



**CHIEF SECRETARY'S OFFICE**

**Annual Report**

**April 2008/March 2009**

# **Immigration, Nationality and Passport Services**

**THIS DOCUMENT GIVES GENERAL GUIDANCE ONLY AND  
SHOULD NOT BE TREATED AS A COMPLETE AND AUTHORITATIVE  
STATEMENT OF THE LAW**

**September 2009**

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## **INTRODUCTION TO THE IMMIGRATION, NATIONALITY AND PASSPORTS ANNUAL REPORT**

This report provides information concerning the immigration, nationality and passport service of the Chief Secretary's Office. It includes detailed information on immigration into the Isle of Man of migrants from outside the UK and the European Union, persons seeking to be naturalised as British Citizens within the Isle of Man and data on the provision of British passports.

A review of progress concerning strategic matters, for example the introduction of electronic borders and the proposed changes to the Common Travel Area, is addressed in the Isle of Man Government Annual Report 2009.

### **DEMOGRAPHIC CONTEXT**

At the time of the 2001 census, the number of people born outside the British Isles was 4%, which by the 2006 interim census had risen to 6.2%.

The 2006 census showed that 3,492 people resident on the Island had been born outside the European Union. Many of these individuals will however have been resident in the Isle of Man or the United Kingdom for many years and will either have been granted or be eligible for British Citizenship.

## Immigration

The Immigration Service manages visa applications from people seeking to come to the Isle of Man or to vary their leave to remain in the Island, from countries outside the European Economic Area (1). Non-EEA nationals are admitted to the Island if they comply with the requirements of the Immigration Rules (2), and those who do are generally free to come to the Island under the same conditions as those that are granted admission by the UK. In this report, the term '*foreign national*' generally refers to persons from countries *outside* of the EEA.

### Data on Immigration

The Immigration Office has a computerised system for recording immigration cases. However, it is important to note that because of the integration of UK and Isle of Man Immigration Law, the figures obtained locally are not necessarily a true reflection of the numbers and types of foreign nationals living, working or studying on the Isle of Man.

Some foreign nationals in the Island will have secured entry clearance to visit the UK and then travelled from the UK to the Isle of Man with valid leave to enter. Most foreign nationals who follow this route into the Island will not be entitled to take up employment opportunities without permission from the Department of Trade and Industry (DTI). Similarly, persons who are not visa nationals will have been granted leave to enter at their United Kingdom port of entry and will be entitled to legitimately travel to the Isle of Man.

Nonetheless, the data provided in this report gives a good indication of the main types of immigration category dealt with in the Isle of Man.

### Immigration Control

There are 4 main stages to the process of immigration control, Pre-entry, On-entry, After-entry, and Enforcement, each of which is explained in more detail below.

#### Pre-entry Controls

Pre-entry controls exist for visa nationals and for virtually all categories where the applicant is seeking admission into the Isle of Man for over 6 months. A person seeking entry clearance for the United Kingdom or the Isle of Man must satisfy an Entry Clearance Officer in a United Kingdom embassy or consulate overseas that the purpose of their visit is genuine and that they meet the criteria contained within the Immigration Rules.

1. The European Economic Area or EEA refers to the 27 countries of the European Union plus Norway, Lichtenstein and Iceland. Switzerland is also included within the EEA for most purposes.
2. The Immigration Rules are the secondary legislation which lay down the practice to be followed in the administration of the immigration acts. See Appendix II for more details.

In the case of persons seeking entry specifically to the Isle of Man, the Entry Clearance Officer is required to refer the application to the Immigration Office in the Isle of Man for approval, unless the applicant is applying to come for a short visit to stay in a hotel. Applicants may be interviewed and the contents of this interview will be communicated to the Isle of Man Immigration Office with recommendations and accompanying evidence. The application is then considered on the basis of the information supplied by the Entry Clearance Officer in the overseas post.

The number of applications for Entry Clearance referred by posts abroad for decision by the Isle of Man varies each year. While there are figures available for the number and types of entry clearance granted by the Isle of Man, there are no figures available for those individuals in the Island who have been granted entry clearance through the UK, as there is no border control between the Isle of Man and the UK, where arrivals can be monitored.

#### Entry Clearance 2006 - 2009

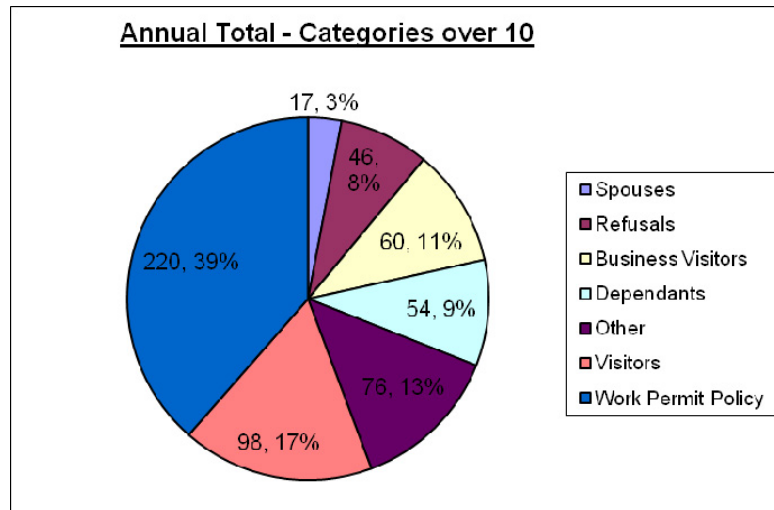
As noted above, entry clearance is the process by which new applicants seek to enter the Isle of Man; these can include individuals who have never been to the Island before, or those who have been to the Island in the past and are making a fresh visa application to return again e.g. visitors.

The table below provides details of entry clearance applications for the past three years, broken down further by category of applicant. In the case of *students*, prior to 2007 the Island had a much larger numbers of foreign students, most of whom attended a hospitality and catering school; these students mainly account for the higher figures in both the *refusals* and *other* category during 2006/2007.

<b>Category</b>	<b>Annual Total 2006/2007</b>	<b>Annual Total 2007/2008</b>	<b>Annual Total 2008/2009</b>
Business Visitors	57	49	60
Dependants	74	49	54
Spouses	16	19	17
Visitors	132	121	98
Work Permit Policy	147	129	220
Other including: Students Settlement Training & Work Experience Fiancés	256	103	76
<b>Total</b>	<b>682</b>	<b>470</b>	<b>525</b>
<b>Of which refused</b>	<b>70</b>	<b>72</b>	<b>46</b>

## Entry Clearance Applications by Category 2008/2009

The chart below illustrates the relative proportions of applications in each of the main categories i.e. those with over 10 applicants during the period.



### **On-entry Controls**

On-entry immigration controls exist at ports and airports receiving travellers from outside the Common Travel Area (CTA)\*. On-entry control is the point at which a foreign national must satisfy the Immigration Officer that they meet the criteria of the Immigration Rules. On-entry immigration control is not undertaken regularly on the Isle of Man, as there are very few transport services entering the Island from outside the CTA, though over the past few years, passengers travelling on direct flights during the winter months, from Geneva to the Isle of Man, will have re-entered the Island through passport control.

