

Immigration Costs for Armed Forces Personnel

Consultation

FOREWORD – FROM SECRETARY OF STATE FOR DEFENCE AND HOME SECRETARY



The United Kingdom (UK) has always valued the dedicated service of our friends from the Commonwealth and Nepal in our Armed Forces, working to keep our country safe. Every year, numerous applicants from these countries apply to join HM Armed Forces. Those who are successful serve with honour, prepared to pay the ultimate price in service to Her Majesty The Queen, often leaving their families and homes behind to do so.

When a non-UK¹ Service Person leaves the Armed Forces, providing they have served for a minimum of four years or have been discharged for medical reasons due to their service, they are eligible to apply for indefinite leave to remain or indefinite leave to enter (settlement) in the UK. If the individual is granted settlement, they are entitled to avail themselves of all the benefits which come with this, including the right to work and free access to the NHS.

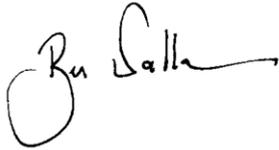
Usually, people from other countries seeking to move to the UK must apply and pay a fee to enter the UK, then later apply and pay a fee to remain in the UK, before finally making their application for settlement after five years. However, there are specific Immigration Rules for Armed Forces Personnel and their families². These Rules mean that non-UK Service Personnel are exempted from immigration control during their military service and, should they choose to settle in the UK, are only required to pay a single fee once they leave the Armed Forces.

As a nation we owe a huge debt of gratitude to all those who serve in our Armed Forces. Whilst the specific Immigration Rules recognise the service and commitment that non-UK Service Personnel make to our nation by providing a straightforward route to

¹ Throughout this document non-UK does not include Irish citizens as, by virtue of the Immigration Act, Irish citizens are free to enter and remain in the UK without restriction.

² <https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-armed-forces>

settlement in the UK, the current system does place a financial liability on them. That is why we have asked officials to consider a proposal which would ease the financial liability of immigration fees for Service Personnel who meet the normal eligibility criteria and have served at least 12 years should they decide to transition to civilian life in the UK. This public consultation sets out the proposal in more detail. We welcome the views and comments of anyone with an interest in this proposal.

A handwritten signature in black ink, appearing to read "Ben Wallace".

The Rt Hon Ben Wallace MP
Secretary of State for Defence

A handwritten signature in blue ink, appearing to read "P. Patel".

The Rt Hon Priti Patel MP
Home Secretary

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SECTION ONE: OVERVIEW

Introduction

1. There are currently c.9000 non-UK personnel serving in HM Armed Forces. Approximately 500³ non-UK Service Personnel leave the Armed Forces every year. To ease their transition to civilian life, non-UK citizens who are members of HM Armed Forces may apply for settlement in the UK, up to 18 weeks before their discharge⁴. This allows for the Home Office to conclude their application on or as near to the day of their discharge as possible. They are then granted a further 28 days leave after their date of discharge to either regularise their immigration status or leave the UK. We have no reason to believe that the vast majority of personnel do not comply with these requirements.

2. Non-UK Service Personnel choosing to stay in the UK must regularise their immigration status to be able to continue to live, work, gain access to the NHS free of charge and, also, if needed, to claim benefits. Those who choose to stay in the UK can apply for settlement and pay a fee. The current standard fee for each individual is £2,389⁵. If the individual chooses to leave the UK at this point, but later wishes to return, they have two years from their date of discharge to apply for indefinite leave to enter (this is the same as indefinite leave to remain but is applied for when outside of the UK).

3. Through their service in the Armed Forces, these individuals show a commitment, loyalty and dedication to the defence of our nation, and the values we treasure. This service can come at a very high cost to them and their families and can sometimes lead to them making the ultimate sacrifice for the freedoms we enjoy. We would therefore like to explore options whereby the UK Government (UKG) could relieve non-UK Service Personnel of the financial liability of visa fees when their service is complete, and they transition to civilian life. This consultation sets out a proposal to do this and seeks views from the public on that proposal.

4. We acknowledge that service in the Armed Forces is not the only way in which individuals from overseas contribute to the public life of the UK, bringing with them a wealth of skills and cultural diversity. However, we believe that the service offered by those who choose to join our Armed Forces, accepting the possibility that they could be called upon to lay down their life in the service of the UK, is sufficiently different that it is right that their contribution should be marked in this way.

³ 2080 non-UK personnel have left the Armed Forces (an average of 520 a year) between 2016 and 2019.

⁴ Non-UK citizens who are members of the HM Armed Forces have been able to apply for settlement in the UK up to 10 weeks before their discharge. Agreement has been reached between the MOD and the Home Office to extend this to 18 weeks before their discharge. Amendments to MOD and Home Office guidance will be made as soon as possible.

