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Home Office

# HM forces: partners and children: transitional arrangements

Version 2.0

Archived

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# About this guidance

This guidance tells you about the transitional arrangements put in place for HM forces personnel and their family members, on introduction of [Appendix Armed Forces](#) of the Immigration Rules, on 1 December 2013.

This guidance covers the following people:

- family members of discharged and serving HM forces personnel, who hold entry clearance or limited leave to remain as the partner or child of a member of HM forces under parts 7 or 8 of the Immigration Rules, originally issued before 30 November 2013
- those who applied for such leave before 1 December 2013
- adult dependant relatives, where the sponsor is a British or settled member of HM forces, including those who submitted applications before 1 December 2013, but had not been decided before that date

The following groups do **not** benefit from the transitional arrangements and must apply under Appendix Armed Forces:

- a member of HM forces who enlisted on or after 1 December 2013 and their partner or children
- the partner or children of a member of HM forces who did not hold (and had not applied for) leave to enter or remain under parts 7 or 8 of the Immigration Rules before 30 November 2013

Examples of this would be:

- because the relationship was established on or after 1 December 2013
- the partner or children were not accompanying the member of HM forces on an overseas posting (they had decided to remain in their country of origin)

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you, or you think that the guidance has factual errors, then email Armed Forces Policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance, then you can email the Guidance Rules and Forms team.

## Publication

Below is information on when this version of the guidance was published:

- version 2.0

- published for **Home Office staff on 28 December 2017**

## Changes from last version of this guidance

Minor update of routes to settlement and quick reference table to clarify status of HM forces sponsor and application type.

Transfer of guidance to new template.

Minor housekeeping changes.

### Related content

[Contents](#)

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# Definitions

This page explains some of the definitions used in HM forces and in this guidance.

## **The act**

This refers to the [Immigration Act 1971](#).

## **Transitional arrangements**

These are the arrangements put in place for family members of HM forces personnel on the introduction of [Appendix Armed Forces](#) to the Immigration Rules on 1 December 2013.

## **Discretionary leave**

This is a form of immigration leave granted because the family member does not meet the requirements of parts 7 or 8 of the Immigration Rules or those set out in Appendix Armed Forces.

## **Part 8**

This refers to the Immigration Rules that were in place prior to 1 December 2013 for family members of British nationals serving in HM forces.

## **Part 7**

This refers to the Immigration Rules that were in place prior to 1 December 2013 for family members of foreign or Commonwealth nationals serving in HM forces.

## **Related content**

[Contents](#)

## **Related external links**

[Immigration Rules Appendix Armed Forces](#)  
[Chapter 8: family members](#)

# Transitional arrangements: Immigration Rules

This page tells you about the relevant paragraphs of the Immigration Rules relating to the transitional arrangements for partners and children:

- paragraphs [276DI to 276DL of part 7](#) for the partner or child of a foreign or Commonwealth member of HM forces
- paragraphs [A277, A277A, A227B, A277C, A279 and A280\(a\), A280\(b\), A280\(d\) A280\(e\), A280\(f\) and A281 of part 8](#) for the partner or child or adult dependent relative of a member of HM forces who is British or settled (as appropriate, depending on the category and form of leave sought by each applicant)

A280(d) should be the first rule examined when considering what transitional arrangements apply to the family members of British and settled members of HM forces.

From 1 December 2013, [Appendix Armed Forces](#) applied to all applications to which paragraphs 276E to 276AI of part 7 applied on or before 30 November 2013, except where the provisions of 276E to 276AI are preserved and continue to apply in line with the transitional arrangements.

Entry clearance applications must be made on VAF (AF).

In-country applications must be submitted on either FLR (AF) or SET (AF).

## Related content

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# Transitional arrangements: eligibility

This page tells you when a partner or child of a serving member of HM forces is eligible to apply for leave under the transitional arrangements.

## Partner or child of a foreign or Commonwealth member of HM forces

An applicant may continue to apply under paragraphs [276R to 276AI](#) of part 7 of the Immigration Rules if their original grant of:

- entry clearance
- limited leave to enter
- limited leave to remain

under paragraphs 276R to 276AI, was granted before 1 December 2013, as a partner or child of a foreign or Commonwealth member of HM forces.

A partner, who had entry clearance or limited leave to enter or remain before 1 December 2013, must have extant leave when they make an application for indefinite leave to remain under paragraph 276U.

Paragraphs 276R to 276AI also apply where an application was made under those paragraphs before 1 December 2013, which had not been decided before that date.

The requirements to be met under paragraphs [276E to 276AI](#) may be modified or supplemented by the requirements in [Appendix Armed Forces](#) or [Appendix FM-SE](#).

## Partner or child of a British citizen in HM forces

The provisions of part 8 listed below apply to applications made in the period 9 July 2012 and ending on 30 November 2013. This includes:

- those that had not been decided before 1 December 2013, and which are not subject to any additional requirement listed in paragraph [A280\(b\)](#)
- those people who have made an application for entry clearance, leave to enter or remain as the fiancé or fiancée, 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

They also apply to those same family members of British or settled full-time members of HM forces who were granted entry clearance, limited leave to enter or remain under part 8 before 1 December 2013 and, where it is a requirement of part 8, that leave is extant.

