

Statutory Document No. 2021/0170



Asylum and Immigration Act 1996 (an Act of Parliament)

IMMIGRATION (RESTRICTIONS ON EMPLOYMENT) ORDER 2021

Laid before Tynwald: 15 June 2021
Coming into Operation: 1 July 2021

The Department for Enterprise makes the following Order under section 8(1), (2) and (2A) of the Asylum and Immigration Act 1996¹ (an Act of Parliament) as that Act has effect in the Island².

1 Title

This Order is the Immigration (Restrictions on Employment) Order 2021.

2 Commencement

This Order comes into operation on 1 July 2021³.

3 Interpretation

- (1) In this Order –
 - “**the 1971 Act**” means the Immigration Act 1971⁴ (an Act of Parliament);
 - “**the 1996 Act**” means the Asylum and Immigration Act 1996 (an Act of Parliament); and
 - “**immigration rules**” has the meaning given in section 33(1) of the 1971 Act.
- (2) In this Order any reference to an Act of Parliament, or a provision of an Act of Parliament, which extends to the Isle of Man is a reference to that Act or provision as it has effect in the Isle of Man.

¹ 1996 c.49

² See the Immigration (Isle of Man) Order 2008 (S.I. 2008/680) (as amended).

³ Section 166(4) of the Immigration and Asylum Act 1999 (an Act of Parliament) as that Act has effect in the Island, provides that this Order is subject to negative procedure.

⁴ 1971 c. 77

4 Conditions specified under section 8(1) of the 1996 Act

- (1) The conditions in paragraph (2) are the conditions specified under section 8(1) of the 1996 Act (no offence committed in employing a person who satisfies such conditions).
- (2) The conditions are that the employee –
 - (a) had limited leave to enter or remain in the Isle of Man which did not preclude his or her taking the employment in question;
 - (b) applied to the Minister for the Cabinet Office or the Governor for variation of that leave;
 - (c) is within the period during which an appeal could be brought against refusal of that application; and
 - (d) is permitted to work under the immigration rules.

5 Requirements for the purposes of section 8(2) of the 1996 Act

- (1) Each of the requirements referred to in paragraphs (2) to (4) is a relevant requirement for the purposes of section 8(2) of the 1996 Act (defence for a person charged with an offence under section 8 to prove that before the employment began any such requirement was complied with).
- (2) The employee has produced to the employer, or the employer has obtained, a document of a description specified in Part 1 of the Schedule.
- (3) The employer has taken the steps specified in Part 2 of the Schedule to copy or record the content of any document produced to, or obtained by, him or her in accordance with paragraph (2).
- (4) The employer is satisfied, –
 - (a) if a document contains a photograph, that the photograph is of the employee; and
 - (b) if a document contains a date of birth, that the date of birth is consistent with the appearance of the employee.

6 Revocation

The Immigration (Restrictions on Employment) Order 2008 is revoked.

MADE 28 MAY 2021

LAURENCE SKELLY
Minister for Enterprise

SCHEDULE

[article 5]

**PART 1 - DESCRIPTIONS OF DOCUMENTS FOR THE
PURPOSES OF ARTICLE 5(2)**

1. A United Kingdom passport, describing the holder as a British citizen or a Commonwealth citizen having the right of abode in the Isle of Man, United Kingdom, Channel Islands, or an Irish passport.
2. A passport containing a certificate of entitlement issued by or on behalf of the Minister for the Cabinet Office, the Governor or relevant authority, certifying that the holder has the right of abode in the Isle of Man, United Kingdom, or Channel Islands.
3. A passport or other travel document endorsed to show that the holder is exempt from immigration control, has indefinite leave to enter, or remain, in the Isle of Man, United Kingdom or Channel Islands or has no time limit on his stay.
4. A passport or other travel document endorsed to show that the holder has current leave to enter, or remain, in the Isle of Man, United Kingdom or Channel Islands and undertaking the employment in question would not breach a condition of that leave.
5. A current biometric immigration document issued by the United Kingdom which indicates that the person named in it has indefinite leave to remain or no time limit on their stay.
6. A digital status viewable online on the gov.uk website which evidences the holder's right to work in the Isle of Man, United Kingdom or Channel Islands.
7. A Positive Verification Notice issued by the Home Office Employer Checking Service which indicates that the person named in it is allowed to stay in the United Kingdom and is allowed to do the work in question.
8. A letter issued by—
 - (a) the Minister for the Cabinet Office or the Governor, which evidences that the holder has either indefinite or limited leave to enter or remain in the Isle of Man, or
 - (b) the relevant authority in the United Kingdom or Channel Islands which evidences that the holder has either indefinite or limited leave to enter or remain in the United Kingdom or that Island.
9. A birth certificate issued in the Isle of Man, United Kingdom, Channel Islands, or Ireland, when produced in combination with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
10. An adoption certificate issued in the Isle of Man, United Kingdom, Channel Islands, or Ireland, when produced in combination with an

official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.

11. A certificate of registration or naturalisation as a British or Irish citizen, when produced in combination with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.

PART 2 – STEPS WHICH MUST BE TAKEN TO COPY OR RECORD THE CONTENT OF A DOCUMENT PRODUCED TO AN EMPLOYER

1. In the case of a passport or other travel document, a clear copy of the following pages of the document must be retained in a format which cannot be subsequently altered –
 - (a) any page containing the holder's personal details including nationality;
 - (b) any page containing the holder's photograph;
 - (c) any page containing the holder's signature; and
 - (d) any page containing the date of expiry.
2. In the case of all other documents, a clear copy of the whole document must be retained in a format which cannot subsequently be altered.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 8 of the Asylum and Immigration Act 1996 provides that it is an offence for an employer to employ a person subject to immigration control who has attained the age of 16, if:

- the employee has not been granted leave to enter or remain in the Isle of Man; or
- the employee's leave is not valid and subsisting or is subject to a condition precluding him from taking up employment.

The offence is not committed if the employee satisfies the conditions specified in article 4 of this Order.

Also, it is a defence (unless the employer knew that an offence would be committed) for the employer to prove that, before the employment began, documents of a description specified in article 5(2) were produced to, or obtained by, the employer and that the employer took the steps required in article 5(3) and (4) to retain and check the documentation.