⁵ Priority service is available for an additional charge.

5. Anecdotally, we are aware that some individuals are unable to meet this financial liability or choose not to do so, and, so, whilst they may not leave the UK, they are then not entitled to the benefits which come through holding valid leave to be in the UK. This scheme would support Service Personnel who wish to remain in the UK after service to gain valid leave and continue their contribution to British society through work and full participation within their communities.

6. Any solution would apply to serving members of HM Regular Armed Forces who meet the eligibility criteria set out in the Immigration Rules. In line with normal UKG policy, the proposed change would not apply retrospectively and there would be no reimbursement of immigration fees already paid. The scheme would begin during Financial Year 2021/22.⁶

7. The proposal would be for UKG to waive the fee charged for a settlement application for those who have completed their initial engagement period of 12 years. The Immigration Rules suitability requirements for settlement in the UK will remain unchanged.

8. Defence and immigration are reserved matters and any proposal will apply across the UK.

9. Families of Armed Forces personnel are able to apply for settlement once they have completed an initial five-year period in the UK of limited leave. The fees and suitability requirements are aligned with all other family routes under the Immigration Rules.

⁶ Financial Year throughout this document refers to the accounting period running from 01 April for 12 months.

About this consultation

Purpose

10. The Ministry of Defence (MOD) and Home Office have agreed a proposal to relieve non-UK Service Personnel who meet certain criteria from the financial liability they face when applying to regularise their status at the end of their service.

11. The UKG is seeking views on these proposals and specifically on the matters covered by this consultation from all interested parties, individuals and groups from across the UK.

12. This consultation therefore invites people to answer a number of questions in relation to the proposals. These questions are posed throughout the document. A complete list of questions can be found at the end of the consultation document.

Consultation scope

13. This consultation applies to all of the UK.

Timetable

14. The consultation closes to responses at 11:59 pm on 7 July.

Responding to the consultation

15. The UKG would welcome feedback from anyone with an interest or view on this proposal. This can be provided by addressing the specific questions listed throughout the consultation document and set out on page 11.

16. Our preferred method of receiving your response is by our electronic consultation survey **Immigration Fees Public Consultation** which can be found at the following address: <https://www.surveys.mod.uk>

17. If you are unable to complete the online survey, you may complete the response form found at Annex A of this consultation document. If possible, we would be grateful for this form to be returned to us electronically as an email attachment. The email address for responses or queries is: ArmySec-ImmFees-Consult-Multi@mod.gov.uk

18. Given the ongoing constraints related to the Covid-19 pandemic, we strongly recommend that responses are sent electronically wherever possible. Postal responses using the form at the end of this document can be sent to:

MOD Immigration Fee Consultation
Army Policy & Secretariat
Army Headquarters
IDL 24
Blenheim Building
Marlborough Lines
ANDOVER
SP11 8HJ

19. When responding, please state whether you are doing so as an individual or representing the views of an organisation. If you are responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

20. A hard copy of this consultation document, and the corresponding response form is available on request, using the email address provided above.

Consultation Principles

21. This consultation is being conducted in line with Cabinet Office consultation principles published in March 2018. These principles give clear guidance to government departments on conducting public consultations. If you have any comments about the consultation process (as opposed to comments about the issues we are consulting on), including if you feel that consultation does not adhere to the values expressed in the consultation principles or that the process could be improved, please respond to the address provided in the Executive Summary. A copy of the principles can be found online at: <https://www.gov.uk/government/publications/consultation-principles-guidance>

Equality

22. An Equality Impact Assessment to support this consultation has been prepared.

Freedom of Information and Data Protection

23. Information provided during this consultation, including personal information, may be published or disclosed in accordance with access to information regimes, primarily the Freedom of Information Act 2000 and the Data Protection Act 2018. If you want the information you provide to be treated confidentially, please be aware that, in accordance with the Freedom of Information Act, public authorities are required to comply with a statutory code of practice which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you wish that information to be treated confidentially. If we receive a request for disclosure of that

information, we will take account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances.

24. We will process your personal data in accordance with the Data Protection Act 2018 (and the General Data Protection Regulation) and, in most circumstances, this will mean that your personal data will not be disclosed to third parties. Details of the MOD's Personal Information Charter can be found at:

<https://www.gov.uk/government/organisations/ministry-of-defence/about/personal-information-charter>

25. In some consultations, external analysts may be contracted for the purpose of response analysis. If external analysts are used with this consultation, the MOD may share information you provided in response to the consultation, including personal data, with a third party of contracted external analysts. The MOD is the data controller in respect of any personal data that you provide and the Information Charter, which sets out the standards you can expect in respect of the handling of your personal data, can be found at:

<https://www.gov.uk/government/organisations/ministry-of-defence/about/personal-information-charter>

Government response

26. A summary of responses to this consultation and details of the action that the Government will take, or has taken, will be published on the Government website at www.gov.uk.

