



Isle of Man
Government

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Chief Secretary's Office

Immigration in the Isle of Man

Frequently Asked Questions

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This booklet is intended as a guide and is provided for information only.

It is not definitive and has no legal effect.

Introduction

There is currently considerable interest and debate surrounding immigration in the Isle of Man. This Guide is intended to provide factual information relating to a range of frequently asked questions about immigration. It covers a range of areas including employment, access to benefits, residency, illegal immigration and asylum. It also seeks to describe how immigration control operates. The Government continues to monitor immigration patterns in the Isle of Man and their effects.

For further information the Immigration Rules provide the detail of how current immigration legislation is applied. These can be found on the Government website at www.gov.im/cso/immigration/rules and are also available from the Chief Secretary's Office, Government Office, Bucks Road, Douglas.

The Common Travel Area (CTA)

Why doesn't the Isle of Man introduce its own immigration barriers?

The Isle of Man is inside the Common Travel Area (CTA) which also covers the UK, Ireland and the Channel Islands. This is a two-way arrangement whereby Isle of Man residents can travel freely within the CTA and persons legally present in other parts of the CTA are generally free to come here.

Immigration controls are not permitted under the Immigration Act, on journeys within the Common Travel Area, though there is authorisation to carry out checks under the Prevention of Terrorism Act. The 1971 Immigration Act, Section 1(3) makes reference to the CTA.

Employment

What about work permits?

One control mechanism that the Isle of Man does have is the work permit system, designed to ensure that newcomers can generally only take up employment here when there are no suitable Isle of Man workers available. The Department of Trade and Industry (DTI) is

responsible for the work permit scheme under the Control of Employment Act.

How many work permits have been issued to people other than British Citizens?

Foreign workers from outside the European Economic Area or EEA (which is all the EU member states plus Iceland, Norway and Liechtenstein) need to meet the strict requirements of the Overseas Labour Scheme (OLS) administered by the DTI. Swiss nationals are treated in the same way as EEA nationals for the purpose of immigration and work permit controls. In general non-EEA nationals can only qualify for a permit if they are highly skilled or can fill gaps in shortage occupations such as teaching or nursing. Between 1999 and 2006 less than 2,000 OLS permits were issued by the DTI for nationals of non-EEA countries including overseas nationals, c. 90 of these were cancelled later following issue. In addition there are currently around 2,000 work permits in issue for EEA nationals excluding the UK.

It should be noted that people often do not surrender their work permits when they leave the Isle of Man, so the figures will include work permits that are no longer in use. In addition, one person may hold two or more jobs and will require a work permit for each of those. Consequently the figures available will be higher than the number of people currently working on the Isle of Man.

Has there been an increase in the level of work permits issued?

The level of overall work permit applications has fallen. Permits issued to EEA nationals has fallen from a peak in 2002 of over 13,200, to just over 9,500 in 2005. Workers are coming to the Isle of Man from further afield in the EEA than was historically the case. Over the last 20 years, much of the immigration has been from the British Isles.

However, both the UK and Irish economies are also performing well and are attracting significant inward flows of workers. As a result many of the Isle of Man job vacancies which would have been filled by UK and Irish workers are now being filled by workers coming from countries such as Poland.

Who are the overseas workers, where do they come from?

The issue of National Insurance (NI) numbers gives some indication of all the nationalities working on the Isle of Man. During 2005/06 NI numbers were issued to people from Poland (271) India (155) South Africa (148) and the Philippines (76). No other country of origin had more than 50 NI numbers issued over that period.

If the UK allows in Romanians and Bulgarians in large numbers to work, for example, will we have to follow suit and allow them to work here?

Yes, they will be eligible to work here as citizens of EU countries. However, they will still need to secure a Work Permit. A permit will only be granted if there are no suitable Isle of Man workers, so Isle of Man workers will remain protected. Under Protocol 3 (the agreement which defines the Isle of Man's relationship with the European Union) EU nationals must be treated the same by the Island as British nationals. It would be possible to stop issuing work permits to EU nationals but this would also have to include British nationals. Clearly this would have a significant impact on the labour available on the Island.

What are the consequences of Protocol 3?

Protocol 3 is contained within the 1972 Treaty of Accession by which the UK became a member of the EU. It defines the Isle of Man's relationship with the EU, enabling trade to take place in manufacturing and agricultural products for example. One consequence of Protocol 3 is that, because UK citizens are able to come and live or work on the Isle of Man (subject to obtaining a work permit); this also applies to all EEA nationals because all Members must be treated equally. They are not required to apply for entry or to register with any agency.