### **After-entry Controls**

#### Leave to Remain, Further Leave to Remain, Indefinite Leave to Remain

After entry immigration control is for all foreign nationals seeking to extend or vary their conditions of stay in the Isle of Man. This would include extending the duration of visits (Further Leave to Remain), transferring from one category to another (which is restricted), or following marriage.

#### Leave to Remain/Further Leave to Remain 2006 - 2009

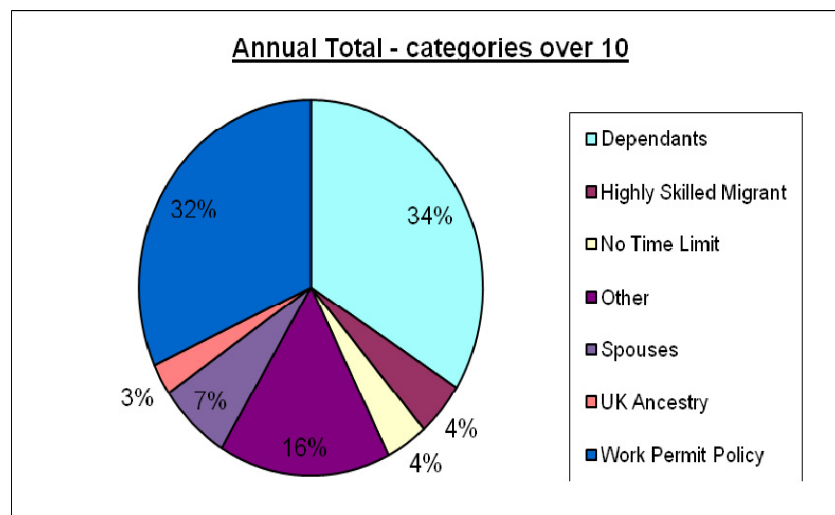
Foreign nationals who are in the Isle of Man may make further applications to vary their leave to remain. These can be under a range of different categories and for a number of reasons.

The main categories for the past three years are detailed in the table below.

<b>Category</b>	<b>Annual Total 2006/2007</b>	<b>Annual Total 2007/2008</b>	<b>Annual Total 2008/2009</b>
Dependants	156	167	189
EEA Family Member	18	13	11
Highly Skilled Migrant	40	11	26
No Time Limit		11	22
Overseas Domestic Worker		5	9
Spouses	29	38	38
Students	78	19	7
Training & Work Experience	1		4
UK Ancestry	13		15
Work Permit Policy	197	144	177
Other including: Visitors Unmarried Partners Working Holiday Makers Doctors	111	21	59
<b>Total</b>	<b>643</b>	<b>429</b>	<b>557</b>
<b>Of which refused</b>	<b>-</b>	<b>8</b>	<b>8</b>

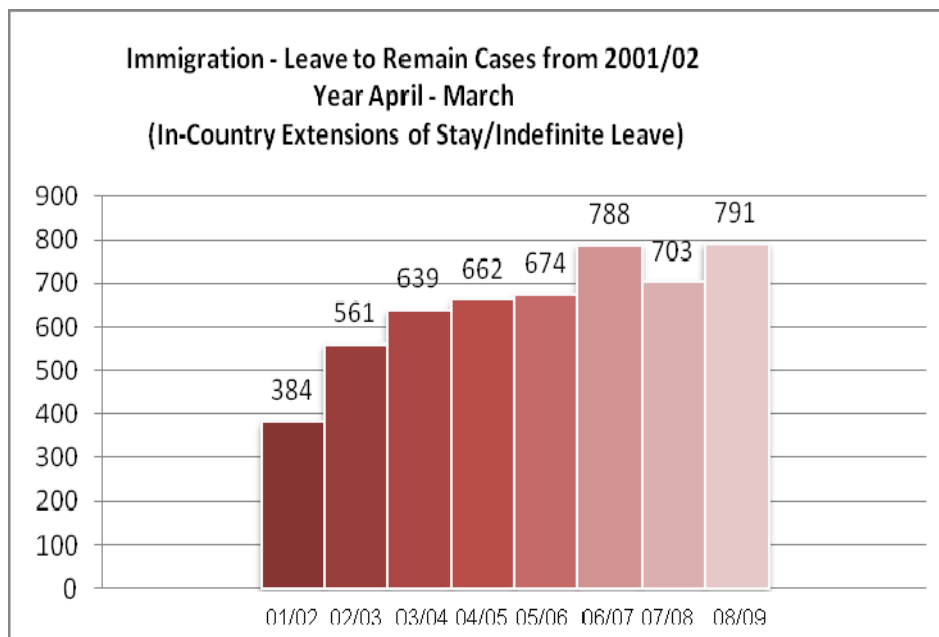
Leave to Remain Applications by Category 2008/2009

The chart below illustrates the relative proportions of applications in each of the main categories i.e. those with over 10 applicants during the period.



### Total Leave to Remain Applications 2001/02 – 2008/09

These figures show annual totals (April - March) of leave to remain applications. Over a period of time an applicant may make more than one application to vary their leave; therefore these figures do not directly correspond to *actual numbers of individuals*, though they do provide a reasonable indication of the numbers and cases dealt with by the Immigration Office.



### Indefinite Leave to Remain

Indefinite leave to remain, confers, as the name suggests, permission for a foreign national to settle in the Island (and indeed the UK), without a time restriction. It is the first stage towards obtaining naturalisation or British Citizenship, though there is no requirement to apply for naturalisation. A person applying for indefinite leave to remain, as well as meeting all the requirements under the particular category in which they apply, must also pass a citizenship test or complete a citizenship course, both of which are administered by the Isle of Man College.

There is no provision for *automatically* granting indefinite leave to remain in the Island to a person who completes 5 years on a work permit. The individual must apply for indefinite leave to remain and then meet the requirements of the particular category under which they are applying.

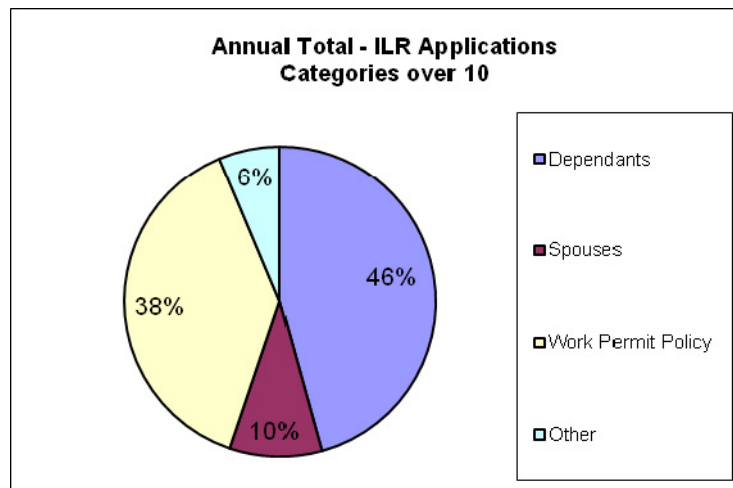
Indefinite Leave to Remain - Applications for Settlement

