



**Isle of Man
Government**

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A Guide to Work Permits

ISSUED BY THE DEPARTMENT OF ECONOMIC DEVELOPMENT

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Important note about making an application for a work permit

In the overwhelming majority of cases the Department will make its decision as to whether or not to grant an application for a work permit on the basis of documentation supplied to the Department. **The Department strongly recommends that applicants provide all relevant information at the time the application is made.**

The function of the Work Permit Appeal Tribunal is limited to determining whether the decision of the Department was lawfully reached. The Tribunal does not redetermine the application. Further, an applicant who has been unsuccessful in obtaining a permit and who appeals to the Tribunal should not assume that he or she will be allowed to rely upon additional evidence if such evidence could have been reasonably obtained and presented to the Department when the application was first made.

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Introduction

The Control of Employment Act 2014 (CEA), together with subordinate legislation, provides the statutory framework under which the Department of Economic Development (DED) operates and enforces the work permit system.

The purpose of the legislation is to protect the employment opportunities of Isle of Man workers as far as it is reasonable while enabling employers to obtain the workers they need, subject to taking into account the wider social and fiscal interests of the Island where appropriate.

Anyone who is not an Isle of Man worker requires a work permit to take up employment (including self-employment), except in the case of a number of occupations and certain employments of a temporary nature which are exempt.

An application for a permit may be made by:

- an employer to employ an individual to carry out a particular role;
- a self-employed person;
- the spouse, civil partner or cohabiting partner of a permit holder or exempt person, for a permit which is not limited to any specific employment; or
- the cohabiting partner of an Isle of Man worker for a permit which is not limited to any specific employment.

In each case, where successful, the permit will be granted for a set period. Where necessary, an application for renewal of a permit can subsequently be made.

This Guide is structured as follows:

- Section 1 sets out the relevant legislation;
- Section 2 sets out those employments which are exempt from the legislation;
- Section 3 sets out some of the Department's general policies and the administrative process for obtaining a work permit;
- Section 4 is a list of frequently asked questions; and
- Section 5 is a list of contact details of relevant organisations.

Terms used in this booklet are explained immediately after this introduction.

The booklet is written in general terms and is not intended to be a complete or authoritative statement of the law. Only the official wording

of Acts, Regulations and Orders, and the interpretation given by the Courts, are authoritative.

No responsibility is accepted for errors or omissions, or their consequences.

Terms and abbreviations used in this booklet

2014 Act	the Control of Employment Act 2014
applicant	the person by whom an application is made
automatic permit	there are 2 kinds of automatic permit – a CPIOMW permit and a qualifying person’s permit
CEA permit	a work permit under the Control of Employment Act 2014
cohabiting partner	one of two persons who are living together as if they were spouses or civil partners
Committee	the Work Permit Committee (see 3.6)
construction operations	see Appendix 1 to this Guide
CPIOMW permit	a work permit issued to the cohabiting partner of an Isle of Man worker
DED / the Department	the Department of Economic Development
EEA national	a national of a European Economic Area (EEA) state or Switzerland ¹
employee	the person employed or intended to be employed (including a self-employed person)
employer	the person by whom the employee is or is intended to be employed (in the case of a self-employed person, references to the employer are to that person)
holder	the person in respect of whose employment a work permit is issued

¹ The EEA states are the 28 member states of the European Union (Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom) and also Iceland, Liechtenstein and Norway.

Switzerland is not an EU or EEA member state but is part of the single market, therefore Swiss nationals have the same rights to live and work in the Isle of Man as EEA nationals.

IED	immigration employment document (see 2.2)
immigration law	Isle of Man immigration law including the Immigration Act 1971 of Parliament (as it has effect in the Isle of Man) and the immigration rules made under that Act
Isle of Man worker	see 1.3
person concerned	the person in respect of whom an application is made
primary employment	the employment in which the spouse, civil partner or cohabiting partner of the qualifying person was engaged and by virtue of which the qualifying person's permit was granted
qualifying person's permit	a work permit issued to the spouse, civil partner or cohabiting partner of a work permit holder or exempt person (see 1.7.3)
relevant person	any person living with, or likely to live with, the person concerned as a member of his or her family or household
Tribunal	the Work Permit Appeal Tribunal (see 1.18)
work permit	a work permit granted by the Department under the 2014 Act

How we will seek to deal with applications

The Department will, as far as is reasonably practicable, consider all applications in line with the following principles.

We will:

- deal with cases fairly and consistently;
- ensure that cases are dealt with expeditiously;
- have regard to saving expense;
- deal with cases proportionately to their importance and the complexity of the issues;
- be courteous and approachable;
- be open and transparent;
- be as flexible as the legislation allows;
- make available simple and user friendly information; and
- give users of the service the opportunity to provide feedback and respond to any criticism.

1. The law regarding work permits

1.1 The relevant legislation

- [The Control of Employment Act 2014²](#)
- [Control of Employment Regulations 2015 \(Consolidated version\) \(includes amendments made by the CE \(Amendment of Schedule 1\) Regulations 2016\)](#)
- [The Control of Employment Regulations 2017³](#)
- [The Control of Employment Regulations 1993 - provision still in force](#)
- [The Work Permit \(Fees\) Order 2017 \(made under the Fees and Duties Act 1989\)](#)

1.2 Requirement for work permits

Anyone who is not an "Isle of Man worker" (see 1.3) requires a work permit to take up employment (including self-employment) except in the case of a number of occupations and certain employments of a temporary nature (see 2). An employer must not employ a person unless he or she is an Isle of Man worker except in accordance with the Act.

The legislation applies to all EEA nationals, (such persons are not subject to control under immigration law). The legislation applies to United Kingdom nationals (i.e. British citizens) in the same way as other EEA nationals.

Non EEA nationals are, in general, covered by separate arrangements under immigration legislation (see further at 2.2 below).

