



IMMIGRATION (VARIATION OF LEAVE) (NO.2) ORDER 2020

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Statutory Document No. 2020/0255



Immigration Act 1971

IMMIGRATION (VARIATION OF LEAVE) (NO.2) ORDER 2020

Laid before Tynwald: 19 May 2020
Coming into Operation in accordance with article 2

The Minister for the Cabinet Office makes the following Order under sections 3B, 3(3)(a) and 4(1) of the Immigration Act 1971 (of Parliament)¹ as that Act has effect in the Island² and .

1 Title

This Order is the Immigration (Variation of Leave) (No.2) Order 2020.

2 Commencement

This Order comes into operation immediately after it is made.

3 Interpretation

In this Order —

“**the 1971 Act**” means the Immigration Act 1971 (of Parliament) as that Act has effect in the Island;

“**application period**” means the period beginning on 28 February and ending on 15 May 2020;

“**Confirmation of Employment**” has the same meaning as in Appendix W to the Immigration Rules;

“**dependent**” in relation to a Worker Migrant means a person who has been granted leave under the Immigration Rules by meeting the requirements at paragraph 319C or paragraph 319H of Part 8 of the Immigration Rules;

“**Immigration Rules**” means the rules made under section 3(2) of the 1971 Act;

“**Worker Migrant**” has the same meaning as in Appendix W to the Immigration Rules.

¹ 1971 c.77.

² See Immigration (Isle of Man) Order 2008 (SI 2008/680) as amended.

4 Purpose of this Order

- (1) This Order varies the leave of certain Worker Migrants and others by enlarging its duration and, where applicable, varying certain conditions for the purpose of facilitating the continuity of employment and the best use of available human resource for gainful employment in the period leading up to, during and in the aftermath of the period for which the Proclamation of Emergency dated 16 March 2020³ is in operation.
- (2) Nothing done pursuant to this Order affects the operation of section 3C (continuation of leave pending variation decision), or section 3D (continuation of leave following revocation) of the 1971 Act.

5 Worker Migrants: changes of employment temporarily permitted

- (1) This article applies to any person who at any time during the application period holds or has held valid leave to enter or remain under the Immigration Rules as a Worker Migrant (except where that leave has been curtailed or revoked) and –
 - (a) the person is or was undertaking or engaged in employment authorised under a valid Confirmation of Employment (an “**authorised employment**”);
 - (b) during the application period the person undertakes or becomes engaged in employment other than the authorised employment (an “**employment change**”);
 - (c) the employment change does not constitute “**supplementary employment**” within the modified meaning given in article 6; and
 - (d) the employment change would ordinarily constitute a prohibited change to the authorised employment by virtue of Part 5 of Appendix W to the Immigration Rules.
- (2) Where this article applies, Part 5 (prohibited changes to employment for Worker Migrants) of Appendix W to the Immigration Rules does not apply in relation to the person.
- (3) Where this article applies, the grounds for curtailment at –
 - (a) paragraphs 4.1(1)(b) and 4.1(2)(c) of Appendix W to the Immigration Rules; and
 - (b) paragraph 323(ii) of Part 9 of the Immigration Rules so far as it relates to the following paragraphs of Appendix W to the Immigration Rules –
 - (i) 2.2(1)(f);
 - (ii) 2.2(1)(i);

³ (SD 2020/0162) as continued by the Proclamation of Emergency dated 15 April 2020 (SD 2020/0250)

- (iii) 2.2(1)(j);
- (iv) 2.2(1)(p)(ii);
- (v) 2.3(5);
- (vi) 2.3(7);
- (vii) 2.3(19)(b); and
- (viii) 2.3(23);

do not apply.

- (4) Where this article applies, the conditions of grant specified in paragraphs 2.2.1(4)(c) and 2.3.2(4)(c) of Appendix W to the Immigration Rules do not apply.

6 Worker Migrants: supplementary employment

- (1) Subject to paragraph (2), the definition of “supplementary employment” contained within Appendix W to the Immigration Rules, so far as it relates to Worker Migrants, is modified in accordance with paragraph (3) until 16 November 2020.
- (2) Where article 8 applies, the modification set out in paragraph (3) has effect until 31 December 2021 in relation to those Worker Migrants to whom article 8 applies.
- (3) The definition of “supplementary employment” referred to in paragraph (1) is modified so as to be read as follows –
 - “**“supplementary employment”** means other employment to that recorded on the Confirmation of Employment, provided the Worker Migrant remains employed by the employer recorded on the confirmation of employment.”.