The majority of people from the Isle of Man are afforded the same rights to travel and settle in the EEA (subject, like the Isle of Man, to obtaining any local work permits etc.). However this right does not automatically extend to Manxmen as defined by the Protocol, that is, a person born in the Isle of Man whose parents and grandparents were also born, adopted, naturalised or registered in the Isle of Man. This is currently estimated to affect approximately 10-15% of the Island's population.

Can we stop giving work permits to foreign nationals if unemployment rises?

Work permits are issued on an individual basis and to a specific set of rules that are designed to protect Manx workers. Foreign workers including those from the EEA, who come to the Island for employment, must apply for and obtain a work permit. As already indicated, the Island could not discriminate between EEA nationalities in restricting the issue of work permits.

It is important to recognise that the foreign workers coming into the Isle of Man are primarily in response to the Isle of Man's need for labour. The Isle of Man has enjoyed strong growth in recent years and the economy is more diverse and more global than it has ever been. The availability of a workforce is fundamental to delivering continued economic growth, public services and thus prosperity for the whole community.

Economic growth in the Isle of Man over the past 10 years has averaged over 7.6% a year, far exceeding population growth of around 1% a year. National Income per person is now 110% of that of the UK and around 135% of that in the EU.

This economic success has directly benefited the workforce of the Isle of Man. Average earnings are now over 50% higher than a decade ago and have increased faster than the cost of living (up by only one-third over the same period). Unemployment has remained at or below 1.5% for the last 6 years, compared to an average of 5% in the UK and 8% in the EU. Furthermore, more people of working age (18-65) are working in the Isle of Man than ever before. Government continues to monitor employment trends closely.

Does a foreign worker have an automatic right to settle on the Isle of Man after 5 years?

There is no provision for automatically granting indefinite leave to remain (ILR) on the Isle of Man (that is, settlement status) to a person who completes 5 years on a work permit. The individual must apply for leave to remain in the Isle of Man and then meet the requirements of

the particular immigration category under which they are applying. Details of these categories are available in the Immigration Rules. However, people from the EEA are not required to obtain ILR and are entitled to work, subject to work permit provisions.

What is being done to prevent illegal foreign working?

The Immigration Service works closely with the DTI and the Police and regularly instigates investigations arising out of information received about foreign nationals possibly working illegally. Some sectors of the economy seem more likely to experience illegal working by foreign nationals. This may involve individuals who have overstayed their leave or those who have entered the country without valid leave. Clearly such individuals will not be properly protected by employment law and are therefore liable to exploitation. It is important therefore, that Government continues to encourage businesses to operate within the law and Immigration Rules.

What about foreign students who are working in the Isle of Man?

Students are permitted to work for restricted hours during term times and to work full time during holiday periods. Educational institutions are kept fully aware of the immigration requirements in relation to their students. The DTI has recently introduced a card, which students wishing to work are required to apply for. This provides additional safeguards to prevent students and employers breaking Immigration Rules regarding the number of hours that foreign students are entitled to work and ensures that the students' rights as workers are observed.

The Benefits System

Can foreign nationals claim social security benefits?

Access to benefits is a very complex issue and there is no single answer to this. In the case of many foreign nationals their leave to enter and to remain in the Isle of Man is conditional upon them not accessing public funds (which include Income Support, income-based Jobseeker's

Allowance, Family Income Support and Child Benefit) and this condition is clearly stamped in their passport.

Nevertheless, the Isle of Man is included within the territory of the UK for the purposes of around 38 bi-lateral social security agreements with various countries around the world.

What might a person from Europe be entitled to receive?

In most of the bi-lateral agreements with European countries, provision is made for social insurance contributions paid in a person's home country to count towards their entitlement to contribution based benefits in the Isle of Man/UK, but usually only after the person has commenced work in the Isle of Man/UK (and vice versa). The following contribution-based benefits may be covered by a bi-lateral agreement: old age pensions, survivors' benefits, sickness benefit, industrial injury benefit, maternity allowance and unemployment benefit.

For countries outside Europe, the bi-lateral agreements are usually less comprehensive, some not providing for any reciprocity in benefit matters at all. The provisions vary and one would need to examine each individual agreement to understand what is (and is not) provided for. They generally do not provide for benefits which are not contribution based and certainly do not provide reciprocity in relation to income-related benefits e.g. Income Support.

Is there any entitlement for foreign nationals to Child Benefit or Family Income Supplement?

In regard to Child Benefit, normally the claimant (or the child or young person for whom the benefit is being claimed) must have been resident in the Isle of Man or the UK for more than 182 days in the 52 weeks immediately preceding the claim. However, Child Benefit can be paid to those who do not meet the residency condition if they (or their spouse) start work either as an employed earner or self-employed earner and intend to live on the Isle of Man for at least 6 months.