1.3 Who is an "Isle of Man worker"?

There are nine separate ways that a person can be an "Isle of Man worker". An "Isle of Man worker" is an individual:

- who was born in the Isle of Man;
- who has at any time been ordinarily resident in the Isle of Man for an unbroken period of at least 5 years (but see 1.4 below);

² The Act has recently been amended by both the Equality Act 2017 and the Control of Employment (Cohabiting Partners of Isle of Man Workers) Order 2017.

³ The Control of Employment Regulations 2017 came into force on 1st November 2017 so far as they relate to cohabiting partners and the removal of the requirement for a work permit in the case of the holder of an immigration employment document. They come into operation on 15th January 2018 for all other purposes.

- who is the spouse or civil partner of an Isle of Man worker and is entitled to remain in the Island under immigration law;⁴
- who was the spouse or civil partner of an Isle of Man worker, was living in the Isle of Man immediately before the death of the Isle of Man worker, and has lived in the Island ever since;
- who was the spouse or civil partner of an Isle of Man worker, had lived in the Isle of Man for an unbroken period of at least 3 years immediately before being divorced and has lived in the Island ever since;
- whose parent is (or was immediately before death) an Isle of Man worker, if at the time of the child's birth the parent, or the parent's spouse or civil partner, was serving in the armed forces;
- whose parent was born in the Isle of Man and lived in the Isle of Man for his or her first 5 years;
- whose grandparent was born in the Isle of Man and lived in the Isle of Man for his or her first 5 years;
- who:
 - (a) was for an unbroken period of at least a year:
 - (i) under 23 years old,
 - (ii) ordinarily resident in the Island, and
 - (iii) in full-time education, and
 - (b) has lived in the Isle of Man since the end of that period, and
 - (c) is the child of a person who during that period was:
 - (i) an Isle of Man worker, or
 - (ii) an exempt person⁵ in regular full-time employment, or
 - (iii) the holder of a work permit.

References to relationships in this section of the guide include adoptive and step relationships.

1.4 How are periods of residence before 1st October 2015 treated?

Under the Control of Employment Act 1975, which was repealed by the 2014 Act, whether a person was an Isle of Man worker was determined

⁴ As for the position in respect of a the cohabiting partner of an Isle of Man worker see 1.14

⁵ The exempt person criterion is, in the case of a period before 1st October 2015 to be taken as an exempt person under the Control of Employment Act 1975 which was repealed on that date.

according to different residence rules. The following transitional rules apply:

- Living in the Island for an unbroken period of 5 years does not confer the status of Isle of Man worker, if the 5 year period ended before 1st October 2015.
- Living in the Island for an unbroken period of 10 years before 1st October 2015 does confer Isle of Man worker status.
- A person is an Isle of Man worker if he or she lived in the Isle of Man for an unbroken period of between 5 and 10 years between 1st June 1963 and 1st October 2015, left the Island, returned after a period of less than 15 years and before 1st October 2015, and lived in the Island without a break up to 1st October 2015 (and did not leave again within 5 years after returning).
- A person is an Isle of Man worker if he or she lived in the Isle of Man for an unbroken period of between 5 and 10 years which ended between 1st October 2000 and 1st October 2015, but did not live in the Island again before 1st October 2015. However, such a person will cease to be an Isle of Man worker on 1st October 2020, or 15 years after the above period ended, if sooner, unless by then he or she has lived in the Island again.

1.4.1 Time spent in prison

Any period of imprisonment exceeding 6 months will break a period of continuous residence required to be an Isle of Man worker.

1.4.2 Service in the armed forces

Where a person has lived in the Island for an unbroken period of at least 3 years immediately before serving in the armed forces, he or she is treated as living in the Island during that period of service.⁶

1.5 Employments where permits are not required

There are certain employments which are exempted from the requirement for a work permit. These are set out at section 2 of this Guide.

⁶ Service in a number of other service-related units is treated in the same way as service in the armed forces. Those units no longer exist, but past service in them will continue to be treated in the same way.

Persons with certain unspent criminal convictions are prohibited from using any exemption (see 1.6).

1.6 Criminal records

Special rules apply where a person has been convicted of an offence and sentenced (anywhere in the world) to a term of custody where —

- the sentence is excluded from rehabilitation by section 2 of the Rehabilitation of Offenders Act 2001 (e.g. custody for a term exceeding 30 months);
- the conviction is not a “spent” conviction for the purposes of that Act; or
- the employment in question is excluded from the operation of that Act (e.g. doctors, accountants).

Any such conviction will be taken into consideration by the Department when determining an application for a permit (see 1.10).

In addition a person with any such conviction:

- may not rely upon any exemption (see 2); and
- has no entitlement to a permit which, upon application, is granted to the spouse, civil partner or cohabiting partner of a work permit holder or exempt person (see further at 1.13); and
- has no entitlement to a permit which, upon application, is granted to the cohabiting partner of an Isle of Man worker(see further at 1.14).

However, an application for an ordinary work permit can still be made (see 1.7.1 and 1.7.2 below).

Further information on the Rehabilitation of Offenders Act 2001 can be obtained from the Department of Home Affairs (see “Contact details and further information” in section 5).

1.7 Application for a work permit

An application can be submitted in the following cases:

1.7.1 Application by employer to employ a worker

An application for a work permit may be made by an employer to employ a specific individual. If granted, the permit will be limited to employment by the employer in a specified capacity; it may also specify a place of work and may be issued subject to conditions. Once issued the permit cannot be varied other than by a new application (except in those circumstances set out at 1.16) so an employee cannot change employment unless the employer first obtains a new work permit.

Note that it is unlawful for an employer to receive from a worker, or deduct from his or her wages, a fee for a work permit. A worker may recover such fee by making an unlawful deduction claim at the Employment Tribunal (see “Contact details and further information” at 5).

