

Chapter 18 Annex F

The future intentions requirement

1. Introduction

1.1 The main purpose of the requirement is that those wishing to be naturalised as British citizens should not already have decided, or intend, to break their links with the United Kingdom. As it is impossible to be absolutely certain what a person intends to do in the future, the most reliable indicator will be past behaviour. If that suggests that the requirement is met, and there is no reason to think this will not continue, the applicant's statement about future intentions may be taken at face value.

2. A home or principal home in the United Kingdom

2.1 If applicants say their intention is to have their home or (if more than one) their principal home in the United Kingdom, we should accept that they meet the requirement if:

- they meet the residence requirements, without the need to exercise any discretion to accept excess absences, ignoring excess absences up to 30 days; or
- they have an established home here (either owned or rented); or
- they have been, or intend to be, absent from the United Kingdom for not more than six months; and
- the absence was, or will be, clearly temporary (e.g. for a holiday or business travel); and
- if it is an intended absence, we are satisfied they intend to return to the United Kingdom; and
- they have maintained an established home here where any close family who have not accompanied them abroad have continued to live; or
- there is no information to cast doubt on their intention, for example:

i. a spouse/partner who is, or intends to become, resident abroad (see sub paragraphs 2.2.5 - 2.2.7 below); or

ii. a recent (or proposed) absence from the country for a period of more than six months (see paragraph 2.3 below)

2.2 If any of the criteria in paragraph 2.1 are not met, we should consider the application more closely, making further enquiries if necessary. In such cases, we should be guided by the considerations in the following sub paragraphs.

2.2.1 Where it is proposed to exercise discretion to waive excess absences, we will already be satisfied that the applicant has an established residence, family and a

substantial proportion of any estate here. We should accept that that situation will continue into the future, and that the future intentions requirement has therefore been met, unless we have information that, since the date of the application, the applicant/spouse/ civil partner/partner no longer has an established residence here or is planning to move abroad.

2.2.2 Where it is not certain that a residence has been established (e.g. if the applicant changes addresses after each visit abroad, or appears to live in a hotel or a company flat when in this country), we should make enquiries to see whether there is evidence of a principal residence outside this country including:

- whether the applicant/spouse/ civil partner owns property abroad
- whether the applicant's family live abroad, either in the family home or elsewhere

2.2.3 Where there is such evidence, or our doubts cannot be resolved satisfactorily, the application should normally be refused (see 2.6 below).

2.2.4 Information may also come to our attention that the Inland Revenue regards an applicant as domiciled abroad for tax purposes. In such cases, we should request the applicant's permission to contact the Inland Revenue. We should then ask the Inland Revenue to provide us with a copy of the applicant's completed "Domicile Enquiry" questionnaire, which may throw some light on future residence intentions. If permission is not forthcoming the application should be refused.

NB. The replies to the domicile questionnaire should not be given undue weight, and they should not form grounds for refusal if they merely indicate that applicants see their ultimate home as a country other than the UK. (It is not a requirement for naturalisation that applicants intend to make their home permanently in the UK.)

2.2.5 The fact that an applicant's spouse/ civil partner is not applying for citizenship should not, of itself, be taken as evidence that the requirement is not met. In such a case, however, we should make enquiries of the applicant - whether the spouse/ civil partner is resident abroad or whether there is any evidence that the spouse/ civil partner intends to move abroad. The fact that a spouse/ civil partner is living, or will shortly be living, abroad should not normally be taken as evidence that the requirement is not met if:

- the couple are separated; or
- the spouse/ civil partner/partner has applied for, and is awaiting, an entry clearance; or
- we are otherwise satisfied that the spouse/ civil partner/partner intends to join the applicant here; or
- it is apparent that the couple are content to live apart for the foreseeable future

2.2.6 If none of these reasons apply, and the information suggests that any applicant maintains, or intends shortly to maintain, their principal residence abroad (e.g.

spends substantial periods with spouse/civil partner /partner and children abroad), the application should normally be refused (see 2.6 below).

2.2.7 If applicants make it clear that, while they intend to live in the United Kingdom for a period, they have made firm plans to establish their principal home abroad at some future date (e.g. to take up employment abroad for a foreign based firm), then we would expect to refuse the application. We should not normally refuse an application, however, merely on suspicion that the applicant's circumstances might change at some time in the future (e.g. they might decide to retire abroad).

2.3 If the applicant is abroad or is about to go abroad for a continuous period of more than six months, the application should normally be refused, and the applicant should be advised to re-apply, on return to the UK, for permanent residence and if the normal requirements are met. An exception may be made to the general rule, however, where:

- a. the applicant is undertaking voluntary work (e.g. with VSO); or
- b. the applicant is undertaking studies, training or employment abroad which is necessary to pursue a United Kingdom based profession, vocation or occupation; or
- c. the absence forms part of an established pattern (e.g. the applicant is a merchant seaman), but the applicant is based in the United Kingdom,

and we are satisfied that the applicant has definite plans to return to the United Kingdom after a specified period of time. (If the applicant is the spouse/ civil partner or partner of a person who is undertaking voluntary work, studies, etc as described in a - c above, see 9.1.1 - 9.1.4 below.)