In order to be entitled to Family Income Supplement (FIS), a claimant must satisfy a residency qualification, i.e. be either an Isle of Man

Worker as defined by the Control of Employment Act or have lived on the Isle of Man for at least 6 months prior to their claim.

Is there any entitlement for foreign nationals to Jobseeker's Allowance?

Jobseeker's Allowance (JSA) has two routes of entitlement – a contribution based entitlement (for which national insurance contributions must have been paid in the relevant tax years) and an income-related (means-tested) entitlement. An immigrant's social insurance contributions paid in their home country may count towards entitlement to contribution based JSA if they have commenced a period of insurance (i.e. work as an employed or self-employed earner) on the Isle of Man and the bi-lateral agreement between the UK and their home nation (if there is one) provides for this.

For entitlement to income-based JSA, the applicant must meet a residential qualification. Broadly speaking, they (or their partner) must be an Isle of Man worker, as defined by the Control of Employment Act and be available for or looking for work. Entitlement to income support is subject to the same residential qualification as applies to income-based JSA (see above).

Is there any evidence that foreign workers are registering to receive benefits?

National Insurance records show that over 99% of those foreign nationals who apply for Isle of Man National Insurance numbers do so for the purpose of employment and not to enable them to claim benefits.

Public Services and Housing

Is there any evidence that the numbers of foreign nationals is putting a strain on public services?

Increased demand for public services and housing is a general consequence of an increase in new residents and not one confined to foreign nationals.

Are there more children in Isle of Man schools who do not speak English?

There has been an impact on schools arising out of the numbers of children entering the education system for whom English is a second or additional language, though this does not necessarily mean that a child cannot speak and understand English. The Isle of Man College has also seen a substantial increase in the number of people wishing to study English as a second or additional language. In 2005-06 320 people took English as an additional language and it is expected that this year will see similar numbers.

What about the health service, has there been an increase in the number of foreign nationals and extended family members being treated?

There is little evidence to date that an increase in the number of foreign nationals has had a significant impact on the health service. The main 'extended family' issues dealt with by the hospital in the last 10 months appears to be from Manx residents wishing to bring people from the UK to the Isle of Man, either so that they are nearer to their family, or because they feel that they will get better care here.

What has been the impact of increased immigration on the availability of public housing?

All immigration has an impact on the demand for housing and to some degree the type of immigration affects what type of property is required. A person is only eligible to go onto a local authority housing list or the Local Government and the Environment (LGE) housing list having completed a 10 year residential qualification. In the case of local authority housing the applicant must have lived in the area for 5 years of the 10 year period and in the case of LGE housing for 5 years of the 10 years in an area that has LGE housing (although their application does not necessarily have to be in that particular LGE area).

Immigration Numbers

What is the total number of foreign nationals living in the Isle of Man?

The total number of foreign nationals living in the Isle of Man will be known when the information from the 2006 mini-census is available. We do not know how many foreign nationals are in the Isle of Man without the census information because under Protocol 3, EEA nationals are free to come and live or work on the Isle of Man, (subject to obtaining a work permit), without applying for entry or registering with any agency.

In order to ascertain at any given time who is present on the Isle of Man, it would be necessary to implement full entry and embarkation controls, to which **everyone** would be subject every time they left or arrived in the Isle of Man. More significantly this would clearly have large resource implications and would impact on local residents and the business community, all of whom would be required to pass through controls. This would also potentially affect the CTA arrangements currently in operation throughout the British Isles.

Do we know how many people from outside the EEA are in the Isle of Man?

We have some idea from the number of "entry clearances" granted by the Immigration Office. However one consequence of the Common Travel Area is that foreign nationals who have been granted leave to enter any part of the CTA, are free to come to the Isle of Man without further reference to the Isle of Man Immigration Office. Such foreign nationals must however still meet the criteria for which their entry clearance or further leave to remain was granted in the UK.

How many foreign nationals are in the Isle of Man that we know of and where are they from?

Where information is available (for countries outside the EEA) in 2005 the largest numbers of approved Entry Clearances were given to people from the Philippines (252), India (224) and South Africa (132). All other countries Entry Clearances were well below 100 (the next largest being China (58)). The main categories under which people from outside the

EU entered the Isle of Man during 2005 were as Students (280), Work Permit Holders/Overseas Labour Scheme (138) and Visitors (71).

These figures will not be the same as the figures for NI numbers issued to foreign nationals because the Entry Clearance figures include visitors, dependents, spouses and students etc. many of whom cannot or will not be seeking to work.