1.7.2 Application by a self-employed person

An application for a work permit may be made by a self-employed person and may be issued subject to specified conditions. Once issued the permit cannot be varied other than by a new application (except in those circumstances set out at 1.16).

1.7.3 Application by the spouse, civil partner, or cohabiting partner of a permit holder or an exempt person

The spouse, civil partner or cohabiting partner of a work permit holder or an exempt person may apply for a permit which is not limited to any specific employment. This permit is known as “a qualifying person’s permit”. (See further at 1.13).

1.7.4 Application by the cohabiting partner of an Isle of Man worker

The cohabiting partner of an Isle of Man worker may apply for a permit which is not limited to any specific employment (see further at 1.14).

In each case:

- the information to be provided is set out in the appropriate application form; and
- an application for a work permit must be accompanied by the prescribed fee (see further at 1.8).

Applicants should submit all supporting evidence and ensure their application is complete, accurate and contains all relevant information. It is to be noted that, although there is a right of appeal to the Work Permit Appeal Tribunal, its role is limited (see further at 1.18 below). In particular, the Tribunal cannot re-determine the application, and additional evidence may not be submitted at the appeal stage.

1.8 Application fee

An application for the grant or renewal of a work permit must be accompanied by a fee of £60. (The fee is the same irrespective of the duration of the permit). The fee is not refundable if the application is refused.

Note that a permit which is granted automatically to (1) the spouse, civil partner or cohabiting partner of a work permit holder or exempt person or (2) the cohabiting partner of an Isle of Man worker is only granted for one year a time but such a permit can be renewed annually provided the eligibility requirement continue to be met.

For further information see 3.4.

1.9 Consolidation and staying of applications

The Department may consolidate applications, or put applications on hold, in the following circumstances:

1.9.1 Multiple applications for the same post

Where 2 or more applications for a work permit relate to the same employment, the Department may consider and determine the applications together.

1.9.2 Application for a permit and a qualifying person's permit

Where applications are made for a permit relating to regular full-time employment and a qualifying person's permit (see 1.7.3) the Department may consider and determine the applications together.

A qualifying person's permit will not, however, be granted before the 'primary employment' commences (see 1.13).

1.9.3 Application where there is an ongoing appeal in respect of the same employment

Where an appeal to the Tribunal has been made (see 1.18), the Department may postpone the consideration of any other application for a permit in respect of the same employment until the appeal is determined or withdrawn.

1.9.4 Application following an appeal in respect of the same employment

Where an appeal (i) has been made in relation to an application for a permit or (ii) made but withdrawn less than 15 days before the date which had been fixed for the appeal hearing, the Department may postpone for up to 3 months after the determination or withdrawal of the appeal, consideration of another application for the grant of a permit in respect of the same person and the same employment.

In each of the above cases, the Department will notify the applicant and the person concerned (if different) of any decision to deal with an application in accordance with any of the above procedures.

1.10 Matters which must be taken into account

The Department must take the following matters into account in deciding whether or not to grant a permit.

Note: in this section and section 1.11 **“the person concerned”** means the person in respect of whom an application is made.

Economic circumstances

- 1.10.1 Whether there are any suitable Isle of Man workers available in the trade, occupation or profession in respect of which the application is made, having regard to –**
- (a) any skills, qualifications, knowledge, or experience required for the position; and**
 - (b) the importance of the position to the applicant’s undertaking.**
- 1.10.2 The level of unemployment in the Island in the trade, occupation or profession in respect of which the application is made.**
- 1.10.3 Any likely economic or social consequences of granting or declining the application (other than for the person concerned or any relevant person).**

The process

- 1.10.4 Whether and how the availability of the employment has been publicised in the Island.**
- 1.10.5 The process by which the applicant has selected the person concerned.**
- 1.10.6 The grounds on which the person concerned was selected.**

Personal circumstances of the person concerned

- 1.10.7 Any conviction of the person concerned falling within section 10 of the Act.**

Relevant convictions are set out at 1.6 above.

- 1.10.8 Where the person concerned has, within a reasonable time before the making of the application, worked in the Island for a continuous period of 2 years or more by virtue of a permit or an exemption (see 2), his or her family circumstances (including whether his or her family are living in the Island).**

1.10.9 Whether a refusal to grant or renew a permit would cause substantial hardship to the person concerned.

Additional considerations regarding the person concerned

1.10.10 The status of the person concerned under immigration law including whether he or she has leave to enter and remain in the Island and is permitted to work in the Island under immigration law.

A person seeking to obtain a work permit must not be precluded from living or working in the Isle of Man under immigration law. See further at 2.2.

1.11 Matters which may be taken into account

The Department may, but does not have to, take the following additional matters into account in deciding whether or not to grant a permit:

Economic circumstances

1.11.1 In the case of a self-employed person, the number of individuals already engaged in the employment in question in the Island.

Personal circumstances of the person concerned

1.11.2 The employment history of the person concerned.

Additional considerations regarding the employer

1.11.3 The number of Isle of Man workers employed by the applicant as a percentage of his or her workforce.

1.11.4 Whether the wages and conditions offered are less favourable than those normally applying in the particular trade or occupation in the Isle of Man.

1.11.5 Any career development policy or rotation policy of the applicant.

Additional considerations regarding the person concerned

1.11.6 If the person concerned engages or intends to engage in a construction trade, whether he or she is suitably qualified to do so and holds a relevant skills card, as may be specified by the Department.

A “**skills card**” is a document issued by a recognised organisation to demonstrate the qualifications and skills of a person who is employed in a construction trade. The person concerned must hold a skills card before the application for a work permit is made.

For contact details of Training Services, which administers skills cards, see section 5.

1.11.7 The failure of the person concerned to pay his or her income tax or contributions due under any statutory provision relating to social security.

1.11.8 Whether the person concerned is likely to a significant degree to require health services or social services at the public expense while residing in the Island.