2.4 If the applicant has made firm plans to emigrate, or expresses a firm intention to do so, the application should normally be refused (see 2.6 below).

2.5 An applicant who has more than one home may claim that while the principal home is not at present in this country, the intention, if naturalised, is to establish it here. This argument is usually related to the tax advantage of being domiciled abroad and should not normally be accepted.

2.6 Refusal where future intentions requirement not met

2.6.1 Whenever we tell applicants we are not satisfied that they intend to make their home or principal home in the United Kingdom if naturalised, care must be taken to ensure that the wording of the refusal letter reflects the requirements of paragraph 1(1)(d)(i) of Schedule 1 to the British Nationality Act 1981 (i.e. "The Secretary of State is not satisfied your intentions are such that, in event of a certificate (of naturalisation as a British citizen) being granted to you, your home or principal home would be in the United Kingdom").

2.7 No principal home

2.7.1 There are some applicants whose way of life does not allow them to maintain a principal home in the conventional sense. This applies to some international celebrities (including actors and musicians), and any such cases should be noted in INPD(L) Policy Section. Applications from such people must be dealt with on their merits, but information should be sought on the following points:

- Their position under United Kingdom tax law (consent to approach the Inland Revenue should be sought)
- What, if any, property they own here
- What personal connections they may have with the United Kingdom
- The length of time they spend in the United Kingdom each year
- The extent to which they identify themselves with the United Kingdom

2.7.2 We should normally accept that applicants meet the requirement if they:

- are domiciled in the United Kingdom for tax (i.e. telling the Inland Revenue that their principal home is in the UK); and
- spend a reasonable period of time (other than when working) in this country; and
- have some personal connections here

2.7.3 If any of the factors in paragraph 2.7.2 are missing, it may still be possible to accept the requirement is met if the applicant has other strong links with this country.

3. Crown service under the government of the United Kingdom

3.1 If applicants say their intention is to enter into, or continue in, Crown service under the government of the United Kingdom, we should accept that they meet the requirement if:

- the service or intended service complies with the definitions in paragraphs 4 and 5 of Annex F to Chapter 6; and
- we are satisfied the requirements of paragraphs 1.1 and 1.2 of Annex C and paragraph 7 or 8 of this Annex are met

4. Service under an international organisation

4.1 Service under an international organisation of which the United Kingdom or HM Government therein is a member is not defined in the British Nationality Act 1981. But we should normally accept that a person is in such service if:

- an employee; or
- giving services on a full time basis without payment (or for a nominal sum); and
- giving services direct to, and for the benefit of, the organisation

4.2 We should not normally accept that applicants are in such service if they merely help out from time to time a substantial degree of commitment and direct involvement over a period of time would be required. Each case must be considered on its merits.

4.3 If applicants say their intention is to enter into, or continue in, service under an international organisation of which the United Kingdom or HM Government therein is a member, we should accept that they meet the requirement if:

- the service, or intended service, meets the criteria set out in paragraph 4.1 above; and
- they meet the criteria set out in paragraph 7 or 8 below; and
- they produce written confirmation of the service or intended service from the organisation concerned

4.4 A list of the main organisations of which the United Kingdom or HM Government therein is a member is given in Annex F(i). If the applicant is, or intends, working for an organisation not on the list, INPD(L) Policy Section should be asked to confirm whether the United Kingdom or HM Government therein is a member.

4.5 Although the United Kingdom or HM Government therein is a member of certain organisations, it may not be a member of some of that organisation's subsidiary bodies. For example, the United Kingdom is a member of the United Nations, but it is not a member of UNESCO.

5. Service in the employment of a company established in the UK

5.1 What constitutes such service is not defined in the British Nationality Act 1981. But we should accept that applicants working outside the United Kingdom are in such service if they are:

- an employee; or
- self employed and have registered themselves as a company; or
- self employed as a partner in a going concern; or
- a company director

5.2 A company may be regarded as established in the UK if:

- it is described as an English, Scottish, Northern Irish or overseas company registered under the Companies Acts; and
- it is a 'going' concern; and
- it is not registered for convenience only

5.3 A company may not be regarded as established in the UK if:

- it has not been registered as an English, Scottish, Northern Irish or overseas company; or
- it is not a 'going' concern; or
- it is registered for convenience only; or
- the distribution of its workforce is such that it is essentially an overseas company with a notional presence in the UK

5.4 The company letter heading will often show whether it is registered and may give the registration number. In cases of doubt, enquiries should be made:

- (in England and Wales) to the Registrar of Companies, using the companies registrar enquiry (England and Wales) letter
- (in Scotland) to the Registrar of Companies, using companies registrar enquiry (Scotland) letter
- (in Northern Ireland) to the Registrar of Companies (there is no stock letter for use in these cases)

5.5 In reply, the Registrar will say whether the firm is an English, Scottish, Northern Irish or overseas company with a place of business in the UK and give any other relevant information.

5.6 If the company is not registered as a Limited or Public Limited Company, but is a subsidiary of a Limited or Public Limited Company, enquiries as in paragraph 5.4 may be made about the parent company. In other cases, where there is doubt about whether the company is established in the UK, we should write direct to the company not the applicant, using the draft letter at Annex F(ii), which should be typed.