27. The MOD will aim to publish this information within 12 weeks of the consultation closing date.

Structure of the consultation

Section 1 provides an overview of the consultation.

Section 2 sets out UKG proposals on a framework to relieve Service Personnel of the financial liability of applying to regularise their immigration status upon leaving the Armed Forces. There are six questions in relation to these proposals which respondents may wish to answer.

Section 3 provides the following supplementary information in relation to this consultation's proposals:

- Summary of consultation questions;
- Appendix Armed Forces of the Immigration Rules;
- Expert consultation - consultees.

Annex A - Response Form – only to be used for those who are not able to complete the online survey.

SECTION TWO: CONSULTATION PROPOSALS

The current immigration system for serving personnel

28. Non-UK citizens, including Gurkhas (from Nepal), serving in the Armed Forces are “exempt from immigration control status” upon enlistment under section 8(4) of the Immigration Act 1971. This exempt status is only valid for the duration of their regular service and is evidenced by means of a “vignette”, which is placed in their passport when they join.

29. These non-UK Service Personnel can apply for settlement in the UK upon discharge as long as they have served a minimum of four years and meet the requirements of the Immigration Rules. Separate arrangements exist for those who are medically discharged with less than four years’ service as a result of an illness or injury which is attributable to their Service. Applications for settlement can be made up to 18 weeks before discharge⁷ and cost £2,389 per person (Financial Year 2020/21). If the non-UK Service Person chooses to leave the UK after service but later seeks to return then they are eligible to apply for settlement up to two years following discharge provided they meet all other suitability requirements.

30. Most Commonwealth citizens can, if they choose to instead, apply to naturalise as British citizens while serving, using their time both in the UK and on overseas assignments towards the five-year UK residency criteria; something not currently offered to any other employment group. Becoming a British citizen removes the need to apply for settlement on discharge. Gurkhas are, however, required to remain Nepali citizens while in the Brigade of Gurkhas but can choose to naturalise if they transfer out of the Brigade to serve in the wider Armed Forces. Applications to naturalise whilst serving cost £1,330 per person (Financial Year 2020/21).

The Policy Proposal

31. We propose that the UKG will waive the cost of an application for settlement for non-UK Serving Personnel who wish to remain in the UK after they leave service and have served at least their initial engagement period of 12 years. UKG would not cover fees incurred through opting for a priority service, or applying for other visas, naturalisation fees etc.

32. The proposed scheme relates exclusively to those seeking settlement and who have served in the Regular Armed Forces. There is no intention to fund the fees payable by Armed Forces personnel who apply for naturalisation as British citizens

⁷ Non-UK citizens who are members of the HM Armed Forces have been able to apply for settlement in the UK up to 10 weeks before their discharge. Agreement has been reached between the MOD and the Home Office to extend this to 18 weeks before their discharge. Amendments to MOD and Home Office guidance will be made as soon as possible.

while serving or who choose to apply for naturalisation after they have had settled status for at least 12 months.

33. There is no intention to amend the Immigration Rules in relation to the eligibility requirements for non-UK Armed Forces personnel to apply for settlement so those who serve for less than 12 years can continue to apply in the same way they do now.

<p>1. Do you agree with the principle that UKG should, in some way, seek to alleviate the financial liability on non-UK nationals who have served in the Regular Armed Forces who wish to stay in the UK following their service?</p>	<p>Yes No Don't know</p>
<p>2. Do you agree that UKG should alleviate this liability by meeting the cost of settlement upon an individual's discharge from HM Armed Forces as long as they have served at least 12 years?</p>	<p>Yes No Don't know If No, then what would you suggest as an alternative</p>

34. To be eligible for this scheme, the non-UK Service Person would have served as a member of the Regular Armed Forces for a period of at least 12 years. This length of time is in line with a Service Person's initial engagement period (the length of time a service person initially signs up to serve)⁸ and takes account of the significant investment made in their skills and training. Those who have been medically discharged as a result of an illness or injury which is attributable to their service before they have completed 12 years' service would also be included in the proposal.

<p>3. Do you agree that this policy should apply to those who have served for at least 12 years in the Regular Armed Forces?</p>	<p>Yes No Don't know If you disagree, please state your view on a length of service requirement:</p> <ul style="list-style-type: none"> • No minimum • After serving at least 4 years • After serving at least 10 years • After serving at least 15 years • After serving at least 20 years
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⁸ An initial engagement period is for 12 years, this is not to be confused with a minimum engagement period which is four years which marks the point at which a service person can choose to leave.

