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See Distribution

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SETTLEMENT IN THE UK FOR ADULT CHILDREN OF FORMER GURKHAS

Issue

1. Adjustment to the Home Office discretionary policy to allow adult children of former Gurkhas to be granted settlement in the UK in certain circumstances.

Timing

2. Routine – the new policy will apply to applications decided on or after 5 Jan 15.

Recommendation

3. Addressees should be aware:
 - a. That the Home Office has reviewed its discretionary policy on former Gurkhas who were discharged before 1 July 1997, taking into account case law and evidence provided to the All Party Parliamentary Group (APPG) on Gurkha Welfare.
 - b. As a result of this Review, the discretionary arrangements have been adjusted to allow adult children of former Gurkhas to be granted settlement in the UK in certain circumstances.
 - c. The new guidance - **Annex K** to the Immigration Directorate Instructions, is at Annex A. The Nagri version produced by HQBG is at Annex B.

Background

4. Since May 2009, members of the Brigade of Gurkhas (BG) who were discharged before 1 July 1997 – the date BG moved from Hong Kong to the UK – have been able to obtain settlement in the UK on a discretionary basis as a result of their service. The 2009 policy also covered their immediate families including children who were under 18 years of age at the time of application. When the Home Secretary announced the discretionary arrangements in the House of Commons on 21 May 2009, it was made clear that these only applied to children who were under 18 years of age at the time of application.
5. For the purpose of this policy a former Gurkha is a Gurkha who completed his service in the Brigade of Gurkhas (BG) between 1 January 1948 and 1 July 1997 (ie. the Pre 97 Gurkhas) and an adult child is the son or daughter of a former Gurkha.
6. **General Eligibility.** In order for settlement to be granted to the adult child of a former Gurkha under this policy, a valid application for entry clearance must be made in accordance with the Immigration Rules. The applicant will normally have to meet all of the conditions outlined at

paragraph 9 of Annex K which amongst others include the applicant to be 18 years of age or over and 30 years of age or under on the date of the application.

7. An adult child born after the sponsor's discharge will qualify under this policy if all other conditions are met.

BG Key Messages

8. The APPG has provided the Gurkha veterans' community an independent forum within which their grievances have been listened to, considered and ultimately debated in Parliament. The UK Govt is committed to ensuring that any imbalances in the immigration approach taken to former serving Gurkhas are addressed.

9. The Home Office made a commitment to the All Party Parliamentary Inquiry into Gurkha Welfare to review its policy on settlement for the adult children of former Gurkhas. This has resulted in recently published guidance in relation to children of former Gurkhas which now provides them with a route to obtain Settlement in the UK.

10. If in doubt, applicants and potential applicants should seek advice from a qualified immigration adviser or solicitor.

[Original Signed]

BIJAYANT SHERCHAN
Major
For Colonel Brigade of Gurkhas

Annex:

- A. Guidance (Annex K) - Adult Children of Former Gurkhas – *English Version*.
- B. Guidance (Annex K) - Adult Children of Former Gurkhas – *Nagri Version*.

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