1.11.9 The criminal record (if any) of the person concerned (except as provided by 1.10.7 above).

The Department *may* take into consideration convictions in addition to those covered by 1.10.7 above.

1.11.10 The ability of the person concerned to speak English.

Considerations regarding relevant persons

A “**relevant person**”, is any person living with, or likely to live with the person in respect of whom a permit is sought, as a member of his or her family or household.

1.11.11 The employment history of a relevant person, being the spouse or civil partner of the person concerned.

1.11.12 Whether a relevant person, being the spouse or civil partner of the person concerned, has an immigration employment document.

For the meaning of “immigration employment document” see further at 2.2.

1.11.13 The status of any relevant person under immigration law and whether he or she has leave to enter and remain in the Island under immigration law.

A relevant person must not be precluded from living in the Isle of Man under immigration law. See further at 2.2.

1.11.14 Whether a relevant person is likely to a significant degree to require education at the public expense while residing in the Island.

1.11.15 Whether a relevant person is likely to a significant degree to require health services or social services at the public expense while residing in the Island.

1.11.16 Whether a relevant person is likely to a significant degree to receive non-contributory social security benefits while residing in the Island.

1.11.17 The criminal record (if any) of any relevant person.

1.11.18 The ability of any relevant person to speak English.

1.12 Decision of the Department

The Department will issue a written decision on each work permit application. It will include a statement of the reasons for the decision and information about an appeal to the Work Permit Appeal Tribunal (see further at 1.18) where-

- (a) an application to grant or renew a permit is refused;
- (b) a permit is granted or renewed for a shorter period than that applied for; or
- (c) a condition is included in a permit.

1.13 Permits which are granted automatically to spouses, civil partners and cohabiting partners of work permit holders or exempt persons

Where a work permit holder or exempt person (including the holder of an "immigration employment document") is engaged in permanent, regular, full-time employment, **'the primary employment'**, his or her spouse, civil partner or cohabiting partner is, upon application, entitled to a work permit (referred to as **'a qualifying person's permit'**). A qualifying person's permit is granted for a year at a time, beginning with the date on which it is granted or renewed. The permit will expire 6 months after the primary employment ceases or 12 months after it is granted or renewed, whichever is sooner.

An application for a qualifying person's permit should be made directly to the Department by the spouse, civil partner, or cohabiting partner of the permit holder or exempt person.

Where the applicant is a cohabiting partner certain additional information will be required – this is set out at Appendix 2.

A qualifying person's permit authorises the employment of the person named in it generally, in any capacity, subject to any conditions specified in it.

Note that:

- persons with certain criminal convictions have no entitlement to a qualifying person's permit (see 1.6);
- the spouse, civil partner or cohabiting partner of a non EEA worker who holds an immigration employment document has an entitlement to a qualifying person's permit. However, most non EEA workers do not require a work permit in any case (see further at 2.2);
- the Department may consider and determine an application for a work permit in respect of primary employment and an application for a qualifying person's permit jointly (see further at 1.9.2);
- if the relationship between the person in primary employment and the qualifying person should break down due to divorce, dissolution or annulment, or two cohabiting persons should cease to live together as cohabiting partners, following the grant of the spouse/civil partner permit then the qualifying person's permit would continue in accordance with the general rule set out above (but see 1.13.3 below). (The Department would look sympathetically at an application for an ordinary work permit in such a case).
- If the person in primary employment dies after the grant of the qualifying person's permit, then the qualifying person's permit would continue in accordance with the general rule set out above. (The Department would look sympathetically at an application for an ordinary work permit in such a case).

1.13.1 Obligation of holder of a qualifying person's permit upon commencing employment

Within 14 days of commencing work for an employer, the holder of a qualifying person's permit must notify the Department of the following information –

- (a) his or her full name;
- (b) the work permit number;
- (c) the name, business address, telephone number and email address (if any) of the employer;
- (d) the nature of the employment;
- (e) rate of pay, any bonuses, any accommodation offered, and hours of work; and
- (f) the date the holder commenced the employment

unless all of the information (other than the number of the work permit) has already been provided on the work permit application form and remains up to date.

1.13.2 Obligation of holder of a qualifying person's permit upon commencing self-employment

If the holder of a qualifying person's permit commences self-employment, he or she must notify the Department of the following information –

- (a) his or her full name;
- (b) the work permit number;
- (c) details of the self-employment, including the business name and address and the work to be carried out and an indication of the projected income; and
- (d) the date the holder commenced self-employment

unless all of the information (other than the number of the work permit) has already been provided on the work permit application form and remains up to date.

1.13.3 Obligation of holder of a qualifying person's permit to notify the Department in the case of divorce etc.

If the marriage, or civil partnership of the holder of a qualifying person's permit is terminated by divorce, dissolution, or annulment, or two cohabiting persons should cease to live together as cohabiting partners, the holder must, within 14 days, notify the Department of the date of the relevant event.

For obligations which arise upon cessation of employment see 1.17.3 and 1.17.4 below.

1.14 Permits which are granted automatically to cohabiting partners of Isle of Man workers

The cohabiting partner of an Isle of Man worker is, upon application, entitled to a work permit 'a **CPIOMW permit**'. Such a permit is granted for a year at a time, beginning with the date on which it is granted or renewed. The permit will expire 6 months after the two cohabiting partners cease to live together as cohabiting partners or 12 months after it is granted or renewed, whichever is sooner.

An application for a CPIOMW permit should be made directly to the Department. The information set out at Appendix 2 will be required.

A CPIOMW permit authorises the employment of the person named in it generally, in any capacity, subject to any conditions specified in it.

