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**CHAPTER 5
SECTION 8****UNITED KINGDOM ANCESTRY****1. INTRODUCTION**

Under paragraph 186 of HC 395, a Commonwealth citizen who is able to show that one of his grandparents was born in the United Kingdom and Islands and who intends to take or seek employment here may be granted an entry clearance on the basis of his United Kingdom Ancestry. A person holding such an entry clearance will normally be admitted for an initial period of 5 years, and may apply for settlement at the end of that period.

2. LEAVE TO ENTER ON THE BASIS OF UNITED KINGDOM ANCESTRY

The requirements to be met by a person seeking leave to enter on the basis of United Kingdom ancestry are set out in paragraph 186 in Part 5 of HC 395 and **must** be referred to when reading the following advice.

2.1. Key points

The main points on which the immigration officer needs to be satisfied are that:

- the passenger holds a valid entry clearance on the basis of United Kingdom ancestry; and
- there is no reason to believe that false representations were made in order to obtain the entry clearance or that circumstances have changed since its issue.

2.2. Further guidance

For further guidance on the requirements to be met by a person seeking entry on the basis of United Kingdom ancestry see paragraphs 3.1 - 3.6 below.

2.3. Granting leave to enter

Passengers who hold an entry clearance on the basis of United Kingdom ancestry should be granted leave to enter for 5 years on Code 1.

2.4. INDECS

UKG United Kingdom ancestry

2.5. Refusal of leave to enter

- ◆ A person seeking entry in this capacity without a valid United Kingdom entry clearance issued for this purpose should normally be refused entry under paragraph 188 of HC 395.
- ◆ Where a passenger seeking entry in this capacity holds an entry clearance for this purpose, refusal may only be considered under paragraph 321 (see **Chapter 9, Section 3** to these instructions).
- ◆ In the case of a person returning to the United Kingdom from a temporary absence abroad, within a period for which he was previously given leave, reference **must** be made, before refusal, to **Chapter 1, Section 9, "Persons returning to resume previous leave"**.

ANNEX Y (below) provides examples of refusal formulae.

2.6. On entry refusal code

- E4 Lack of required non-settlement entry clearance, including those set aside on grounds of misrepresentation, forgery, failure to disclose material facts or where a change of circumstances has removed the basis of claim to admission.
- Z1 Other reasons

2.7. Right of appeal and corresponding refusal form

There is no right of appeal against refusal of leave to enter on the basis of United Kingdom ancestry if the passenger does **not** hold a valid United Kingdom entry clearance issued for that purpose [Section 13(3B)(a) of the Immigration Act 1971 (as set out in Section 1 of the Asylum and Immigration Appeals Act 1993)].

Form IS 82D should therefore be used in such cases.

The **"Port Instructions for on-entry asylum applications"** provides details of the appropriate forms to use in mixed asylum/non-asylum cases.

3. LEAVE TO REMAIN ON THE BASIS OF UNITED KINGDOM ANCESTRY

The requirements to be met by a person seeking to remain in the United Kingdom on the basis of United Kingdom ancestry are set out in paragraph 189 of HC 395, and **must** be referred to when reading the following advice.

3.1. Key points

Caseworkers must satisfy themselves that the applicant:

- ◆ is a Commonwealth citizen (see chapter 37 for a list of countries); and

- ◆ holds a valid United Kingdom entry clearance for entry in this capacity or has previously been granted an extension of stay in this capacity;
- ◆ is aged 17 or over; and
- ◆ is able to provide proof that one of his grandparents was born in the United Kingdom and Islands; and
- ◆ will be able to maintain and accommodate himself and any dependants without recourse to public funds; and
- ◆ is able to work and intends to take or seek employment in the United Kingdom.

3.2. Further guidance

Applicants must be able to demonstrate that the grandparent on whom the claim is based was born in the United Kingdom, Channel Islands, the Isle of Man or if the grandparent was born **before 31 March 1922** in what is now the Republic of Ireland. Birth on a **British registered** ship or aircraft is also to be included.

An application from a person whose grandparent was born in any territory **other** than those listed above, including a former British colony or military base overseas would fall to be refused.

Applicants must be related to the United Kingdom born grandparent by blood or adoption. A qualifying connection **can** be made through a legitimate **or** illegitimate line.

3.3. Adoption

An applicant who has been adopted or whose parents were, can qualify if:

- ◆ he has been adopted by someone who has a United Kingdom born parent; or
- ◆ one of his parents was adopted by a person born in the United Kingdom; or
- ◆ his natural grandparents were born in the United Kingdom.