An application made by a dependent relative of a British citizen or settled person who was a full-time member of HM forces on or before 30 November 2013 will be considered under the relevant paragraphs 317 to 319 which apply.

Paragraph [A280\(e\)](#) applies 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)
- has not yet applied for indefinite leave to remain

This includes application's relying on paragraph A280(e) made on or after 1 December 2013.

#### **Related content**

[Contents](#)

[Armed forces family rules changes - quick guide to routes to settlement](#)

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# Suitability requirements

This page tells you about the suitability requirements of paragraphs 8 and 9 of Appendix Armed Forces.

The suitability requirements of paragraphs 8 and 9 of [Appendix Armed Forces](#) and the following grounds for refusal: 320(3), 320(7B), 320(10), 320(11), 322(2), 322(3), 321(iii), 321 (4A) and 323(i) apply to all applications where the decision is made on or after 1 December 2013. This is regardless of whether the application is under Appendix Armed Forces, or parts 7 or 8 under the transitional arrangements.

## Genuineness guidance

Casework guidance setting out a list of criteria associated with genuine and subsisting relationships, and with non-genuine and non-subsisting relationships, applies to all applications for leave to enter or remain in the UK as a partner decided by the Home Office on or after 9 July 2012.

Applying this guidance to all applications makes sure that the assessment of whether a relationship is 'genuine and subsisting' is dealt with consistently. The Home Office consider 'subsisting' to include 'genuine' as required under part 8.

### Related content

[Contents](#)

### Related external links

[Immigration Act 1971](#)

# Naturalisation in service

This page tells you how to consider applications where a partner or child held leave as the dependant of a foreign or Commonwealth member of HM forces under part 7 of the Immigration Rules, and the sponsor has subsequently naturalised.

[Appendix Armed Forces](#) provides for family members of HM forces personnel to continue on their route to settlement in cases where the serving sponsor has naturalised in service.

The transitional arrangements allowed for the Home Office to anticipate this rule in relation to applications received before 1 December 2013. This means that partners who no longer qualify for settlement under [part 7 of the Immigration Rules](#), because their sponsor has naturalised in service, may continue on their route to settlement under part 7 of the Immigration Rules:

- where the sponsor has served for a continuous period of 5 years, settlement may be granted immediately
- where the sponsor has not yet completed 5 years' continuous service, further leave to remain under part 7 may be granted to allow the partner to apply for settlement under paragraph 276R or 276U in due course

Guidance relating to the transitional arrangements in paragraphs [A277](#), [A277A](#), [A227B](#), [A277C](#), [A279](#) and [A280\(a\)](#), [A280\(b\)](#), [A280\(e\)](#), [A280\(f\)](#) and [A281](#) for a partner or child of a full-time member of HM forces who is British or settled can be found in the part 8 transitional provisions guidance.

## Related content

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# Family members previously granted discretionary leave

This page tells you about family members of HM forces previously granted discretionary leave.

There are some examples of cases where the partner of a foreign or Commonwealth member of HM forces who held leave under [part 7 of the Immigration Rules](#) was later granted a period of discretionary leave (DL). For example, because their sponsor had subsequently naturalised and so their application for settlement therefore fell to be refused (whether the application was under part 7 or 8 of the Immigration Rules).

Had these applicants applied instead for limited leave under the Immigration Rules, some of them could by now have completed any required probationary period and qualified for settlement, if they met the requirements of the settlement rules.

The following action should be taken when a request for reconsideration or application is received:

- where the applicant was given one period of DL, they should be invited to submit an indefinite leave to remain (ILR) application under part 8 (they will need to meet the requirements for settlement under part 8, including KoLL) - payment of the settlement fee is required
- where the applicant had been given 2 periods of DL, but has not yet accrued a continuous period of 6 years in that route, they should be given the opportunity to meet the requirements for settlement under part 8 including KoLL and then granted ILR, if:
  - during that period, they potentially met the limited leave requirements of part 8 of the rules
  - the last grant of discretionary leave was given following an application for settlement, no fee will be charged
  - the last grant of discretionary leave was granted following an application for further leave to remain, the applicant will need to pay an additional fee in order to meet the appropriate settlement fee at the time of the original application

Where the applicant had been given one period of DL (3 years) and applies for limited leave for a further 3 years on this basis, they should be invited to vary their application to one for settlement. This should be under the category of the Immigration Rules in which they could potentially have been granted limited leave previously. For example, part 8 of the Immigration Rules. They must meet the requirements of the relevant rule (including the current KoLL requirement) and pay the additional fee.

## Related content

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# Armed forces family rules changes

This page provides information on applications submitted after 1 December 2013 from those who fall within the transitional arrangements.