Note that:

- persons with certain unspent criminal convictions have no entitlement to a CPIOMW permit (see 1.6);
- if, following the grant of the permit, the two cohabiting persons should cease to live together as cohabiting partners, then the permit would continue in accordance with the general rule set out above (but see 1.14.3 below). (The Department would look sympathetically at an application for an ordinary work permit in such a case).
- If the Isle of Man worker should die after the grant of the CPIOMW permit, then the permit would continue in accordance with the general rule set out above. (The Department would look sympathetically at an application for an ordinary work permit in such a case).

1.14.1 Obligation of CPIOMW permit holder upon commencing employment

Within 14 days of commencing work for an employer, the holder of a CPIOMW permit must notify the Department of the following information –

- (g) his or her full name;
- (h) the work permit number;
- (i) the name, business address, telephone number and email address (if any) of the employer;
- (j) the nature of the employment;
- (k) rate of pay, any bonuses, any accommodation offered, and hours of work; and
- (l) the date the holder commenced the employment

unless all of the information (other than the number of the work permit) has already been provided on the work permit application form and remains up to date.

1.14.2 Obligation of CPIOMW permit holder upon commencing self-employment

If the holder of a qualifying person's permit commences self-employment, he or she must notify the Department of the following information –

- (a) his or her full name;

- (b) the work permit number;
 - (c) details of the self-employment, including the business name and address and the work to be carried out and an indication of the projected income; and
 - (d) the date the holder commenced self-employment
- unless all of the information (other than the number of the work permit) has already been provided on the work permit application form and remains up to date.

1.14.3 Obligation of CPIOMW permit holder to notify the Department when no longer cohabiting etc.

If the relationship between the Isle of Man worker and the holder of a CPIOMW permit should break down and the two cohabiting persons should cease to live together as cohabiting partners the holder must, within 14 days, notify the Department of the date of the relevant event.

For obligations which arise upon cessation of employment see 1.17.5 below.

1.15 Renewals

Renewal applications should be made not less than 28 days before the expiry of the permit and must be accompanied by the prescribed fee (see 1.8 above).

A renewal is usually made by completing a renewal request section on the original permit rather than by completing a new application form.

1.16 Variation of permit

The employment undertaken by a worker must be in compliance with the permit except in the following circumstances:

1.16.1 Request by holder to vary permit

The Department may vary a work permit if it considers that a variation is reasonably required for the purpose of the employer's business. A variation may be requested by:

- the permit holder; or
- his or her employer with the consent of the holder.

Permitted variations may:

- remove a limitation on employment in a specified capacity by removing the limitation or specifying a different capacity, or

- remove a limitation to employment at a specified place by removing the limitation or specifying a different place.

A work permit may also be varied to change the specified capacity in the work permit to employment in a different but related capacity if the Department is satisfied —

- that the employment of the holder in the specified capacity is no longer required, but the employment of the holder in the other capacity is reasonably required, for the purpose of the employer's business; or
- that the holder was employed in the specified capacity for the purpose of training for a qualification which he or she has now obtained, and is to be employed in a capacity for which that qualification is required.

1.16.2 Suspension from work on maternity grounds

Where a woman is suspended from work on maternity grounds because of a statutory requirement or a relevant recommendation in a code of practice issued or approved under section 16 of the Health and Safety at Work etc. Act 1974 (as that Act has effect in the Island) she may be employed by the same employer in suitable alternative work without the need to apply for a new permit.

1.16.3 Transfer of undertaking

If an employer (the "original employer") transfers their undertaking to a successor or associated employer (the "new employer") then, if before the transfer of undertaking occurs and the work permit holder agrees, the new employer may continue to employ the holder in the same capacity without the need to apply for a new permit. If the employment of the work permit holder is terminated before the transfer of undertaking occurs then the permission set out above will not apply.

The original employer must, notify the Department with the following information, within 14 days of the date of the transfer of undertaking:—

- (a) the full name of the employee;
- (b) the work permit number;
- (c) the date of the termination; and
- (d) the name and address of the new employer.

1.17 Cessation of work – employers and permit holders’ etc. obligations

Where a permit holder ceases work there is an obligation to notify the Department. Responsibility for notifying the Department depends upon the type of permit.

1.17.1 The employer’s obligation

When a permit holder ceases to work for an employer the employer is required to notify the Department of the following within 14 days:

- (a) the full name of the employee;
- (b) the work permit number;
- (c) the date the employee left the employment; and
- (d) to the best of the employer’s knowledge, whether the employee is still working in the Island and the name and address of the new employer.

However, the employer is not required to provide this information if the holder of either a a qualifying person’s permit or a CPIOMW permit ceases employment.

For the employer’s obligation where there has been a transfer of undertaking see 1.16.3.

1.17.2 Cessation of self-employment

If the holder of a self-employed permit ceases self-employment, the holder must, notify the Department of the following within 14 days:

- (a) his or her full name;
- (b) the work permit number;
- (c) the date of cessation;
- (d) whether he or she is still working in the Island and, if so, the name and address of the employer or details of the new self-employment.

1.17.3 Holder of a qualifying person’s permit – cessation of primary employment

Where a person ceases ‘primary employment’ (see 1.13) and his or her spouse, civil partner or cohabiting partner has a qualifying person’s permit the person in primary employment must notify this fact to the Department, within 14 days of the date of cessation.

1.17.4 Holder of a qualifying person's permit – cessation of employment or self employment

Within 14 days of ceasing work for an employer or self-employment, the holder of a qualifying person's permit must notify the Department of the following information –

- (a) his or her full name;
- (b) the permit number;
- (c) the name of the employer (if any); and
- (d) the date of cessation.

1.17.5 Holder of a CPIOMW permit – cessation of employment or self employment

Within 14 days of ceasing work for an employer, the holder of a CPIOMW permit must notify the Department of the following information –

- (a) his or her full name;
- (b) the permit number;
- (c) the name of the employer (if any); and
- (d) the date of cessation.

