides for leave to be granted to an applicant who has been in the UK for less than 20 years but has no ties (including social, cultural or family) with the country to which they would have to go if required to leave the UK, cannot be relied upon to prevent removal to a safe third country under the Dublin Regulation.
- To amend the way in which, in considering suitability under Appendix FM and Appendix Armed Forces or when considering other applications under the General Grounds for Refusal, we calculate the period since a non-custodial sentence or out-of-court disposal was received: the timescales remain unchanged, but we will now count back from the date of decision rather than the date of application. This will provide greater flexibility for applicants as they will not need to wait until the precise point in time since that sentence or disposal was given before they make their application. Equally, it will mean that, where a person is given such a sentence or disposal while their application is being decided, it will not be overlooked.
- To make clear that the person must not be the subject of a deportation order on the date their application is decided. This ensures that those who have had a deportation order made between the time of application and date of decision cannot make a successful application and, conversely, those who have a deportation order revoked in this timeframe are not refused on this basis.
- To make a technical correction to the provision under which a conditional caution is issued to relevant foreign nationals.
- To correct a typographical error in Appendix 1, which relates to Commonwealth Games Family Members.
- To change the Immigration Rules for TB screening incorporating compulsory screening for active pulmonary tuberculosis for migrants coming to the UK for over six months from an additional specified country, namely Afghanistan.

8. Consultation

8.1 The Secretary of State consulted publicly on changes to family migration in 2011. A summary of the responses to the consultation “Family Migration – a Consultation” is available on the Home Office website at www.ukba.homeoffice.gov.uk. Following the consultation, the Government published a Statement of Intent on family migration in June 2012 (www.ukba.homeoffice.gov.uk/sitecontent/documents/news/soi-fam-mig.pdf). In that document, it stated that non-EEA family members of HM Forces would be unaffected by family immigration changes pending a review of the Armed Forces Rules. A review took place in collaboration with the Ministry of Defence and Forces welfare organisations were kept informed as proposals developed. A Statement of Intent was published on 4 July 2013 (www.gov.uk/government/publications/armed-forces-family-migration-statement-of-intent). The new Armed Forces Rules have been shared in draft with the Immigration Law Practitioners’ Association and Forces welfare organisations.

9. Guidance

9.1 Information on all the changes set out in this Statement of Changes will be made available to migrants, sponsors and Home Office staff, through updates to websites and guidance.

10. Impact

10.1 Notwithstanding the cumulative impact which changes in the Immigration Rules may have, there is limited or no impact on business, charities, the public sector or voluntary bodies arising from the specific changes contained in this Statement of Changes such that an impact assessment is unnecessary.

11. Regulating small business

11.1 These changes will not affect small businesses.

12. Monitoring and review

12.1 The review clauses at the beginning of this Statement of Changes require the Secretary of State to review the operation and effect of all of the relevant Immigration Rules, including any Rules amended or added by the changes in this Statement and lay a report before Parliament within five years of 6 April 2012 and within every five years after that. Following each review, the Secretary of State will decide whether the relevant Immigration Rules should remain as they are, be revoked or be amended. A further Statement of Changes would be needed to revoke or amend the relevant Rules.

13. Contact

13.1 Queries specifically relating to this Statement of Changes should be directed to StatementofChanges@homeoffice.gsi.gov.uk. Please note that this mailbox is only for Parliamentary use and specific technical queries regarding the drafting of this Statement of Changes. It is not a contact point for general enquiries. Queries to this e-mail address from outside Parliament about other immigration issues, including how these changes affect applications, will not receive a response.

13.2 Other queries, including general queries and queries relating to individual cases, should be directed to the UK Visas and Immigration enquiry bureau on 0870 606 7766, or as per the Contact page on the Home Office website at www.ukba.homeoffice.gov.uk/contact/.

13.3 Queries arising from changes to the Armed Forces rules only should be directed to armedforcesenquiries@homeoffice.gsi.gov.uk.

13.4 Queries specifically regarding tuberculosis screening should be addressed to: Richard Postill at the Home Office on 020 7035 4057 or Richard.Postill@homeoffice.gsi.gov.uk.

13.5 A copy of this Statement of Changes can be found on the Home Office website at www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/statementsofchanges/.



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ISBN 978-0-10-298714-0



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