<b>Category</b>	<b>Annual Total 2006/2007</b>	<b>Annual Total 2007/2008</b>	<b>Annual Total 2008/2009</b>
Dependants	N/A	93	101
Spouses	N/A	25	21
Work Permit Policy	N/A	49	85
Other including: UK Ancestry Fiancés Overseas Domestic Worker	N/A	17	14
<b>Total</b>	<b>144</b>	<b>184</b>	<b>221</b>

*NB: A breakdown of data into categories for indefinite leave to remain is not available prior to 2007.*

Indefinite Leave to Remain Applications by Category 2008/09

Categories with over 10 applicants



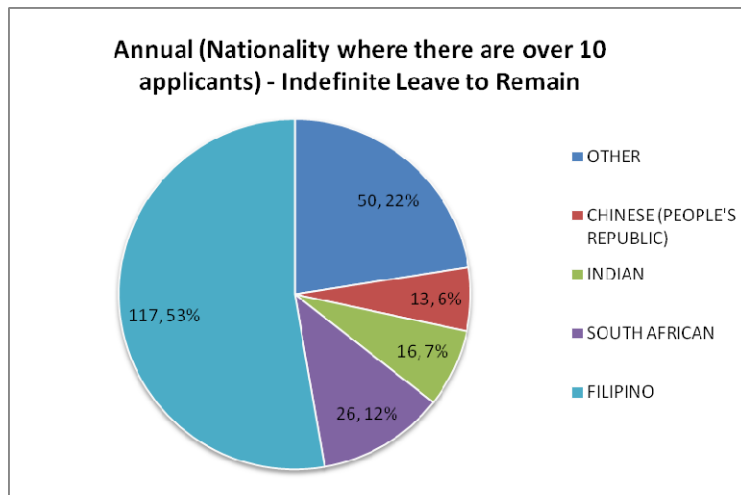
Indefinite Leave to Remain – by Nationality

The information below concerns the nationality of those applicants seeking to settle permanently in the Isle of Man/UK (indefinite leave to remain). These figures *only relate* to those persons subject to immigration control and not to nationals from the EU/EEA. The breakdown of nationality prior to 2007 is not available.

<b>Nationality</b>	<b>Annual Total 2007/2008</b>	<b>Annual Total 2008/2009</b>
Chinese (People's Republic)	3	13
Indian	15	16
South African	16	26
Filipino	100	117
Other*	46	50

*\* Other nationalities with 10 applicants or less across 3 years*

Indefinite Leave to Remain Applications by Nationality 2008/09



Claiming Benefits

All new residents to the Isle of Man, whether or not subject to immigration control, are not automatically entitled to claim benefits from the Island's Social Security system. Under Isle of Man Social Security legislation an individual must have either made the appropriate National Insurance Contributions or fulfil a five year residential qualification in order to qualify for benefit.

When individuals attempt to make claims, the DHSS usually seeks clarification from the Immigration Office before determining claims. If it became apparent that a person subject to immigration control was claiming benefits to which they were not entitled, they would be in breach of their immigration conditions and therefore may be liable to removal.

Total Immigration Figures 2006 - 2009

The table below provides details of the total number of immigration applications dealt with by the Passport and Immigration Office, from first application to indefinite leave to remain, for each year from April 2006 – March 2009 inclusive.

<b>Category</b>	<b>Annual Total 2006/2007</b>	<b>Annual Total 2007/2008</b>	<b>Annual Total 2008/2009</b>
New Applicants	682	470	525
Variation of Leave	643	436	557
Indefinite Leave to Remain	144	184	221
<b>Total Applications</b>	<b>1469</b>	<b>1090</b>	<b>1303</b>

## Performance

The Immigration service aims to deal with a minimum of 76% of applications for Entry Clearance into the Isle of Man within 3 days of receipt from the embassy or consulate and to have dealt with 96% of applications within two weeks. During 2008/09, 76.14% of cases were dealt with within 3 days of receipt and 96.02% within two weeks; in fact over 65% of cases were dealt with on the day that they were received.

## **Enforcement**

The term *enforcement* relates to immigration controls exercised on foreign nationals who breach their conditions of stay or to restrictions of entry into the Isle of Man.

The vast majority of foreign nationals are on the Island legally; nevertheless the rise in the number of foreign nationals and indeed EU nationals coming to the Isle of Man has served to heighten the level of awareness in the Island of immigration matters. Though beneficial overall, the Common Travel Area also exposes the Island to vulnerabilities from illegal immigration, illegal working and individuals over-staying their permitted leave, since there are no immigration controls on people arriving into the Isle of Man from the UK and Republic of Ireland.

There are a number of ways in which the Immigration Office will be aware of persons who may be subject to enforcement decisions. Immigration Officers may themselves curtail the leave of a person subject to immigration control, because, for example, they have breached their conditions e.g. working when not permitted to. Information on persons suspected of breaching immigration requirements may also be provided to the Office by members of the public. Any intelligence on suspected illegal immigration activity has to meet certain standards or threshold tests before any action can be taken, enforcement activities against individuals or employers should not be undertaken unless there is reliable information available.

The table below provides details of the numbers of illegal immigrants identified by the Immigration service and the categories under which they were removed from the Isle of Man. Each category is described in more detail below.

<b>Category</b>	<b>Annual Total 2006/2007</b>	<b>Annual Total 2007/2008</b>	<b>Annual Total 2008/2009</b>
Illegal Immigrant	8	9	6
S10 Removal			1
Curtailment	2	7	3
Refused Leave to Enter	0	0	2
Deportation	6	1	1
Voluntary Departure	1	2	3
<b>Total</b>	<b>17</b>	<b>19</b>	<b>16</b>

### Illegal Immigrant

An illegal immigrant is defined as a person unlawfully entering the country, or seeking to enter in breach of a deportation order. A person entering or seeking to enter by means of deception is also classed as an illegal immigrant. The Immigration service will seek to remove an illegal immigrant back to their home country.

### S10 Removal

The powers to remove illegal entrants are found in paragraphs 9 and 10 of schedule 2 to the Immigration Act 1971 as extended to the Isle of Man; these powers enable an immigration officer to give any authorised directions for removal. This allows for an illegal entrant to be removed by ship or aircraft to a country or territory which s/he is a national citizen.

### Curtailment

A person's leave to enter or remain in the country may be curtailed if s/he ceases to meet the requirements of the rules under which his/her leave to enter or remain was granted.

### Refused Leave to Enter

If a foreign national attempts to enter the country at the border and is subject to immigration restrictions and they fail to satisfy the immigration requirements, the person may be refused leave to enter and sent back to the country from where s/he came.

### Voluntary Departure

An individual maybe located in the country illegally; the person will be assessed and given the option to leave the country voluntarily. The cost of this departure will be met by the individual who is escorted to the airport for onward travel to his/her home country. There must be documentary evidence of onward travel by way of flight tickets.

### Deportation

Where a person is liable to deportation the Governor may make a deportation order against him/her. This is an order requiring him/her to leave the Isle of Man and United Kingdom. The order prohibits the person from entering the Isle of Man or United Kingdom. Deportation may be recommended to the Governor by a court, where a person subject to immigration has committed serious criminal offences. Deportation is a serious matter and any person subject to a deportation order will find their ability to obtain a visa in the future severely affected.