How can we find out how many people from outside the Isle of Man and the UK are currently on the Isle of Man?

The mini-census conducted in 2006 will provide an accurate a figure as is possible of foreign nationals resident on the Isle of Man.

How many foreign nationals have taken up British citizenship in the Isle of Man?

If they meet the necessary criteria, foreign nationals resident in the Isle of Man can apply to become British citizens. In 2004/05 a total of 82 applications for British nationality were received by the Passport and Immigration Office in the Isle of Man and in 2005/06 a total of 133 were received. To date (April – October 2006) 64 applications have been received.

Applicants for citizenship will fall into two categories; those who are married to British citizens and those who are not. The criteria for each category differ, but include having had a minimum period of residency in the Isle of Man/UK (3 years for spouses, 5 years for others), having been granted indefinite leave to remain and being able to demonstrate that the Isle of Man/UK is their country of residence (that is, not exceeding permitted absences from the Isle of Man/UK over a specified period of years). In addition applicants have to take a citizenship course or pass a citizenship test, both of which were introduced in 2006.

Immigration Controls

How does immigration control operate in the Isle of Man?

Under Protocol 3, EEA nationals are free to come and live or work on the Isle of Man (subject to obtaining a work permit) and are not required to apply for entry or to register with any agency. The citizens of many countries outside the EEA do require visas in order to enter the UK and travel on to the Isle of Man.

How does the Immigration Office deal with applications to enter the Isle of Man?

Pre-entry Controls exist for visa nationals and for virtually all categories where the applicant is seeking admission for over 6 months. People seeking entry clearance for the United Kingdom or the British Islands must satisfy an Entry Clearance Officer in a British Embassy overseas that the purpose of their visit is genuine and that they meet the criteria contained within the Immigration Rules.

In the case of people seeking entry specifically to the Isle of Man, the Entry Clearance Officer in the Embassy is required to refer the application to the Isle of Man Immigration Office for approval (unless the applicant is coming 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 with recommendations and accompanying evidence. The decision whether or not to grant an entry visa then rests with the Isle of Man.

What happens when someone arrives in the UK/Ireland on their way to the Isle of Man?

On-entry Immigration Controls exist at ports and airports receiving travellers from outside the CTA. On-entry control is the point at which an individual must satisfy the Immigration Officer that they meet the Immigration Rules, that is, the category under which they are seeking entry e.g. working holidaymaker, student, etc. If there is any doubt then Immigration Control in the UK/Ireland will contact the Isle of Man

Immigration Office to ask whether an individual should be admitted or returned to their country of origin.

On-entry Immigration Control is rarely undertaken in the Isle of Man as there are very few transport services entering the Isle of Man from outside the CTA.

What checks take place after someone has entered the Isle of Man?

After entry Immigration Control takes place for all foreign nationals seeking to extend or vary their conditions of stay. This would include people applying to extend the duration of their visit, or transferring from one category to another (e.g. student to overseas work permit), or following marriage. The resources are not available to keep an individual check on every person granted entry clearance, to ensure that they are abiding by their terms of entry and that they do not overstay.

If someone does overstay or breaches the conditions of their entry into the Isle of Man, what happens?

The Immigration Office, supported by the police (and the DTI where appropriate) undertake enforcement action where it is found that people have breached their conditions of entry; this includes voluntary removal or deportation (see also illegal immigration).

What is the legal framework for immigration in the Isle of Man?

Immigration legislation in the Isle of Man is UK legislation extended to the Isle of Man by invitation through a special Order. Appropriate modifications, adaptations and exceptions are made to the legislation before this is done to ensure that it is appropriate to the Isle of Man. A key provision of the Immigration Act 1971, as it affects the Isle of Man, is Schedule 4, which deals with the integration of UK law with the immigration law of the Islands (including the Isle of Man and the Channel Islands). The Schedule 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.

Immigration in the Isle of Man is a function of the Crown and the powers exercised by the Secretary of State in the UK are exercised by the Lieutenant Governor in the Isle of Man; the main power relates to the making of the Immigration Rules. The Immigration Service on the Isle of Man is responsible via the Lieutenant Governor, to the Crown. The Lieutenant Governor has the ultimate power to exercise discretion, provided such discretion is exercised within the constraints of the Rules.

Full details of immigration categories are contained in the Immigration Rules (see Introduction for details).

Illegal Immigration

How many illegal immigrants does the Isle of Man have?