## A quick guide to routes to settlement:

| Status of serving personnel                                                                                                                                                                                    | Status of dependant                                                                                 | Application options                                                                                                        | Requirements                                                                                                                                                                                                                                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| British (including naturalised in service), foreign and Commonwealth (including Gurkhas).                                                                                                                      | Has no leave under appendix AF (or has completed less than 5 years which started after 1 Dec 2013). | If overseas, apply for 5 year settlement visa on VAF (AF).<br><br>If in UK, apply for 5 years leave to remain on FLR (AF). | Basic level English language.<br><br>Minimum income threshold applies.<br><br>Where the requirements are not met, consideration will be given as to whether exceptional circumstances apply.                                                                          |
| British (including naturalised in service),<br><br>Foreign or Commonwealth (including Gurkhas) granted settlement on discharge under Appendix Armed Forces or within 2 years prior to dependant's application. | Has completed 5 years' leave under appendix AF which started after 1 Dec 2013.                      | If overseas, apply for settlement on VAF(AF).<br><br>If in UK, apply for settlement on SET(AF).                            | Applicants must evidence Knowledge of language and life in the UK (KoLL).<br><br>Minimum income threshold applies.<br><br>Further limited leave may be given instead of settlement if an applicant has a minor conviction or they fail to meet the KoLL requirements. |

| Status of serving personnel | Status of dependant | Application options            | Requirements         | Comments                   |
|-----------------------------|---------------------|--------------------------------|----------------------|----------------------------|
| Foreign and Commonwealth    | Has leave under     | On completion of current visa, | <b>Limited Leave</b> | Because the individual was |

| Status of serving personnel                                                   | Status of dependant                                                                        | Application options                                                                                                                                                                                                                                                                                                                                  | Requirements                                                                                                                                                                                                                                                                                                                                      | Comments                                                                                                                                                                                                                 |
|-------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| citizen (including Gurkhas).                                                  | paragraph 276AD of the Immigration Rules on 1 December 2013 (the old rules).               | <p>the next application will either be for further leave to enter or remain if sponsor has not completed 5 years' service or for settlement if sponsor has completed 5 years' service.</p> <p>Apply for leave to enter or indefinite leave to enter on VAF(AF).</p> <p>Leave to remain on FLR(AF).</p> <p>Indefinite leave to remain on SET(AF).</p> | <p>No language requirement or minimum income requirement. Sponsor is required to maintain and accommodate partner without recourse to public funds.</p> <p><b>Settlement</b><br/>Sponsor served 5 years and they have been in a relationship for 2 years.<br/>No minimum income threshold or knowledge of language and life in the UK (KoLL).</p> | on a route to settlement prior to the new measures coming into effect, they will continue to benefit from the old rules provided that there is no gap in leave prior to the next application.                            |
| British (including foreign and Commonwealth citizens naturalised in service). | Has leave under paragraph 281 of the Immigration Rules on 1 December 2013 (the old rules). | On completion of 2 year probationary visa apply for settlement on form SET(AF) 28 days prior to expiry of probationary period. It is not possible to apply from overseas.                                                                                                                                                                            | <p>Meet the relevant KoLL criteria).</p> <p>Further limited leave may be granted if this requirement is not met. The sponsor is required to maintain and accommodate dependants without recourse to public funds.</p>                                                                                                                             | If the dependant qualified for settlement but failed to travel to the UK in order for settlement to be granted before 1 December 2013 and their leave under paragraph 281 has expired, they will need to apply for entry |

| Status of serving personnel | Status of dependant | Application options | Requirements | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----------------------------|---------------------|---------------------|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                             |                     |                     |              | <p>clearance under the new rules in part 4 of Appendix Armed Forces. Where the requirements are not met, consideration will be given as to whether exceptional circumstances apply.</p> <p>To continue under transitional arrangements, an applicant may apply for a further period of limited leave to enter if they remain on overseas posting and are not due to return to the UK for some time.</p> <p>VAF(AF) and the relevant English language is required. The sponsor is required to maintain and accommodate a partner without recourse to public funds.</p> |

| Status of serving personnel                      | Status of dependant                                                                                       | Application options                                                                                                                                                                       | Requirements                                                                                                                                                                                                                                                            | Comments                                                                                                                                                                                                                                |
|--------------------------------------------------|-----------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Foreign and Commonwealth naturalised in service. | Holds leave under 276AD - failed to change status to partner of British citizen when sponsor naturalised. | <p>Settlement under part 7 on form SET(AF) or VAF(AF), if sponsor has completed 5 years' service.</p> <p>Limited leave under part 7 on form VAF (AF) or FLR (AF), if sponsor has not.</p> | <p><b>Settlement</b> in relationship for 2 years. No minimum income threshold or KoLL.</p> <p><b>Limited Leave</b> no language requirement or minimum income requirement. Sponsor is required to maintain and accommodate partner without recourse to public funds.</p> | <p>Leave will be granted outside the rules (LOTR).</p> <p>LOTR may also be appropriate where the applicant meets the requirements under part 7 but has applied under part 8 (for example) has applied on SET(M) rather than SET AF)</p> |

#### Related content

[Contents](#)

#### Related external links

[Immigration Act 1971](#)

[Immigration Rules Appendix Armed Forces](#)