1.18 The Work Permit Appeal Tribunal

A directly interested person (see 1.18.4) who is aggrieved by certain decisions of the Department (see 1.18.3) (e.g. an employer who is refused a permit or granted a permit for a shorter period than was applied for or an Isle of Man worker who considers that the permit should not have been granted) may appeal to the Tribunal.

The right of appeal is explained in the letter which notifies an applicant of the refusal or revocation of a permit. Written notice of an appeal should be given to the Tribunal Clerk within 7 days of notification of the relevant decision.

A permit which has been granted may be rescinded by the Tribunal upon appeal.

For contact details of the Tribunal see section 5 below.

1.18.1 Scope of the Tribunal

The role of the Tribunal is to determine whether the decision of the Department was lawfully reached (see 1.18.5 below). It is not to re-determine the application.

An applicant who has been unsuccessful in obtaining a permit in the first instance should not assume that he or she will be allowed to rely upon additional evidence if such evidence could have been reasonably obtained and presented prior to the Department determining the application.

1.18.2 Constitution

The Tribunal is independent of the Department and is administered by the Tribunals Service. It consists of a legally qualified Chairman (whose place can be taken by a Deputy Chairman) and two other members, one selected from a panel representing employers and self-employed persons, and the other from a panel representing employees.

1.18.3 Grounds for an appeal

The decisions against which an appeal may be brought are as follows:

- a decision to grant a permit;
- a decision to refuse or revoke a work permit; or
- a decision to include a condition in a work permit.

1.18.4 Who can appeal?

The following persons have a right of appeal:

- where a permit is granted, any other person who applied for that employment;

Note: where the Tribunal considers that a person who did not apply for employment, because it was insufficiently advertised, would have had a reasonable expectation of obtaining the employment, it may treat that person as having applied for the employment.

- where a permit is refused or revoked, or is granted subject to a condition, the applicant or holder, and his or her employer or prospective employer.

1.18.5 Criteria for allowing an appeal

The Tribunal must either allow or dismiss an appeal. It must allow the appeal where it considers that the Department in reaching the decision:

- made a mistake in law; or
- based its decision on any incorrect material fact; or
- exercised its discretion in an unreasonable manner.

1.18.6 What happens when an appeal is granted?

Where the Tribunal allows an appeal, it remits the application back to the Department, together with its reasons for the decision, and the Department must reconsider the application.

The decision of the Tribunal on an appeal is final. However, an appeal from the Tribunal's decision can be made to the High Court solely on a point of law (see 1.19 below).

1.18.7 How an appeal may affect other applications

Lodging an appeal may affect the way the Department deals with any other application for grant of a permit in respect of the same employment. For further information see 1.9.3 and 1.9.4.

1.19 The High Court

A decision of the Tribunal may be appealed on a point of law only, to the **Civil Division of the High Court**. The usual period allowed for bringing such an appeal is 6 weeks. Anyone considering an appeal from a decision of the Tribunal should take legal advice.

Where an appeal is made, there is always the possibility of a permit that has previously been granted being rescinded.

1.20 Revocation of a permit

The Department may revoke a work permit if it considers that the circumstances that justified the grant or renewal of the permit have changed. The relevant circumstances are where:

- (a) in relation to criminality:
 - (i) either the holder has been convicted of a criminal offence and received a sentence falling within 1.6 above since the work permit was granted or was last renewed, or before it was granted or renewed if the Department was then unaware of the sentence; or
 - (ii) since the work permit was granted the holder or a relevant person has been convicted of a criminal offence;
- (b) it is discovered that the application for the permit includes a false statement or an omission such that a true and complete statement would have caused the Department to refuse to grant or to renew the permit;
- (c) the holder or his or her employer has failed to comply with any condition subject to which the permit was granted;

- (d) the holder has failed to pay his or her income tax or contributions under any statutory provision relating to social security;
- (e) two or more complaints against the holder have been referred to the Department by the Office of Fair Trading, tending to show that the holder is not a fit and proper person to undertake or be engaged in the employment in question; or
- (f) the continued employment of the holder would be unlawful under immigration law.

1.21 Offences

It is an offence, punishable with a fine up to £5,000 or custody for up to 3 months or both:

- for a person who is not an Isle of Man worker to undertake, or become or be engaged in, any employment in the Isle of Man; or
- for a person to employ any person who is not an Isle of Man worker in any employment in the Island,

except under and in accordance with the terms and conditions of a work permit.

An employer has a defence if he or she genuinely believed that the person he or she employed was an Isle of Man worker and took all reasonable steps to verify that belief.

It is an offence, punishable with custody for up to 6 months or a fine up to £7,500, or both, if any person —

- knowingly or recklessly makes a false statement for the purpose of obtaining a permit; or
- impersonates a person who has been granted a permit; or
- misrepresents to an employer that he or she is the holder of a permit or does not require a permit.

For this purpose 'employment' includes self-employment.

It is an offence to fail to comply with a condition attached to an exemption or to a work permit. The offence carries a maximum fine of £1,000.

Where an offence has been committed by a body corporate, a director, manager, secretary or other officer who is responsible for it shall be treated as having committed that offence.

Criminal proceedings may be brought within 3 months of the date on which the Attorney General had sufficient evidence to warrant

proceedings, but subject to an overall limit of 12 months after the offence was committed.

1.22 The work permit inspectors

Authorised officers of the Department, referred to as 'inspectors', enforce the legislation. These officers have statutory powers to enter any premises, question persons and require relevant documents to be produced.

It is an offence punishable with a fine up to £7,500 to obstruct an inspector or refuse to answer questions or fail to provide the required information.

Inspectors are required to carry identification, and individuals are advised to request to see their identification prior to allowing access.

1.23 Information sharing

The Department and other bodies may share information relating to applicants and workers for specified purposes.

The relevant bodies are:

- the Governor (in so far as he has functions under immigration law);
- the Chief Constable;
- the Treasury; and
- the Assessor of Income Tax.