The numbers of illegal immigrants on the Isle of Man is not known however by far the vast majority of foreign nationals are on the Isle of Man legally. Nevertheless the numbers of individuals on the Isle of Man who have been identified as not having gained leave to enter the CTA, or those whose leave to remain has expired (overstayers) and who have been detained and removed, has shown a gradual increase over the last few years:

2003	2004	2005	2006 (to 31 st August)
8	9	16	16

What does the Isle of Man Government do to prevent and detect the entry of illegal immigrants?

There is now considerably more intelligence regarding potential illegal immigrants, all of which must be carefully assessed and analysed prior to any enforcement activity being undertaken. The Immigration Service works closely with the Police (and the DTI where applicable) to share such intelligence.

What happens when illegal entrants or overstayers are located?

The Immigration Rules allow deportation action to be taken against foreign nationals. The Rules authorise detention until the person is removed and prohibits them from re-entering the Isle of Man for as long as the order is in force. Deportations from the Isle of Man under the Immigration Act are very rare. Illegal immigrants are detained and then removed to their home country mainly on a voluntary (but supervised) basis.

Asylum

What is the situation on the Isle of Man in respect of asylum claims?

The Isle of Man's legislation does not include provision for asylum claims or support for asylum seekers. The Isle of Man (and the Channel Islands) benefit from an arrangement with the United Kingdom Government whereby it will accept the return of asylum seekers in cases where the individual concerned, having arrived here via the UK, would have had opportunity to claim asylum in the UK. For anyone entering from any other port of entry, the Immigration Service, under present arrangements, works with the UK to achieve a satisfactory outcome.

Why does the Isle of Man not introduce its own asylum laws?

Asylum systems are extremely complex and costly, requiring specialist detention facilities and access to a raft of services including expert social support and legal advice, financial support e.g. benefits, people to investigate the basis of the claims, etc. Asylum is a serious matter and

there will clearly be the opportunity to challenge any decision where it might be shown that the most strenuous measures in support of a claimant had not been put in place. The Isle of Man is not resourced to undertake this level of specialist work, nor is it believed that the numbers are ever likely to justify it.

The Residence Act

What has happened to the Residence Act that was passed in 2001?

It is important to distinguish between immigration laws, governing who can *enter* a country, and residence laws, controlling who can take up *permanent* residence.

A Residence Act was passed in 2001 and in 2002 Tynwald resolved to advance the secondary or enabling legislation required to implement a system of residence control. The Social Issues Committee of the Council of Ministers submitted proposals and draft regulations in 2004 which was then referred to the Department of Trade and Industry and the Treasury for consideration of the economic implications. Research work into options has continued, in particular looking at control systems which link residency to economic and skills requirements.

What are the issues in implementing residence controls?

Unlike immigration legislation, residence controls would impact upon those already living in the Isle of Man as well as new residents, requiring, for example, people to meet the terms of the legislation (as currently construed) when they move house or when they lease accommodation. All people wishing to take up or change residence within the Isle of Man would need to register and be part of the system. This would also involve an increase in bureaucracy with vendors/landlords and purchaser/tenants needing to verify their status under the Act. There would inevitably be costs involved in setting up the administration required to operate a residence system.

If a residence system were to be introduced it would be necessary for the Government to have a very clear idea of the skills required from new residents. How such a system would work in relation to those whose

economic contribution might be minimal or negative, e.g. retired people, those with larger families or persons with disabilities also needs to be carefully thought through.

There have been concerns expressed about the application of a Residence Act; that it will be perceived that the Isle of Man is full up and closed for business and that this will provide the Isle of Man's competitors with a firm advantage. Any impact on the economic growth of the Isle of Man would also affect the level of services provided to existing residents. However many regard the 'badge' of residence as being prized and something that could add to the image and the status of the Isle of Man as a separate and successful offshore jurisdiction.

When is there likely to be further progress in relation to residency?

Government policy so far has been that the introduction of residence controls is regarded as a contingency measure to be applied only if and when the pressure of population increase causes real difficulties and cannot be otherwise addressed. Such a system requires a lead-in time to introduce the secondary legislation and establish the systems required to operate such a scheme. Work is continuing to identify the most appropriate model for the Isle of Man should one be required.

There is a balance to be struck between supporting and encouraging economic development involving population growth – increasing the size of the workforce – tempered by the need to ensure that the Isle of Man's quality of life is maintained, service provision can meet the demands of the resident population, and that the housing market is also able to meet these demands. This will be an ongoing challenge for each Administration.

Provisional results from the 2006 Census suggest that the Isle of Man's resident population stood at 79,805 on Census Night (23rd April 2006). This represents an increase of 3,490 since 2001, when the last census was held.

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This booklet is also available in a
large print format upon request