

Isle of Man Immigration Office

A GUIDE TO SUBMITTING A NOTICE OF APPEAL TO THE ADJUDICATOR

In Country and Overseas Entry Clearance Appeals

Information on submitting a Notice of appeal

The Isle of Man Immigration Office notice of decision sent with this leaflet tells you how to appeal to the Adjudicator if you think that the decision is wrong.

This leaflet provides further information on how to decide whether to appeal, and how to bring an appeal to the adjudicator if that is what you decide to do.

Deciding whether to appeal

The notice of decision explains the grounds on which you may appeal against the Isle of Man Immigration Office decision. The time limit for appealing is –

- (a) if you are already in the Isle of Man **5 business days** if you are in detention and **10 business days** if you are not in detention; or
- (b) if you are appealing from outside the Isle of Man against an Entry Clearance Officer's Decision the time limit is **28 business days** from the date you received the decision.

The appropriate time limit is stated on the Notice of Decision.

Representative

It is open to you to nominate someone to present your appeal on your behalf. This person is referred to as your representative. If you wish to nominate a representative you should indicate this in the appropriate place on the appeal form, and provide address details so that the Adjudicator can contact them and send appropriate notices.

The Immigration Appeals (Procedure) Rules 2008 (SD 184/08 – “the Rules”) require that you maintain contact with your representative until the appeal has been finally determined, and that you notify your representative of any change of address.

You can download a copy of the Rules at www.gov.im/immigration. You should be aware that the Rules provide that a representative acting on your behalf may on your behalf do anything that the Rules require or allow you to do.

Should your representative cease to act for you, you and your representative must notify the Adjudicator immediately.

Importantly, you should be aware that if the Adjudicator's records state that you have a current representative, any document served on that representative will be deemed to have been served on you. The Rules also require the Adjudicator to serve on your representative a copy of any document served on you. This includes all notices and the determination. This applies to all persons nominated as a representative, irrespective of whether they are professional representatives, as described in the next section of this Guide.

Professional Representatives

Rule 40 of the Rules requires a representative to be an advocate unless the adjudicator allows another person to so act. The Isle of Man Law Society, 27 Hope Street, Douglas, Isle of Man IM1 1AR (Telephone

number: 01624 662910) will be able to provide names and addresses of advocates who are licensed to practice in the Isle of Man and are registered with the Society.

Other Representatives

Should you not want to nominate a professional representative (as described above) you have the option, subject to the agreement of the adjudicator, to nominate another person to represent you in your appeal. You should seek a person's agreement before nominating that person as your representative, and ensure that he or she understands what the role entails and their responsibilities.

If you wish another person to represent you, you must indicate this in the appropriate place on the appeal form. If you do not notify the Adjudicator that a person is acting as your representative they will not receive documentation in relation to your appeal.

Sponsors

If you are outside the Isle of Man and are appealing against an Overseas Entry Clearance Officer's decision, you may also nominate a sponsor who is able to attend the hearing and give evidence as a witness. You can nominate a sponsor if you do not have a representative, but you should be aware that, unless your sponsor is also nominated as your representative, the sponsor does not have the same status as a representative. Importantly, the sponsor will not as such be entitled to receive a notice of hearing, a copy of the adjudicator's determination or other notices and documents concerning your appeal. For further information see section 7 of this Guide.

What do representatives do?

A representative can help you prepare your case for appeal, prepare and submit the appeal form and evidence on your behalf, and represent you at hearings before the adjudicator.

Is there a form for appealing to the Adjudicator?

Yes. The notice of decision will tell you whether you have a right to appeal from within the Isle of Man or have to leave the Isle of Man before you may appeal.

(a) Complete FORM 1 if you have a right of appeal within the Isle of Man and are inside the Isle of Man when you lodge your appeal;

(b) Complete FORM 1A If you are appealing against a decision of an Entry Clearance Officer and you are outside the Isle of Man.

You should have received either appeal form 1 or form 1A with your notice of decision. If you did not, you can download one from our website www.gov.im/immigration or request one from either the Isle of Man Immigration Office at immigration.gov.im or the Entry Clearance Officer at the visa section in the country where you applied.

Where should I lodge my appeal?

You must submit your appeal to the Isle of Man Immigration Office. You may do this either:

By post to: Isle of Man Immigration Office, Government Office, Bucks Road, DOUGLAS, Isle of Man.
IM1 3PN

By email to: Immigration@gov.im

When do I need to lodge my appeal by?

Your appeal form must be received at the Isle of Man Immigration Office: -

- a) If you are appealing from within the Isle of Man, no later than within either **10 business days** after you have been served with the notice of decision; or
- b) if you are in detention under the Immigration Acts when served with notice of decision, not later than **5 business days** after you have been served with the notice of decision; or
- c) If you are appealing from outside the Isle of Man against the decision of an Entry Clearance Officer not later than **28 business days** after you have been served with the notice of decision.

A 'Business day' is defined in the Immigration Appeals (Procedure) Rules 2008 as "any day other than Saturday or Sunday, a day which is a bank holiday under the Bank Holidays Act 1989 (of Tynwald)³, Christmas Day or Good Friday".

Calculation of Time

A period of time is calculated as follows:-

- It excludes the day on which the period begins; and
- It excludes any day which is not a business day (unless the period is expressed as a period of calendar days).

Where the time specified ends on a day which is not a business day, that act is done in time if it is done on the next business day.

You should check that your representative or sponsor has not already lodged the appeal on your behalf. If they have, please do not send the appeal form

If you are posting your appeal, please ensure you leave sufficient time from the day you post your appeal for the appeal to be received by the Immigration Office. Please allow more time if you do not use first class post. If possible, you are advised to send your appeal by recorded delivery or some other service where a receipt of postage and acknowledgement of receipt can be obtained.