In addition, the Isle of Man Office of Fair Trading may supply relevant information to the Department concerning complaints it receives about commercial activities in the Island which relate to the supply of goods and services to consumers (see also 1.20 (e)).

2. Employments where permits are not required

2.1 Exempted employments: general

There are certain employments which do not require a permit. These are set out below.

Persons with certain unspent criminal convictions etc. are prohibited from using any exemption (see 1.6).

Some exemptions are subject to conditions. An exemption only applies if the condition is complied with.

The spouse or civil partner of an exempt person may be entitled to a work permit. See further at 1.13 above.

2.2 Immigration employment documents held by non EEA nationals

A non EEA national who is the holder of an 'immigration employment document' (IED) is exempt from the requirement for a work permit.

An IED is a document, issued in accordance with the Immigration Act which does not preclude the holder from taking up employment in the Island and evidences —

- (a) leave to enter (whether limited or indefinite);
- (b) leave to remain (whether limited or indefinite); or
- (c) both,

but excluding a certificate of entitlement to a right of abode in the Isle of Man or the UK.

For further information and guidance on immigration matters please contact the Passports, Immigration and Nationality Office (see "useful contacts" at Appendix 3).

2.3 Exemptions in the national interest

The Department may, grant a written exemption to a person working in a specified capacity if it considers the employment of that person to be in the national interest. This exemption may be made subject to conditions.

2.4 Permanent employments which are exempt

2.4.1 Crown employment

Employment in the service of the Crown is the right of the Government of the United Kingdom. This includes any office holder appointed by Her Majesty and paid out of money provided by Tynwald (e.g. the Lieutenant Governor).

2.4.2 Diplomatic employment

Employment in a diplomatic or consular capacity.

2.4.3 Police and related employments

- Employment as the Chief Constable.

(For temporary police and related employments which are exempt see 2.6.3 below)

2.4.4 Employment with the Isle of Man Fire and Rescue Service

Employment as the Chief Fire Officer.

2.4.5 Judicial, court and tribunal employments

- Employment as a Deemster, High Bailiff, or Judicial Officer or as a judge of the consistory court of the Diocese of Sodor and Man.
- Employment as a chairman or member of any commission, tribunal or inquiry established under any statutory provision or resolution of Tynwald.

(For temporary judicial, court and tribunal employments which are exempt see 2.6.4 below).

2.4.6 Senior public service appointments

Employment as the Chief Secretary or the chief officer of a Department or a Statutory Board.

2.4.7 Professions etc.

- Employment as a minister of religion or as a lay worker with a religious body.
- Employment as a registered medical practitioner.
- Employment as a registered dentist.
- Employment as a teacher in a secondary school.
- Employment as a registered nurse or midwife.
- Employment as a registered social worker.

2.4.8 Information and Communication Technologies

Employment in Information and Communications Technologies (ICT).

ICT means the use of digital technology as a central part of the development, manufacture or delivery of a product or service.

The exemptions only apply to employment of at least 12 months' duration and the salary, excluding bonuses, must be at least £25,000 a year.

In addition a person claiming an exemption in ICT must:

- have a minimum of 3 years' experience in an ICT role; or
- hold a computer science degree; or
- hold a technical or vocational ICT-related qualification at Level 5 of the Regulated Qualifications Framework⁷ or the European Qualifications Framework⁸ or equivalent; or
- be able to demonstrate competency at Level 5 or above of the Skills Framework for the Information Age⁹.

The exemption is also conditional on the employer (or in the case of a self-employed person, that person) providing the Department with a return in writing not later than 31 January each year, giving, in respect of each exempt person, the following information:

- the person's name;
- the person's national insurance number;
- the person's job title;
- the person's salary, excluding bonuses; and
- whether the person is still employed.

2.4.9 e-business (including e-gaming)

Employment in e-business (including e-gaming)

'e-business' means the supply or delivery of goods and services primarily by electronic means using the internet or similar electronic networks and includes e-gaming.

⁷ 'The Regulated Qualifications Framework' is a system for cataloguing all qualifications regulated by the Office of Qualifications and Examinations Regulation, a non-ministerial government department with jurisdiction in England and Northern Ireland.

⁸ 'The European Qualifications Framework' is an overarching framework for the national qualifications frameworks of member states of the European Union (EU), as formally adopted in 2008 as part of the EU's strategy for promoting lifelong learning and mutual recognition of qualifications.

⁹ 'The Skills Framework for the Information Age (SFIA)' is the Skills Framework for the Information Age, produced by the Skills Framework for the Information Age Foundation(see www.sfia-online.org/en).

The exemptions only apply to employment of at least 12 months' duration and the salary, excluding bonuses, must be at least £25,000 a year.

In addition a person claiming an exemption in e-business must have:

- a minimum of 2 years' experience in an e-business role; or
- advanced mathematical, statistical or data analysis skills; or
- extensive knowledge of e-business systems, tools or established processes.

The exemption is subject to the same notification requirement as applies to ICT workers (see 2.4.8) above.

2.4.10 Ships and aircraft

Employment in a vessel or aircraft.

2.4.11 Chief Officers etc. of an international group

An officer of an international group in charge of the group's activities in the Island.

(A "group" means a holding company and its subsidiaries (within the meaning of the Companies Act 1974); and an "international group" means a group comprising at least one company incorporated, and *bona fide* carrying on business, in a country or territory outside the Island.)

2.4.12 Voluntary workers

Employment as a voluntary worker, as defined in the Minimum Wage Act 2001. This covers certain unpaid workers for a charity, a voluntary organisation, an associated fund-raising body or a statutory body.

2.4.13 Cultural self-employment etc.

Self-employment of a purely cultural nature.

2.4.14 Commercial travellers

Employment of a person who is not resident in the Island as a commercial traveller or sales representative by or for any person not resident in the Island for the purpose of selling to or seeking orders for goods from —

- persons who are dealers in such goods and buy to sell again; or

- persons who purchase such goods for use (except for resale) in their own business.