## Immigration Appeals

The Immigration Office carefully considers all applications against the requirements detailed within the Immigration Rules. The circumstances and rights of individuals and families must be balanced against the need to retain an effective immigration control and to treat each application in a consistent, fair and lawful manner. When an applicant disagrees with the decision of the Immigration Office, in most, but not all cases, there is a right of appeal. This can be an appeal against a refusal of entry clearance from outside the country, or appeals in-country against a variation of leave (known as curtailment), or a refusal to vary leave (to change a category or extend leave or for Indefinite Leave to Remain).

An individual who wishes to appeal against refusal of entry clearance has 28 days to submit an appeal against the decision, from the date that the refusal is served on them by the Entry Clearance Officer. An individual who wishes to appeal against a variation of leave or a refusal to vary leave has 10 days from the date it is served on them.

Once an appeal is received, it is submitted to an independent Appeals Adjudicator, who will determine the case either through a hearing, or based on consideration of the papers submitted, depending upon which the appellant has requested.

Details on the process for appeals can be found on the Chief Secretary's Office website at [www.cso.gov.im](http://www.cso.gov.im).

<b>Appeals</b>	<b>Annual Total 2007/2008</b>	<b>Annual Total 2008/2009</b>
Submitted	12	12
Written Representation	7	6
Oral Hearing	5	6
Appeals Upheld	0	4
Appeals Dismissed	12	8

## Nationality

Under the British Nationality Act 1981 nationals of the Isle of Man are British citizens. Adult foreign nationals who have a certificate to show they have passed either the citizenship test or passed the relevant language course (see below) and who have obtained indefinite leave to remain status in the IOM/UK can, for a fee, make an application to the Passport and Immigration Office to be naturalised as a British citizen. Any child under 18 years of age who is a foreign national and certain adults who can meet the requirements of their particular immigration category can also make an application to the Office to be registered as a British citizen.

The application process involves the completion of an application form by each applicant supported by their passport and other required documentation and fee. Each application is subject to a range of checks; for example an applicant who has committed any criminal offence, which has not expired under the Rehabilitation of Offenders Act 2001, is not eligible for naturalisation.

Since April 2007, any foreign national applying for indefinite leave to remain has to have a certificate showing that they have passed the same citizenship test or passed the relevant course outlined below before they can make an application. If they go on to apply for naturalisation, they will not need to pass a further citizenship test, though new proposals in respect of citizenship proposals currently being considered by the UK may include an additional test amongst other requirements. Foreign nationals will usually apply for indefinite leave to remain once they are eligible to do so, but those who are granted indefinite leave do not necessarily go on to apply for naturalisation.

Further details on new citizenship proposals can be found at:  
[www.bia.homeoffice.gov.uk](http://www.bia.homeoffice.gov.uk) .

### The Citizenship Test or Course

Before an application to be naturalised as a British citizen can be submitted, each applicant must pass a citizenship test or complete the relevant course (children under 18 and those over 65 years of age are exempt from this). The test is administered by the Isle of Man College; it is generally held once a month and there is a fee which is payable to the College.

The test consists of 24 multiple answer questions and the applicant needs to achieve a pass mark of 75% or more. At each test the questions are divided into 18 questions about life in the UK and 6 questions about life in the Isle of Man. The UK questions are based on the book titled "Life in the UK – a Journey to Citizenship"; the Chief Secretary's Office, with the assistance of a range of experts within the Isle of Man, have produced a supplement on which the Isle of Man questions are based. Copies of "Life in the UK – a Journey to Citizenship" are available from bookstores; the Isle of Man citizenship supplement can be purchased at the Passport and Immigration Office.

The Isle of Man College also runs courses which are an alternative to taking the test; the language/citizenship courses are designed to allow candidates for naturalisation to demonstrate that they meet the requirement of having sufficient knowledge of life in the United Kingdom and the Isle of Man and have sufficient knowledge of the

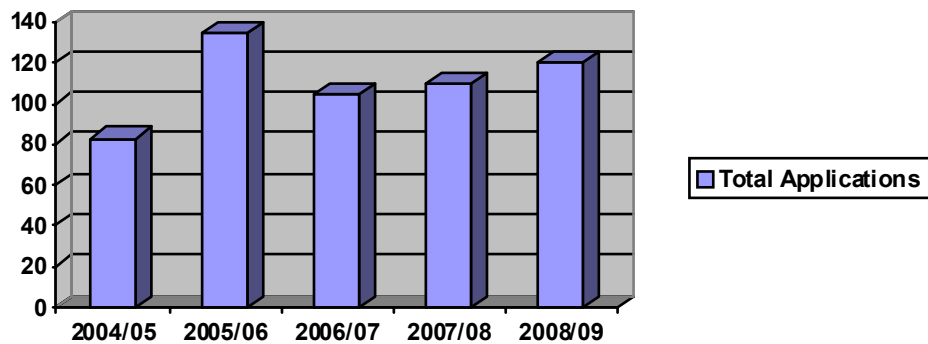
English Language. Further details regarding the course are available from the Isle of Man College.

### **Citizenship Ceremonies**

The final stage of the naturalisation process is the citizenship ceremony; all applicants must attend a formal ceremony at which they are required to swear or affirm their allegiance to Her Majesty the Queen and their loyalty to the United Kingdom. Unusually, the Isle of Man (and the Channel Islands), form part of the United Kingdom in this instance, under the British Nationality Act 1981, for the purpose of naturalisation. The ceremonies in the Isle of Man are administered by the Passport and Immigration Office on behalf of the Lieutenant Governor and are held in the Court House in Douglas.

### **Numbers of Naturalisation Applications**

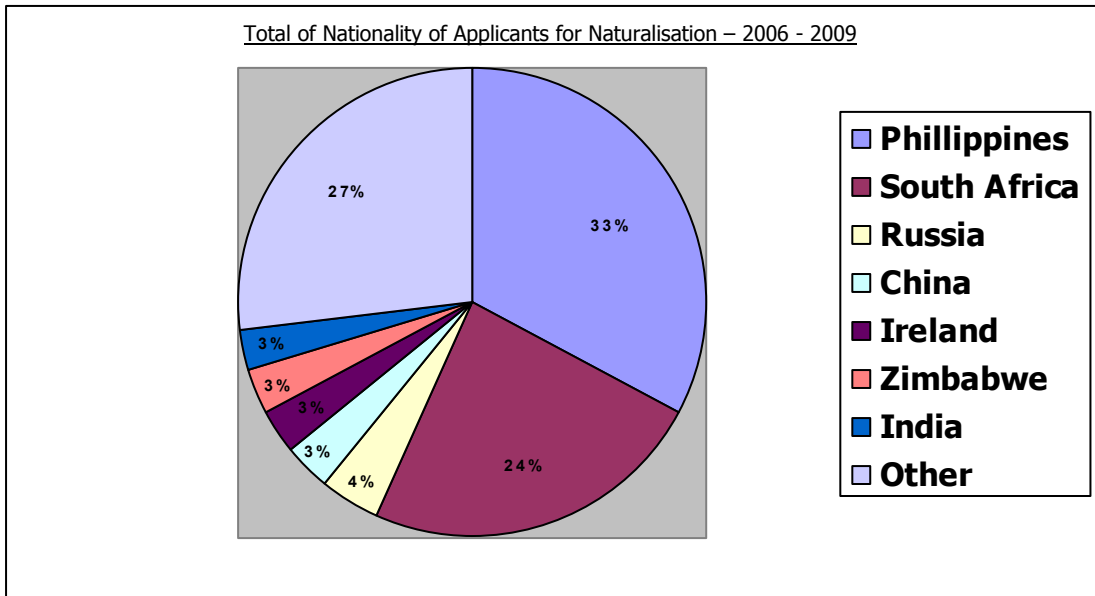
The number of naturalisation applications received has remained fairly consistent over the past few years, as highlighted below.



