

<b>Defence Instructions and Notices</b> (Not to be communicated to anyone outside HM Service without authority)	
<b>Title:</b>	Family Migration Rules for UK Armed Forces family members who are Non-British.
<b>Audience:</b>	MoD, single Services, Chain of Command, Service personnel with non-British family members.
<b>Applies:</b>	'Immediately'.
<b>Expires:</b>	'When rescinded or replaced'.
<b>Replaces:</b>	2013DIN01-142
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<b>Content:</b>	Outline of family migration rules for Armed Forces family members and updated information regarding passports and visas.
<b>Sponsor:</b>	Army HQ, Army HQ Secretariat 94393 Ext 6103
<b>Contact:</b>	Royal Navy and Royal Marines: SO1C CNPS TERMS: 93830 8900 British Army SO2 FamWel: 94391 7456 Royal Air Force: SO2 Emp Pol, Air HQ: 95221 5048
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<b>Local Keywords:</b>	Nationality and Immigration Legislation
<b>Supplements:</b> (Please click on the links to access >>>> )	N/A
<b>Related Info:</b>	PS4(A) Unit Guide to Supporting Non British Nationals 2014DIN01-120 Citizenship (Armed Forces) Act 2014
<b>Classification:</b>	OFFICIAL

## REFERENCES

- A. PS4(A) Guide to Supporting Non-British Nationals.
- B. JSP 752, Chapter 10, Section 13, Annex A (Miscellaneous Allowances).
- C. 2014DIN01-120 Citizenship (Armed Forces) Act 2014.

## GENERAL

1. This DIN informs MOD Head Office, the three Services, the Chain of Command, service personnel and their families about the current Family Migration Rules. It also confirms that the visa and passport provision for foreign and Commonwealth family members outlined in Reference B has been expanded to include the reimbursement of the cost of registering a child, who has been born to non-British parents on overseas assignment, as British. Where there are differences in interpretation between this DIN and Home Office Immigration rules, Home Office Immigration rules are the authority.

## KEY MESSAGES

- Non-EEA dependants of service personnel may no longer apply under the family immigration rules in force prior to 1 December 2013 unless they fall under the transitional measures outlined in Annex A
- Under the current rules, family members wishing to join service personnel in the UK or to be 'called forward' during an overseas assignment will need to satisfy the English Language requirement, and demonstrate that the service person meets the Minimum Income Threshold.
- Service personnel calling forward family members from their Country of Origin to the UK or an Overseas Command<sup>1</sup> must ensure that they are on a leave to enter visa issued under Appendix Armed Forces of the immigration rules. (Form VAF(AF)).
- Family members seeking Settlement (Indefinite Leave to Enter or Remain (ILE/ILR)) will need to meet the English Language and the Knowledge of Language and Life (KOLL) in the UK requirements. Service personnel are exempt from meeting these conditions.
- All service personnel and family members seeking British Citizenship/Naturalisation must meet the English Language and KOLL requirements.
- **Children born on or after 1 April 2015 to non-British parents serving on an accompanied overseas assignment can now be registered as British at public expense. Applications for children born prior to this date will not be eligible for reimbursement.**
- Visa Applications. Annex A advises on the application forms required for different application scenarios.
- Units are still responsible for informing the Home Office when service personnel subject to immigration control are being discharged by following the updated guidance at Reference B.

## BACKGROUND

2. The UK Government's Family Migration Changes (FMC) came into force on 9 July 2012, and a joint Ministry of Defence and Home Office review took place to align the current British Armed Forces Immigration rules with the new FMC. This DIN reminds service personnel of the current Family Migration Rules in place and highlights the positive changes which have been incorporated into the new rules as a result of the Home Office delivering Armed Forces Covenant commitments. The Armed Forces Family Rules take full 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.

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<sup>1</sup> With the exception of Brunei. Family members being called forward to Brunei should achieve the A1 English Language Requirement prior to arriving in Brunei **if they anticipate a move back to the UK within a year** – noting that the approved test has a 2 year life span. If a move back to the UK is anticipated beyond a year in Brunei, then the family member should sit the approved test in Brunei noting that there are limited testing facilities.

3. The following Armed Forces Covenant commitments were delivered:
- a. **Settlement.** Eligible service personnel have the ability to apply for Settlement (ILE/ILR) after 4 years. Applicants can only be granted Settlement/ILR on discharge but can submit an application 10 weeks prior to the discharge date in order for it to be granted as soon as possible after discharge. ILR entitles the individual to recourse to public funds and to seek employment. Applications from families will also be prioritised if they are sent at the same time as the main applicant noting that unless meeting the transitional arrangements family members must have completed the full 5 year probationary period. It should be noted that applications for ILR can only be made whilst the applicant is physically in the UK, therefore those discharging from overseas locations must first be returned to the UK in plenty of time to submit their application and complete their biometrics.
  - b. **Visas.** All eligible family members of service personnel who have established family life since 1 December 2013 should be issued with 5-year visas on a Biometric Residence Permit, removing the need to renew shorter-termed visas depending on the circumstances of their serving spouse.
  - c. **Family Breakdown.** If a relationship breaks down as a result of Domestic Violence, some non-British spouses/partners will be able to apply for Leave to Remain in their own right. Reference A refers.
  - d. **Citizenship (Armed Forces) Act 2014.** Reference C outlines provision for the Home Secretary to waive the requirement for service personnel applying for Naturalisation to be in the UK on day one of the five year qualifying period if they were serving overseas with HM Armed Forces. It should be noted that this waiver does not apply to family members.