5.7 If applicants say their intention is to enter into, or continue in, service in the employment of a company established in the UK, we should accept that they meet the requirement if:

- the criteria set out in paragraphs 5.1 and 5.2 above and paragraph 7 or 8 below are met; and
- there is, or will be, a contract of employment, expressed or implied; and
- they are, or will be, in the direct employment of the company concerned; or
- they are, or will be, employed by an unregistered associate company (parent or subsidiary) but will be regarded by the seconding company as its own career staff; and

- they produce written confirmation of the service, or intended service, from the company concerned

5.8 If self employed, there should be evidence of an intention to establish a company or join a partnership. Normally, we should expect the applicant to have done this.

6. Service in the employment of an association established in the UK

6.1 What constitutes such service is not defined in the British Nationality Act 1981. But, in general terms, we should accept that those working outside the United Kingdom are in such service if they:

- are in the direct employment of the organisation concerned; and
- have a contract of employment, expressed or implied

6.2 Whether a particular organisation can be regarded as established in the UK may have to be resolved by asking the organisation direct. If the position is not clear from the information we already have, we should, in the first instance, try and resolve the matter by consulting a book of reference or another government department. If it is considered necessary to make direct contact with the organisation concerned, this should not be done without the approval of the Senior Caseworker.

6.3 If an applicant intends to enter into, or continue in, service in the employment of an association established in the UK, we should accept that the requirement is met if:

- the criteria set out in paragraph 6.1 above and paragraph 7 or 8 below are met; and
- written confirmation of the service, or intended service, is produced from the organisation concerned

7. Applicants already serving abroad in Crown or other qualifying service or employment

7.1 Applicants already in Crown or other qualifying service or employment abroad, and who clearly intend to continue in that service or employment for at least 5 years from the date the application is substantively considered, should be regarded as meeting the future intentions requirement.

7.2 If an applicant cannot, or intends not to, complete five years service or employment from the date when the application is substantively considered, account should be taken of future intentions on completion of the service or employment. These may be regarded as met if the applicant can satisfy us of an intention to remain in, or return to, or come to, the United Kingdom on completion of the service or employment. We can be so satisfied if the applicant:

- has already bought property here; or

- has strong family links here; or
- has always returned to this country after previous employment abroad; and
- has a stated intention to live in the United Kingdom on the completion of the service or employment; and
- there is no information in the papers to suggest otherwise

7.3 If we cannot be satisfied about the applicant's future intentions on leaving the service or employment within 5 years, we should normally refuse the application.

8. Applicants who intend to enter into Crown or other qualifying service or employment

8.1 Applicants who state that they intend, on being naturalised, to enter into Crown or other qualifying service or employment for five years or more from the date of substantive consideration of the application may be regarded as meeting the future intentions requirement.

8.2 If the intended period of qualifying service or employment is for less than five years from the date of substantive consideration of the application, we should proceed as in paragraphs 7.2 and 7.3 above.

9. Applicants accompanying a spouse/civil partner on an overseas posting

9.1.1 We should normally regard an applicant as satisfying the "home or principal home" future intentions requirement if he or she is accompanying or intends to accompany an "established" spouse civil partner or partner (same sex or opposite sex) abroad for a continuous period of more than six months where:

- the non-applicant spouse/civil partner/partner's circumstances would satisfy the "home or principal home" criteria described in paragraph 2.3 above; or
- despite the non-applicant spouse/civil partner intending to enter into or continue in service described in paragraphs 3 - 6 (which, in terms of the future intentions requirement, does not require an intention to return to the United Kingdom) we are nonetheless satisfied that he or she would meet the "home or principal home" criteria

9.1.2 Written confirmation of the non-applicant spouse/civil partner/ partner's circumstances and future intentions should be obtained from the employing organisation, college etc and will usually suffice. However, we should not normally regard the future intentions requirement as being met where, for example, there is evidence to suggest that the applicant's own intentions do not correspond with those of the spouse/partner concerned - e.g. information suggesting that an applicant plans to remain abroad after the spouse/partner's return to the UK.

9.1.3 Where the non-applicant spouse/civil partner/partner is subject to UK immigration control (whether or not actually in the UK), the application should be referred to INPD(L) Policy Section for advice.

9.1.4 An applicant can be regarded as an "established" spouse/civil partner or partner if, at the time the application is being considered, he or she has been married to/in a civil partnership with,, or has cohabited with, the person concerned for at least 12 months.

9.1.5 Where a Government Department has confirmed the length of marriage or cohabitation, we need not normally enquire further into this. In other cases, the applicant should normally be asked to provide documentary evidence of cohabitation throughout the preceding 12 months such as:

- marriage certificate/civil partnership certificate (if applicable)
- joint commitments (e.g. joint bank accounts and utility bills, investments, rent/mortgage agreements, death benefit)
- if there are any children of the relationship, a record of their birth
- correspondence linking them to the same address
- official records of their address (e.g. doctor's records, National Insurance or tax records)
- letters from third parties or any other evidence which adequately demonstrates a commitment to each other