<b>Year</b>	<b>Total</b>
2004/2005	83
2005/2006	134
2006/2007	104
2007/2008	110
2008/2009	120

## Nationality of Applicants for Naturalisation

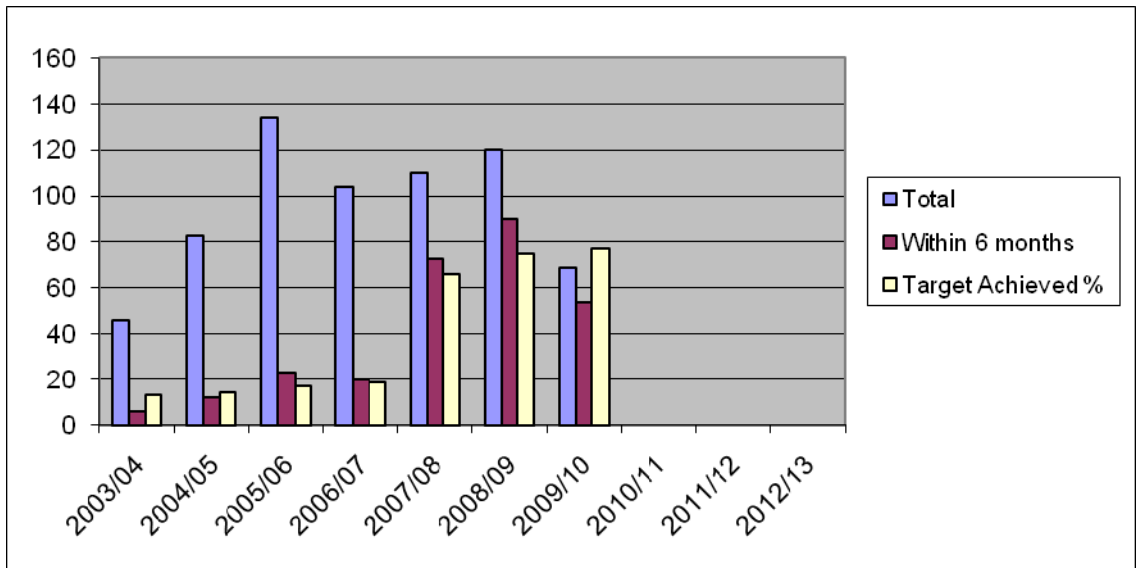
The nationalities of those applying to be naturalised as British citizens in the Isle of Man, reflects the nationalities of those seeking indefinite leave to remain. Applicants from over 40 different countries applied to be naturalised as British citizens in the Isle of Man over the past three years; the following graph shows the breakdown of nationalities for naturalisation for the past three years, 2006-2009.



## Performance

The Passport and Immigration Office aims to process 90% of applications for naturalisation within six months. This is from receipt of the initial application right through to the candidate attending the citizenship ceremony, which is the final stage of the process. The process includes obtaining independent verification of the information provided by the candidate, police checks, etc. At the final stage, an application requires approval from the Lieutenant Governor and is then sent to the Nationality Office in Liverpool for the certificate to be signed by a representative of the UK Secretary of State. A nationality ceremony is arranged once a number of certificates have been returned to the Island. Because of the different stages involved in the application process, it has proved difficult in the past to meet the performance target set.

Revision of processes and closer work with the Nationality Office in Liverpool has now resulted in an improved performance; nevertheless some of the stages in the nationality process are outside the control of the Isle of Man, therefore meeting the target 90% of applications within six months will continue to present a challenge.



## PASSPORTS

The first United Kingdom passport was issued in 1915 when the British Nationality and Status of Aliens Act came into force. After the First World War, the 32-page blue British passport came into use - and with it, the modern British passport service. When the blue UK passports were phased out and the burgundy ones were introduced in 1988, these mentioned the European Community (EC) - but they were still UK passports, not 'European'. They were also machine-readable. Information on a strip within the passport could be read electronically and validity checked on the spot. This aided faster progress through border controls.

The passports issued in the Isle of Man are British passports; the Isle of Man Passport Office effectively acting as an issuing office of the UK. The design and security features of locally issued passports are identical to those issued in the UK, in order to meet international requirements. However there are some distinctive differences with passports issued in the Isle of Man, most notably the 'exhortation' on the inside of the passport refers to the Lieutenant Governor, as the Crown representative in the Island. It is the same with the Channel Islands, which are also Crown Dependencies.

The passport has a traditional role as a document of national identity, as well as an aid to travel. In these days of concerns over crime, terrorism, illegal migration and identity theft, this role is becoming more important and production of a passport is often required for purposes other than travel, e.g. opening a bank account. Increasingly sophisticated security features are built into the passport document, but that accounts for little if the identity of the person being issued with the document for the first time, or on renewal, is fraudulent.

For this reason the level of checking identity on issue and renewal of a passport has become more complex and will continue to develop in the future in an effort to secure the correct identity to the passport document. First time passport applicants are interviewed and anyone who has regularly lost passports may also be asked to attend an interview before further documents are issued. The Isle of Man meets all the

requirements for secure issuing of British passports and will continue to incorporate new measures as they are introduced.

It is important therefore that passport customers allow sufficient time to obtain their passport. Every effort is made by the Passport Office to issue documents within agreed timescales (there are express and standard services available), but applications must be fully and correctly completed and any required checks undertaken before a passport can be issued.

Passports should be renewed before they expire, in fact many countries require that there is *at least six months* remaining on a passport before it expires, otherwise an individual may be refused entry at the border. However passports can be renewed up to nine months before the expiry date, for the full ten years in the case of an adult passport. The Passport Office is especially busy between February and September each year, with a peak in May and June. The quieter months are in the autumn and winter.

The following figures cover passports issued each year, for the past five years. The numbers issued have been relatively consistent year on year, an average of 8642 per annum.