If you are in detention you may give the completed form to the person having custody of you in accordance with the time limit above.

Note: Your appeal is not lodged until it has been received by the Immigration Office. An appeal that is late may only be considered if the Adjudicator decides to extend time.

How do I complete the appeal form?

You should read the notes at the beginning of the Grounds for Appeal form before you start to complete it.

There are more notes at the start of each section of the form. These give additional information about each section. Please write in BLOCK LETTERS.

Further information about specific sections

Section 1

Your decision

This section may have already been completed by the Immigration Office or Entry Clearance Officer, or you may be using a form you have obtained yourself.

If it is not completed, you should be able to find the information you need in the notice of decision or refusal.

Date of service of Decision: If no date of service is given in the notice of decision, please enter the date you received the decision at Box B on your appeal form.

Deadline to Appeal: If the notice of decision or refusal has no "deadline to appeal date", you will need to calculate the last day for serving the appeal to ensure your decision is received in time. Refer to the "*When do I need to lodge my appeal by?*" section above.

If the decision was posted to you at an address within the Isle of Man and the United Kingdom, you are considered to have received the decision on the second day after the postmark date on your envelope.

If the decision was posted to you at an address outside the Isle of Man and the United Kingdom, you are considered to have received the decision on the 28th day after the postmark date on your envelope. If you were served notice of decision in person from the Isle of Man Immigration Office, the day you were served is the day you received your decision.

Section 2

Late appeal and application for extension of time.

The Adjudicator cannot allow a late appeal to proceed unless there are special circumstances. Because of this, it is essential that you give full reasons why your appeal is late.

You must complete this section if your appeal is late or if you are not sure whether it will be received in time. You should explain why you did not appeal within the deadline.

If you believe the deadline to appeal date you have been given is incorrect, you should say why and state when you received the notice of decision or refusal.

The Adjudicator will use the information you have provided to decide whether or not to allow your appeal to proceed.

Section 3 Personal Information

This section relates to personal information about yourself and members of your family. If sections J1 and J2 in form 1 or K1 and K2 in form 1A apply to you, you should provide the information requested to the best of your knowledge. If you have a reference number but are unsure if it is an appeal reference, please insert it. The Immigration Office may be able to match it with their records.

In Section K (form 1) or Section L (form 1A) you have the option to request that your appeal be decided at an oral hearing or on the papers.

A decision on the papers will mean that the appeal will be decided on the information you provided on the appeal form and other documents submitted as evidence. If you choose this option, there will be no hearing.

An oral hearing is a hearing at which you will have the opportunity to attend but the hearing may go ahead if you fail to attend.

If neither the Paper nor Oral hearing box is ticked the appeal will not be decided without a hearing.

In Section L (form 1) or Section M (form 1A) you should list details of anyone who will be attending the hearing.

In Sections M–N (form 1) or Section N–O (form 1A) you are asked if you, your representative, your sponsor or any witness require an interpreter. An interpreter will translate evidence given at the hearing. A witness is anyone you decide to bring to the court to give evidence in support of your appeal. You may also indicate whether your representative, sponsor or witness has a disability and requires any special arrangements for the hearing.

Section 4 Grounds of your appeal

In this section you should clearly set out your grounds of appeal. These are the reasons why you disagree with the decision made by the Immigration Officer or Entry Clearance Officer. It is important that you set out all your grounds for appealing and provide as much detail as you can to support these grounds. Use additional sheets of paper if you do not have enough room on the appeal form.

Section 5 Statement of additional grounds (form 1 only)

You should use this section to give any additional grounds and reasons for remaining in the Isle of Man which you have not yet raised with the Isle of Man Immigration Office. You must mention any additional grounds now because you may not be allowed to mention any further grounds at a later date.

Section 6 (Form 1) / Section 5 (form 1A): Representative Details

If you have a representative he or she must complete and sign this section of the form.

Section 6 (Form 1A): Sponsor's Details

In the case of an appeal against an Entry Clearance Officer (ECO) decision in addition to nominating a representative, you can name a person resident in the Isle of Man as your sponsor. You should name the same person on your appeal form as you named in your application to the ECO. Where you did not name a person as your sponsor for your application to the ECO (e.g. in an application for a visit to a family member) you may name the person you wish to visit as the sponsor to your appeal.

Section 7 Declaration by appellant

If you are completing the appeal form yourself, you must sign and date this section of the appeal form.

Section 8 What do I do after I have completed the appeal form?

Once you have completed the appeal form you should:

- (a) Make copies of the appeal form, the Notice of Decision or Refusal and all other documents you send with the form.
- (b) Send your appeal form together with the Notice of Decision or Refusal and any other documents to the Immigration Office by fax or post to the address specified earlier. You must allow enough time for the appeal form to be received by the Immigration Office.

If you cannot send the Notice of Decision or Refusal with the appeal form you should clearly state on the form the reasons why you cannot do so.

Please make sure that any documents sent to the Immigration Office are in English, or accompanied by a translation into English and signed by a translator to certify that the translation is accurate.

When the Immigration Office receives your appeal form they will forward the papers to the adjudicator within 15 days of receipt. The adjudicator will then write to you to let you know when and where any hearing will take place and to arrange for you to pay any filing fee the Court may charge.

Whom do I contact if there are any questions after I have sent my form to the Immigration Office?

If you have any queries after you have lodged your appeal you should contact the Adjudicator at: The Summary Courts, Isle of Man Courts of Justice, Deemster's Walk, Bucks Road, Douglas, ISLE OF MAN, IM1 3AR. summarycourts@courts.im