## CURRENT FAMILY MIGRATION RULES

4. All family members of individuals who have joined the Armed Forces since 1 December 2013, families of existing serving personnel who have remained in their country of origin until after that date and single serving personnel being joined by new families after that date must comply with the following immigration rules:
- a. To arrange for a family to come to the UK the sponsor will need to meet the Minimum Income Threshold of £18,600 for a spouse/partner; £22,400 for a spouse/partner + 1 child and a further £2,400 for each additional child. Children who are British citizens are exempt and will not be counted when calculating the Minimum Income Threshold.
  - b. A minimum language requirement for those family members sponsored to come to the UK or called forward to an overseas location. Family members (over the age of 18) will need to sit a secure English Language test and pass at level A1 or above prior to applying for a visa to enter the UK. Tests must be conducted via a Home Office approved provider – see [Annex FM 1.21 to the Family Migration Rules](#).
  - c. A Knowledge of Language and Life (KOLL) requirement for Settlement (ILE/ILR). Individuals will need to pass the Life in the UK test and pass a secure English Language Test at level B1. Tests must be conducted via a Home Office

approved provider as per paragraph 4.b. The Home Offices recognises that the KOLL requirement may be challenging for some. Therefore under exceptional circumstances they may consider applications from service families for further periods of Limited Leave to enable them to meet the KOLL requirement<sup>2</sup>.

d. Family members must complete a five year probationary period before applying for Settlement (ILE/ILR).

## **RELEVANT MOD POLICY**

5. Reference B outlines the provision for payment of visas and passports at public expense when the travel of family members is required for service reasons. The actual costs of passports and visas are normally paid direct from the unit Imprest/Public account.

6. As at 1 April 2015 children born to non-British parents serving on an overseas accompanied assignment can be registered British at public expense. Payment follows the method outlined in paragraph 5 and Reference B.

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<sup>2</sup> Subject to continuing to meet the other relevant immigration rules in their category.

ARMED FORCES FAMILY RULES - APPLICATIONS PROCESS – TABLE 1

(a)	Status of serving personnel (b)	Status of dependant (c)	Application options (d)	Requirements (e)
1	British (including naturalised in service); Foreign and Commonwealth (including Gurkhas)	Has no leave under <a href="#">Appendix AF</a> (or has completed less than 5 years which started after 1 Dec 13).	If overseas apply for 5 year settlement visa on <a href="#">VAF(AF)</a> .  If in UK apply for 5 years leave to remain on <a href="#">FLR(AF)</a> .	Basic level English language;  Minimum income threshold applies.  Where the requirements are not met, consideration will be given as to whether exceptional circumstances apply.
2	British (including naturalised in service); settled on discharge after 4 years service; Foreign or Commonwealth (including Gurkhas ) with 5 years reckonable service.	Has completed 5 years leave under Appendix AF which started after 1 Dec 13.	If overseas apply for settlement on VAF(AF).  If in UK apply for settlement on <a href="#">SET (AF)</a>	Applicants must pass the Life in the UK test and hold an intermediate level English language qualification.  Minimum income threshold applies.  Limited leave may be given instead of settlement if you have a minor conviction or don't meet the language requirements.

**ARMED FORCES FAMILY RULES– TRANSITIONAL ARRANGMENTS - TABLE 2 (Such applications should all be accompanied with Appendix 1 to this Annex)**

	<b>Status of serving personnel</b>	<b>Status of dependant</b>	<b>Application options</b>	<b>Requirements</b>	<b>Comments</b>
<b>(a)</b>	<b>(b)</b>	<b>(c)</b>	<b>(d)</b>	<b>(e)</b>	<b>(f)</b>
1	Foreign and Commonwealth citizen (including Gurkhas)	Has leave under paragraph 276AD of the immigration rules on 1 December 2013 (The old rules)	<p>On completion of 4 year visa the next application will either be: for further leave to enter/remain if SP has not completed 5 years service or; for settlement if SP has completed 5 years service.</p> <p>If overseas apply for leave to enter/Indefinite leave to enter on VAF(AF)</p> <p>If in the UK, apply for leave to remain on FLR(AF) or</p> <p>Indefinite leave to remain on SET (AF)</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><b>Settlement –</b> in relationship for two years. No minimum income threshold or KOLL.</p>	Because the individual was 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.
2	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) if in UK or VAF(AF) if overseas 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 two 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>	Leave will be granted outside the rules. LOTR may also be appropriate where the applicant meets the requirements under Part 7 but has applied under Part 8.

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3	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	B1 qualification (or meet the other relevant criteria) and Life in the UK test. You may get limited leave if this requirement is not met. The sponsor is required to maintain and accommodate dependants without recourse to public funds.	<p>If you qualified for settlement but failed to travel to the UK in order for settlement to be granted before 1 December 2013 and your leave under paragraph 281 has expired you will need to apply for entry clearance under the new rules. Where the requirements are not met, consideration will be given as to whether exceptional circumstances apply.</p> <p>In order to continue under transitional arrangements you may apply for a further period of limited leave to enter if you are on overseas posting and are not due to return to the UK for some time.</p> <p>You should use form VAF(AF) and basic level English language is required. The sponsor is required to maintain and accommodate a partner without recourse to public funds.</p>



**UK HM FORCES FAMILY VISA APPLICATION SUBMITTED UNDER THE HM FORCES TRANSITIONAL ARRANGMENTS FROM 1 DECEMBER 2013.**

To: The UKVI Caseworker processing the accompanying UK Armed Forces Application.

1. This application has been submitted under the transitional arrangements for UK Armed Forces family visa applications from overseas assignments and those already on a route to settlement from 1 December 2013.
2. You are requested to consider the application using the special transitional arrangements put in place by the Home Office for UK Armed Forces families.
3. If you are unclear on which transitional measures apply you should contact your senior caseworker or the Armed Forces Operational Policy Team.
4. Thank you.