### **Passport Totals**

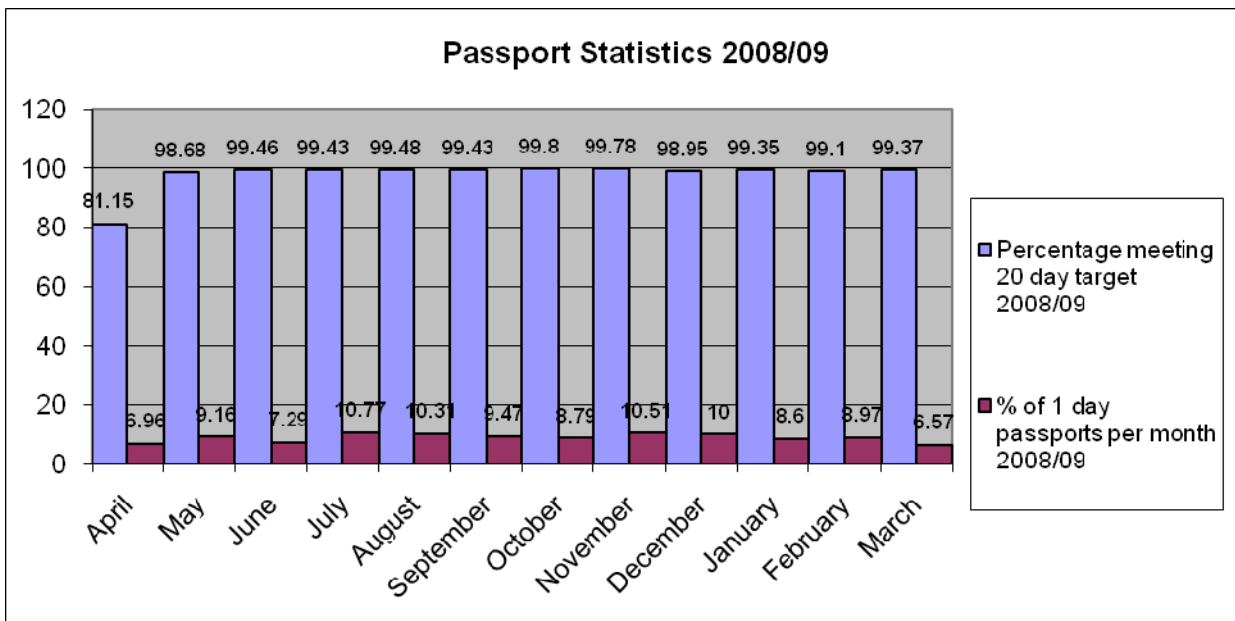
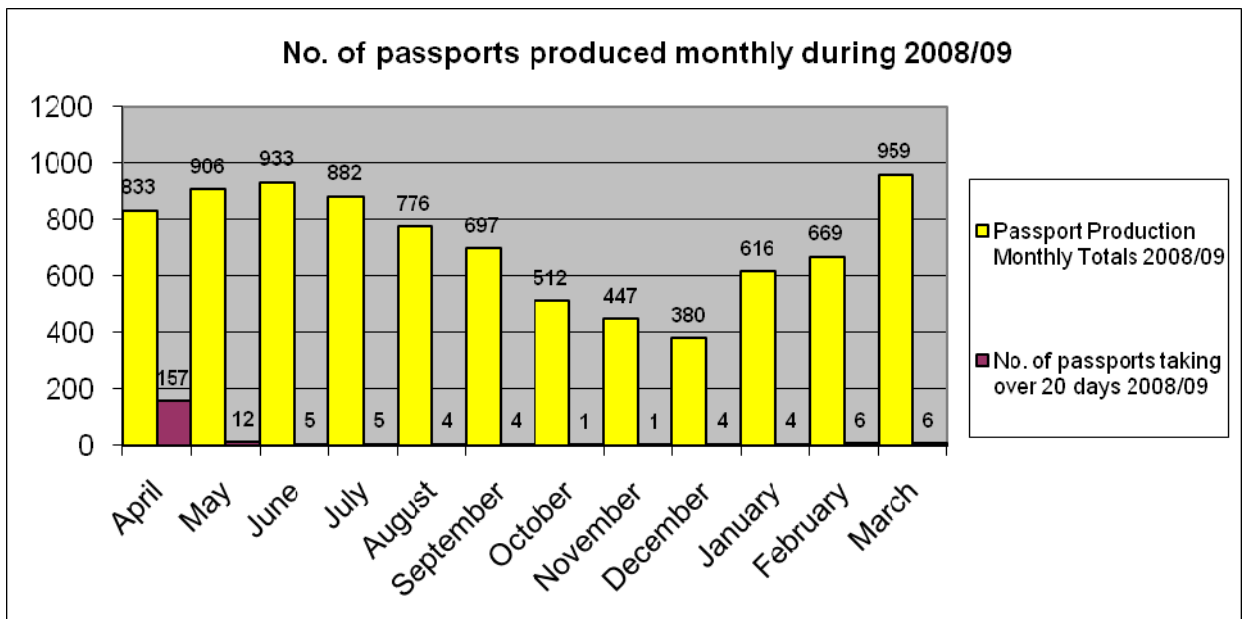
<b>Year</b>	<b>Total</b>
2004/2005	8848
2005/2006	8622
2006/2007	8297
2007/2008	8835
2008/2009	8610

### **Passport Interviews**

Interviews for first time passport applicants were introduced in October 2007. During 2008, 333 passport applicants were interviewed; similar numbers are expected during 2009, an average of 28 people a month.

### **Performance**

The Passport and Immigration Office aims to process 75% of passport applications within 20 days. Express services are available for those persons needing to travel urgently, which are subject to additional fees. These services are increasingly being used by applicants who have already booked their travel and then discovered their passport has expired or has been lost. It is recommended that travel should not be booked unless the traveller is in possession of a valid passport.





## **APPENDICES**

Appendix I	THE LEGAL FRAMEWORK FOR IMMIGRATION
Appendix II	THE COMMON TRAVEL AREA
Appendix III	EUROPEAN UNION NATIONALS
Appendix IV	IMMIGRATION CATEGORIES LEADING TO SETTLEMENT
Appendix V	VISA REQUIREMENTS FOR THE UNITED KINGDOM
Appendix VI	POLICE REGISTRATION

## **THE LEGAL FRAMEWORK FOR IMMIGRATION**

For the purpose of immigration and nationality, UK law is integrated with the immigration law of the islands (defined as the Isle of Man and the Channel Islands). Schedule 4 of the 1971 Act provides reciprocity between the UK and the islands so that certain immigration conditions imposed on foreign nationals in one place are equally effective in the other. This includes the granting of leave to enter and to remain, deportation and provisions for illegal entrants. Foreign nationals residing legitimately in the UK are therefore free to move to the Island, though they remain subject to any conditions and restrictions imposed on their stay.

The primary pieces of legislation governing immigration in the Isle of Man are the Immigration Act 1971, the Immigration Act 1988, the Asylum and Immigration Act 1996, the Immigration and Asylum Act 1999, the Nationality, Immigration and Asylum Act 2002, the Asylum and Immigration (Treatment of Claimants) Act 2004 and the Immigration, Asylum and Nationality Act 2006 (all of Parliament) as applied with modifications, by virtue of the Immigration (Isle of Man) Order 2008.