7 Employment changes: information to be provided

Where article 5 applies and an employment change has occurred, the Worker Migrant must provide the Minister for the Cabinet Office with such information and documents as the Minister requires and in the form specified by the Minister⁴.

8 Medical and healthcare Worker Migrants and their dependents: duration of leave enlarged

- (1) This article applies to any person who holds valid leave to enter or remain in the Isle of Man under the Immigration Rules as –

⁴ Section 50(2) of the Immigration, Asylum and Nationality Act 2006 (of Parliament, as it has effect in the Island) confers power on the Minister to require the use of a specified form and the submission of specified information or documents.

- (a) a Worker Migrant with a valid Confirmation of Employment with a Standard Occupation Classification code listed in Table 2 of Part 7 of Appendix W to the Immigration Rules; or
 - (b) a dependent of a Worker Migrant referred to in sub-paragraph (a), in circumstances where that leave is due to expire before 31 December 2020.
- (2) Where this article applies, the person's leave to enter or remain remains in force and valid until one year after the expiration date specified within that valid leave.

9 Others: duration of leave enlarged

- (1) Subject to paragraph (3), this article applies to any person not otherwise provided for by this Order –
- (a) who at any time during the application period holds or has held valid leave to enter or remain in the Isle of Man under the Immigration Rules (except where that leave has been curtailed or revoked); and
 - (b) in circumstances where that leave is due to expire before the end of the application period.
- (2) Where this article applies, the person's leave to enter or remain remains in force and valid until six months after the expiration date specified within that valid leave.
- (3) This article does not apply to visitors granted leave under Appendix V of the Immigration Rules.

10 Discretion to apply further relief

- (1) This article applies to any person not otherwise provided for by this Order who at any time during the application period holds or has held valid leave to enter or remain under the Immigration Rules (except where that leave has been curtailed or revoked) and who, as a direct consequence of the circumstances brought about by the Proclamation of Emergency dated 16 March 2020, has been affected in such a way that –
- (a) the person's visa conditions of leave under the Immigration Rules would otherwise be contravened; or
 - (b) there would otherwise be grounds for curtailment of the person's leave under the Immigration Rules.
- (2) Where this article applies, the Minister may exercise power under section 4 of the 1971 Act to vary or enlarge the person's leave or to vary or revoke the conditions pertaining to such leave pursuant to section 3(3)(a) of the 1971 Act.

MADE AT 13:02 ON 20 APRIL 2020

HOWARD QUAYLE
Minister for the Cabinet Office

*EXPLANATORY NOTE**(This note is not part of the Order)*

This Order is made by the Minister for the Cabinet Office following the proclamation of a state of emergency under section 3 of the Emergency Powers Act 1936.

This Order is made for the purpose of facilitating the continuity of employment and the best use of available human resource for gainful employment in the period leading up to, during and in the aftermath of the period for which the Proclamation of Emergency dated 16 March 2020 is in operation

This Order –

- a) removes restrictions on employment for existing Worker Migrants, for a limited period without requiring a Confirmation of Employment or the migrant risking contravening their visa conditions;
- b) for Worker Migrants who remain employed by their existing employer, modifies the definition of “supplementary employment” until 16 November 2020 to remove the restriction on the type of work or hours permitted for that employment;
- c) extends the duration of leave for Worker Migrants in the medical and healthcare sector (and their dependents) for one year for those whose visa is due to expire before 31 December 2020;
- d) for Worker Migrants in the medical and healthcare profession, modifies the definition of “supplementary employment” until 31 December 2021 to remove the restriction on the type of work or hours permitted for that employment;
- e) automatically extends all other leave granted under the Immigration Rules, not otherwise provided for under this Order, (with the exception of visit visas) due to expire within the application period are for a period of six months; and
- f) provides for the Minister for the Cabinet Office to exercise power to vary or enlarge leave or vary or revoke conditions pertaining to leave in relation to persons who are not otherwise covered by the provisions of this Order.