Note: There is no claim to United Kingdom ancestry through step-parents.

3.4. Employment

Applicants must be able to show that they have employment here or genuinely intend to seek employment and are able to do so. An ability and intention to seek employment must be realistic in the circumstances. When assessing this it may be relevant to consider the applicant's:

- ◆ age

- ◆ health, ie does he have any medical problems which may prevent him from taking employment?

The applicant need only demonstrate that he is able to work and genuinely intends to seek employment. His application should not be refused on the grounds of a disability – but **only** if there is reason to believe that there is little realistic prospect of his obtaining employment or living without recourse to public funds.

3.5. **No Switching**

A person seeking **leave to enter** on the basis of United Kingdom ancestry **must hold an entry clearance** for that purpose. Leave to remain will **only** be granted if the person entered the United Kingdom holding an entry clearance based on their UK Ancestry or if they had previously been granted leave to remain on the basis of UK Ancestry. Since October 2004, a person cannot switch into this category after entry to the United Kingdom.

3.6. **Documentation**

Birth and marriage certificates should be cross-checked to ensure that all the details correspond and looked at carefully for any indication that a certificate has been altered.

There have been a number of problems with false documentation originating in various countries, but most noticeably India. A detailed paper prepared by the British Consulate in Calcutta is available for consultation from IPD.

3.7. **Granting leave to remain**

If all the requirements of paragraph 186 are met then leave to remain should be granted for 5 years on Code 1.

3.8. **INDECS**

Y1 Extension - grant of 5 years

3.9. **Refusal of leave to remain**

The general guidance about adverse decisions is at **Chapter 9, Section 1**. It provides important advice about the decision making process and should be consulted whenever an application falls to be refused.

Refusal of extension of stay on the basis of United Kingdom ancestry is under paragraph 191 of HC 395 on the grounds that each of the provisions of paragraph 186 (i) - (v) are not satisfied.

ANNEX Y (below) provides examples of refusal formulae.

3.10. INDECS

Y5 Refusal

4. SETTLEMENT

The requirements to be met by a person seeking indefinite leave to remain on the basis of United Kingdom ancestry are set out in paragraph 192 of HC 395 and must be referred to when reading the following advice.

Under paragraph 192 of HC 395 settlement may be granted to those who have completed 5 years here in this category, ***if specifically requested***. If an applicant, who has been in the United Kingdom for 5 years, applies for leave for a ***limited*** period, the application should ***not*** be treated as one for settlement. (See ***Annex F*** to Section 1 of this chapter (above), if further information on this point is required).

4.1. Key points

Caseworkers must satisfy themselves that:

- ◆ the applicant has spent a continuous period of 5 years in the United Kingdom in this capacity; and
- ◆ is able to work and intends to continue in employment or to seek further employment in the United Kingdom; and
- ◆ is able to maintain and accommodate himself and any dependants adequately without recourse to public funds.

4.2. Further guidance

ANNEX F to Section 1 of this chapter (above) provides guidance relating to:

- ◆ calculating the five year period for settlement; and
- ◆ applicants who qualify but do not apply for settlement

4.3. Employment

Although the Rules require a person applying for settlement by virtue of United Kingdom ancestry to have resided here continuously in this capacity for 5 years, there is no requirement that any employment taken must be continuous. The Rules only require a person to either continue in employment or to seek further employment. If an applicant is in employment all we will require is a letter from his current employers confirming that he will continue in their employ. If, however, the applicant is not employed at the time of application we will need to request evidence of his employment record throughout the 5 years and evidence of any attempts he has made to find employment.

Where it is clear that the applicant has not been in employment for any length of time over the 5 years he should be asked to provide reasons as to why he has failed to obtain employment. Unless there is a very good reason for his failing to obtain employment the application should be refused. Enquiries should also be made as to how he has been supporting himself without a regular income.

4.4. **Granting settlement**

If all the requirements of paragraph 192 of HC 395 are met settlement may be granted.

4.5. **INDECS**

2A United Kingdom ancestry

4.6. **Refusal of settlement**

The general guidance about adverse decisions at **Chapter 9, Section 1** provides important advice about the decision making process and should be consulted whenever and application falls to be refused.

Indefinite leave to remain should normally be refused if all the requirements of paragraph 192 are not met.

ANNEX Y (below) provides examples of refusal formulae.

4.7. **INDECS**

X8 Application for settlement other than husband or wife refused - no extension of leave granted

X7 Not completed 5 years continuous residence

Y5 Other reasons