The Immigration (Isle of Man) Order 2008 consolidated the provisions of current UK immigration law which were considered relevant to the Island and provided new powers for Immigration Officers to deal with offences such as harbouring and facilitating illegal entry. It did not fundamentally change immigration into the Isle of Man or its status within the Common Travel Area.

Since 2008 the UK has introduced further immigration legislation, the Borders Act 2007 and the Border, Citizenship and Immigration Act 2009. Provisions within these Acts are being considered, however the UK is undertaking a fundamental review of its entire immigration legislation, with a view to consolidating it through a single 'Simplification Bill', therefore any further extension of immigration law to the Isle of Man will need to take this into account.

### **The Immigration Rules**

The Immigration Rules are effectively secondary legislation derived from the immigration acts. These Rules lay down the practice to be followed in the administration of the acts, for regulating the entry and stay in the Isle of Man of persons not having right of abode; that is they provide definition for the application of the law. So for example, they describe the conditions that an applicant must meet to be granted entry clearance e.g. as a working holidaymaker in the Isle of Man. The Lieutenant Governor has the ultimate power to exercise discretion, provided such discretion is exercised within the constraints of the Rules.

The UK updates the Rules about 3-4 times a year and to date the Isle of Man has applied these changes, if deemed appropriate, to the Island. Such decisions used to be made on the advice of the Immigration Office to the Lieutenant Governor, however the responsibility for making the Rules transferred to the Council of Ministers by virtue of the Immigration (Isle of Man) Order 2008, and Council of Ministers now makes the decisions on Rule changes. Once Council of Ministers has agreed the changes they come into effect immediately; however the Rule changes are then laid before the next available sitting of Tynwald and if there are any objections at that sitting or the next, the changes go back to the Council of Ministers for any amendments that are deemed appropriate.

## **THE COMMON TRAVEL AREA**

The 1971 Immigration Act, Section 1(3) refers to the Common Travel Area (CTA). The CTA consists of the UK, Republic of Ireland (ROI), the Channel Islands and the Isle of Man. A person accepted for entry at any point in the CTA does not normally require leave to enter any other part of it. There are exceptions for certain persons entering through the Republic of Ireland, which is of course not covered by the provisions of the Immigration Act 1971, Schedule 4. Foreign nationals arriving from the Republic of Ireland are not examined by Immigration Officers at point of entry but are, by virtue of the Republic of Ireland Order, granted "deemed" leave to enter for a specified period, which varies according to their individual immigration status.

### **History of the Common Travel Area**

The Common Travel Area emerged during the 1920s when special legislative provision for the Islands and the Republic of Ireland was made in the Aliens Order of 1919, 1920 and 1923. These Aliens Orders provided firstly, that the Isle of Man and subsequently the Channel Islands should not be deemed to be outside the UK. In 1923 the Irish Free State was established with no immigration controls for passengers travelling between it and the UK; and the Irish Free State was thus put on the same basis as the Islands in this respect. Further provisions were made in the Aliens Order of 1925 and 1931 to deal with specific problems which had arisen from the abuse of these control arrangements by aliens.

In 1939, with the outbreak of war and in view of Irish neutrality, the pressure of enemy missions in Dublin and the need to control the movement of Irish labour, controls were re-imposed between Eire and the UK, in accordance with Defence Regulation 18. At the same time Prevention of Violence legislation was introduced making it possible for the Home Secretary to impose Orders banning the entry of particular Irish citizens to the UK. The Orders made in 1939 continued in force after the lifting of immigration restrictions in 1953. In 1946, Eire abandoned the direct control over the entry of aliens from Northern Ireland and Great Britain, and in 1947 the United Kingdom abandoned controls on the movement of Irish labour. At the end of 1947 Defence Regulation 18 expired with the effect that control of passenger traffic between Great Britain and Northern Ireland and Ireland rested solely on the provisions of the Aliens Order 1920.

By 1948 pressure was growing within the UK for the abolition of all control on travel between the two countries. Negotiations were finally opened in 1952 on a UK initiative following the recommendation of the Home Affairs Committee that controls should be lifted. The Irish agreed to take part on the understanding that any new Agreement was concerned solely with immigration, not wider security issues. UK officials found Irish policy and practice to be sufficiently similar and the Irish were willing to accept the new conditions for the operation of the revised Common Travel Area. The new agreement was embodied in the 1952 Aliens Order and incorporated in the consolidated Aliens Order of 1953.

The Aliens Order 1946 exempted aliens travelling from the Channel Islands to the UK from control, but it was the Aliens Order 1953 which first made more detailed provision for the Common Travel Area as a whole, and introduced the use of that term. It was only in the Immigration Act 1971, that the Common Travel Area was put on a full statutory basis for the first time.

## **The Common Travel Area Today**

In recent years, the sharp increase in immigration into the British Isles, together with growing concerns regarding cross-border organised crime and terrorism, has led the UK to undertake a revision of its border policies, including the way in which the CTA operates. It has become clear that routes across the CTA, between the UK and ROI are used for illegal entry, for example where individuals have been refused visas for one country within the CTA, they may seek to enter via another. The UK has announced plans to tighten CTA controls, using a similar approach to the ROI, whereby freedom of movement is specifically intended for CTA nationals. Whilst there may be changes to the CTA, the exact nature of these changes remains under development; nevertheless the UK and the ROI have reaffirmed their future commitment to the principles of the CTA.

## **EUROPEAN UNION NATIONALS**

Although the Isle of Man is not a part of the European Union (EU) or European Economic Area (EEA) it does have certain obligations under section 7(1) of the Immigration Act 1988. Broadly speaking EU and EEA nationals are free to live and work in the Isle of Man, which includes self employment, providing they, like British citizens, obtain the necessary work permits where required and are not excluded on grounds of public policy, public security or public health, (public policy prohibits EU and EEA nationals from becoming a burden on public funds). The EEA comprises the 27 member states of the EU together with Liechtenstein, Iceland, Norway; Swiss nationals are treated as EEA nationals for immigration purposes.

Article 299(6) (c) of the Treaty establishing the European Community ("the EC Treaty") provides that:

*"this Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community signed on 22 January 1972."*

The Isle of Man's treatment of EU nationals is determined by Article 4 of Protocol 3 to the Treaty establishing the EC, which provides that the Island's authorities shall apply the same treatment to all natural and legal persons of the Community. This means that the Isle of Man Government must treat people from all the Member States in the same way. The Island cannot give more favourable or simply different treatment to people from certain EU countries such as perhaps the UK or Ireland.

EEA nationals exercising a Treaty right are not subject to immigration control and can, after 5 years in the Isle of Man, apply for settlement status if they wish to; however the UK does not recognise time spent in the Isle of Man (or the Channel Islands) as counting towards settled status in the UK, because the Isle of man is not in the EU.

### **EU nationals wishing to work in the Isle of Man**

As indicated previously, any EU/EEA national must have a work permit under the CEA. Provided that the Island treats all EU nationals (including people from the UK) in the same way it can, for example, restrict (or indeed bar) those persons from entering into employment on the Island, restrict their access to benefits, or restrict their ability to purchase property or land and reside in the Island. It is for this reason that the Isle of Man can operate its control of employment; the Island must, of course, still comply with international treaty obligations that it has accepted in relation to, amongst other things, human rights, prevention of discrimination and in relation to the treatment of refugees.