<p>4. Do you agree that this policy should apply to those who have received a medical discharge as a result of an illness or injury which is attributable to their service no matter how long they have served?</p>	<p>Yes No Don't know If you disagree please state why:</p>
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35. If the non-UK Service Person was to leave the UK within 28 days of leaving the Armed Forces, but then seek to return to the UK within two years and meet all relevant criteria they would be eligible to have their fee for settlement met by UKG.

36. The proposal would come into force in Financial Year 2021/22.⁹ In line with normal UKG policy, this proposal would not apply retrospectively, and no reimbursement would be offered to those individuals who have already made applications for settlement.

<p>5. The UKG policy of non-retrospectivity¹⁰ means that this proposal would not apply to those who have made paid applications or had leave granted before a new policy is implemented. However, we understand that some veterans do not regularise their immigration status and we welcome your views on how we can support these veterans to do so.</p>	
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Families

37. The Immigration Rules for HM Armed Forces personnel and their family members, as set out in Appendix Armed Forces, were put in place following a review conducted by the Home Office and the MOD. This review concluded that these new Rules were not in breach of our cross-Government obligations under the Armed Forces Covenant, to which we remain firmly committed. The aim was to align the Rules for family members of HM Armed Forces personnel with the Rules that had been established for family members of British and settled persons in Appendix FM.

38. Non-UK family members of Armed Forces personnel, regardless of the service person's nationality, enter the UK on a five-year visa which currently costs £1,532 per person. To recognise the unique nature of their service, the provisions for family members under Appendix Armed Forces are more generous than under Appendix FM.

⁹ Subject to cross-government agreement.

¹⁰ The government policy of non-retrospectivity means no changes to policy are backdated.

Firstly, family members have a standard grant of limited leave for five years, rather than 30 months, meaning they do not need to renew their visa before being eligible for settlement, thus saving the cost of a second application. Secondly, they are exempt from payment of the Immigration Health Surcharge. Thirdly, any time spent overseas on an accompanied posting is regarded as time spent in the UK when calculating the five-year residency requirement for settlement. This allows family members to gain their own settled status before the service person leaves the Armed Forces.

39. Further support for families in planning for the cost of visa fees is provided by the Joining Forces Credit Union service for the Armed Forces. Launched under the Armed Forces Covenant in 2015, and backed by the MOD, this enables the Service Person to access savings and loan schemes at fair rates through the payroll scheme (so, direct from wages).

40. Arrangements are already in place to facilitate the visa and settlement route for spouses and dependent children, who are entitled to apply for settlement whilst their sponsor remains in service. We will continue to work with the Joining Forces Credit Unions to ensure that all Service Personnel and their families have access to advice and support when making applications.

41. The proposal does not currently extend to spouses/civil partners and dependent children who are bereaved through the death attributable to service (no matter how long the service person has served), whether the Service Person was a British citizen or not. However, we welcome views on whether this policy should be amended.

<p>6. Do you agree that the arrangements currently in place to support the dependants of Service Personnel in this area are sufficient?</p>	<p>Yes No Don't know If you disagree then what else do you think could be done?</p>
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SECTION THREE: SUPPLEMENTARY INFORMATION

Consultation questions

1. Do you agree with the principle that UKG should, in some way, seek to alleviate the financial liability on non-UK nationals who have served in the Regular Armed Forces who wish to stay in the UK following their service?
2. Do you agree that UKG should alleviate this liability by meeting the cost of settlement upon an individual's discharge from HM Armed Forces as long as they have served at least 12 years?
3. Do you agree that this policy should apply to those who have served for at least 12 years in the Regular Armed Forces?
4. Do you agree that this policy should apply to those who have received a medical discharge as a result of an illness or injury which is attributable to their service no matter how long they have served?
5. The UKG policy of non-retrospectivity means that this proposal would not apply to those who have made paid applications or had leave granted before a new policy is implemented. However, we understand that some veterans do not regularise their immigration status and we welcome your views on how we can support these veterans to do so.
6. Do you agree that the arrangements currently in place to support the dependants of Service Personnel in this area are sufficient?

Immigration Appendix

www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-armed-forces

Expert Consultation – Consultees

Confederation of Service Charities (COBSEO)
ABF the Soldiers Charity
The Royal British Legion
Legion Scotland
The Soldiers, Sailors and Airmen and Families Association
BLESMA, the Limbless Veterans
The three Forces Family Federations (Royal Air Force, Royal Navy and Army)
Veterans Aid
Help for Heroes
Gurkha Welfare Trust