### **Non EU nationals who are family members of EU nationals**

Non EU nationals who are family members of EU nationals have the same rights as the EU national and are not subject to immigration control. Some may apply formally to enter the UK or Isle of Man as a family member of an EEA national, but if they don't follow this procedure and can prove they are a family member then the EU legislation overrides immigration legislation in this instance.

## **IMMIGRATION CATEGORIES LEADING TO SETTLEMENT**

The following Immigration categories relate to foreign nationals granted leave to enter/remain in categories which can lead to settlement.

- Work Permit Employment
- United Kingdom Ancestry
- Spouses/Fiancés
- Family Members
- Other Categories

There are a number of additional immigration categories which afford rights to settlement, usually after a period of 5 years continuously spent in the Isle of Man, and these are as follows:-

- as a businessman or a self-employed person;
- investor;
- writer, composer or artist;
- retired person of independent means

The following immigration categories relate to foreign nationals granted leave to enter or remain in the Isle of Man in a category that does not lead to settlement.

- Visitors
- Students
- Working Holidaymakers
- Training and Work Experience Scheme
- Au Pairs

Please see the Immigration Rules at [www.cso.gov.im](http://www.cso.gov.im) for further details on all of the above categories.

## VISA REQUIREMENTS FOR THE UNITED KINGDOM

### 1. Subject to paragraph 2 below, the following persons need a visa for the Isle of Man -

(a) Nationals or citizens of the following countries or territorial entities:

Afghanistan	Gabon	Peru
Albania	Gambia	Philippines
Algeria	Georgia	Qatar
Angola	Ghana	Russia
Armenia	Guinea	Rwanda
Azerbaijan	Guinea Bissau	Sao Tome e Principe
Bahrain	Guyana	Saudi Arabia
Bangladesh	Haiti	Senegal
Belarus	India	Sierra Leone
Benin	Indonesia	Somalia
Bhutan	Iran	South Africa
Bolivia	Iraq	Sri Lanka
Bosnia Herzegovina	Ivory Coast	Sudan
Burkina Faso	Jamaica	Surinam
Burma	Jordan	Swaziland
Burundi	Kazakhstan	Syria
Cambodia	Kenya	Taiwan (except those referred to in sub-paragraph 2(h) of this Appendix)
Cameroon	Korea (North)	Tajikistan
Cape Verde	Kuwait	Tanzania
Central African Republic	Kyrgyzstan	Thailand
Chad	Laos	Togo
People's Republic of China (except those referred to in sub-paragraphs 2(d) and (e) of this Appendix)	Lebanon	Tunisia
Colombia	Lesotho	Turkey
Comoros	Liberia	Turkmenistan
Congo	Libya	Uganda
Cuba	Macedonia	Ukraine
Democratic Republic of the Congo	Madagascar	United Arab Emirates
Djibouti	Malawi	Uzbekistan
Dominican Republic	Mali	Venezuela (except those referred to in sub-paragraph 2(i) of this Appendix)
Ecuador	Mauritania	Vietnam
Egypt	Moldova	Yemen
Equatorial Guinea	Mongolia	Zambia
Eritrea	Morocco	Zimbabwe
Ethiopia	Mozambique	
Fiji	Nepal	
	Niger	
	Nigeria	
	Oman	
	Pakistan	

The territories formerly comprising the socialist Federal Republic of Yugoslavia

- (a) Persons who hold passports or travel documents issued by the former Soviet Union or by the former Socialist Federal Republic of Yugoslavia.
- (b) Stateless persons.
- (c) Persons who hold non-national documents.

**2. The following persons do not need a visa for the Isle of Man:**

- (a) those who qualify for admission to the Isle of Man as returning residents in accordance with paragraph 18,
- (b) those who seek leave to enter the Isle of Man within the period of their earlier leave and for the same purpose as that for which that leave was granted, unless it -
  - (i) was for a period of 6 months or less, or
  - (ii) was extended by statutory document or by section 3C of the Immigration Act 1971 (inserted by section 3 of the Immigration and Asylum Act 1999);
- (c) [DELETED]
- (d) those nationals or citizens of the People's Republic of China holding passports issued by Hong Kong Special Administrative Region,
- (e) those nationals or citizens of the People's Republic of China holding passports issued by Macao Special Administrative Region,
- (f) those who arrive in the Isle of Man with leave to enter which is in force but which was given before arrival, so long as those in question arrive within the period of their earlier leave and for the same purpose as that for which leave was granted, unless that leave -
  - (i) was for a period of 6 months or less, or
  - (ii) was extended by statutory document or by section 3C of the Immigration Act 1971 (inserted by section 3 of the Immigration and Asylum Act 1999);
- (g) [NOT USED]
- (h) those nationals or citizens of Taiwan who hold a passport issued by Taiwan which includes the number of the identification card issued by the competent authority in Taiwan.
- (i) those nationals or citizens of Venezuela who hold a passport issued by the Republic of Venezuela which contains biometric information held in an electronic chip.

## POLICE REGISTRATION

The nationals of certain countries are required to register with the Police upon arrival. They are required to advise the Police if they change address or if their immigration status changes. The Police registration scheme dates back to 1909 when Chief Constables were alerted to the threat of German espionage in the UK. In 1914, as a wartime measure, immigration controls were tightened to include a requirement for enemy aliens to register with the police.

By 1918, all aliens were required to register and afterwards it was decided that up to date residential details of aliens should be kept during peace time. The registration scheme has been reviewed on a number of occasions and now only applies to the nationals of certain countries, as indicated.

Under the revised Immigration Rules (which came into effect on 11 May 1998) nationals of the following countries who are aged **16 and over** and who are being admitted **for more than six months** (included those being admitted for employment) should be required to register with the police, unless they are seeking entry in one of the categories listed below:

Afghanistan	Cuba	Libya	Syria
Algeria	Egypt	Moldova	Tajikistan
Argentina	Georgia	Morocco	Tunisia
Armenia	Iran	North Korea	Turkey
Azerbaijan	Iraq	Oman	Turkmenistan
Bahrain	Israel	Palestine	United Arab Emirates
Belarus	Jordan	Peru	Ukraine
Bolivia	Kazakhstan	Qatar	Uzbekistan
Brazil	Kirgizstan	Russia	Yemen
China	Kuwait	Saudi Arabia	
Colombia	Lebanon	Sudan	

The following categories of people are **exempt** from the requirement to register regardless of their country of origin:

- those granted indefinite leave to enter or remain;
- Ministers of religion, missionaries and members of religious orders;
- private servants to staff of diplomatic missions;
- seasonal agricultural workers;
- spouses of people settled here who are granted leave to enter or remain on that basis;
- family members of EEA nationals;
- dependants of those not required to register (including dependants of EEA nationals) except the dependants of offshore workers;
- members of non-NATO forces admitted for courses at British military establishments or with private companies;
- Community service volunteers;
- civilian components of NATO forces;
- non-visa nationals who are employees of contractors to US Armed Forces in the United Kingdom; and
- non-visa nationals who are employees of the American Battle Monuments Commission.