2.4.15 Establishment of businesses from outside the Island etc.

Employment in a business being established in the Island as a branch or subsidiary of a business carried on elsewhere, or in a business being relocated in the Island from elsewhere. The exemption is subject to the following conditions:

- it only applies to a business being established or relocated from outside the Island (and so does not apply to new businesses being established from within the Island);
- it only applies to a business being established or relocated after 1st January 2010;
- it does not apply to any of the following excluded employments:
 - in the supply, in the course of a business, of food and drink;
 - in the sale by retail of goods, otherwise than from a permanent place of business in the Island, whether at a fixed location or from door to door;
 - in construction operations¹⁰;
 - in shop work;
 - in tourist premises;
 - in licensed premises;
 - in the provision of personal care;
 - in clerical work;
 - in horticulture; or
 - in cleaning work.
- it may be claimed for up to 3 persons, or 10 per cent. of the persons employed in the business in the Island, whichever is the greater, subject to a maximum of 10 persons;

¹⁰ The term is defined at Appendix 1 of the Guide.

- the actual turnover of the business in the Island in the previous year (or, in the case of a business in its first year, the projected turnover) must not be less than £100,000 for each person employed in the business in the Island;
- not later than 31st January in each year the person claiming the exemption must provide the Department with a written return in respect of the previous year stating:
 - the name of each person in respect of whom the exemption was claimed;
 - the number of staff employed in the business in the Island; and
 - accounts or other information verifying that the turnover requirement has been fulfilled.

2.5 Temporary employments: general rules

2.5.1 Employment for up to 10 days a year

A person may be in employment of a temporary nature in the Isle of Man for up to 10 days without requiring a work permit. This is for a person who comes to the Island, carries out a specific job and goes away not to return. Separate periods of connected employment of less than 10 days in any year are added together, and where the total exceeds 10 days a permit will be required.

Note that:

- any days where a worker is employed in the Island but not actually working (e.g. weekends) will count against the 10 days; and
- the exemption may not be used to cover the first ten days of employment of a non temporary nature.

The exemption does not apply in the following cases:

- construction operations;¹¹
- mobile catering; or
- retail where the retailer does not have a permanent place of business in the Island.

¹¹ The term is defined at the Appendix 1 of the Guide.

2.5.2 Administrative exemption

Upon request, the Department may grant an exemption for employment of a temporary or intermittent nature for more than 10 days where it considers there is good reason. Such an exemption will be authorised in writing.

The exemption is intended to reduce bureaucracy in cases which do not materially affect the prospects of Isle of Man workers. It is not intended to apply to any limited-term contract provision.

The Department sometimes authorises temporary exemptions in the following cases:

- persons providing services to specific projects in the film industry which have been approved by the Department; and
- employment during the TT festival.

2.6 Specific temporary employments

2.6.1 Temporary exemptions for international companies

Employment by a company incorporated in the Island which is a member of an international group (see 2.4.11) or by a Class 1, Class 2 or Class 3 licence holder within the meaning of the Regulated Activities Order 2011¹² of a person who is mainly employed outside the Island by a member of the group or the licence holder for up to 48 days a year.

The exemption does not apply to any of the excluded employments set out at 2.4.15.

The exemption is subject to a condition that not later than 31st January in each year the employer must provide the Department with a written return (which could be a simple spreadsheet) giving, in respect of each person who has been subject to the exemption in the previous year, the following information:

- the person's name;
- the number of days he or she spent in paid employment in the Island during that year;

¹² The Order (Statutory Document No. 884/11) regulates all classes of financial services. Class 1 covers deposit-taking; class 2 covers investment business; and class 3 covers services to collective investment schemes.

- the nature of his or her work in the Island;
- whether the person is still employed; and
- to the best of the employer's knowledge, whether the person is still residing in the Island.

2.6.2 Non-resident non-executive directors

Employment as a non-resident, non-executive director who visits the Island for up to 3 days in any calendar month. (This is intended to cover the situation where, for example, such a person comes to the Island to attend board meetings).

2.6.3 Police and related employments

- Employment as an inspector under any enactment to investigate and report on the affairs of any person.
- Employment in any capacity to assist, or to provide services for, the Attorney General or the Isle of Man Constabulary in relation to the investigation of fraud or any other crime.

(See also 2.4.3 above).

2.6.4 Judicial, court and tribunal employments

- Employment as a Deemster, High Bailiff, or Judicial Officer or as a judge of the consistory court of the Diocese of Sodor and Man.
- Employment as a chairman or member of any commission, tribunal or inquiry established under any statutory provision or resolution of Tynwald.
- Employment as an arbitrator in any specific arbitration proceedings which have been or may be commenced in the Island.
- Employment of any person who is not ordinarily resident in the Island, as counsel or as a solicitor by or for any person who is a party to or may be directly affected by any specific proceedings which have been or may be commenced before a court, tribunal or arbitrator in the Island.
- Employment of any person in any capacity in relation to proceedings which have been or may be commenced before a court, tribunal or arbitrator in the Island, in respect of which the person is paid out of money provided by Tynwald.

- Employment of a temporary nature of any person who is not ordinarily resident in the Island, in relation to any specific proceedings which have been or may be commenced before a court, tribunal or arbitrator in the Island.

2.6.5 Employees undertaking training

Employment for up to 48 days in a year where the work done consists only of undergoing training for the purposes of a business, public authority or voluntary organisation.

2.6.6 Clients or customers of Island businesses

Employment for up to 48 days a year in connection with the supply of goods or services by a business in the Island to the employer or, in the case of a self-employed person, to that person. This exemption covers, for example, technicians who are sent to the Island in connection with orders placed with local engineering companies; and persons who are in the Island for the purpose of registering aircraft with the Isle of Man Aircraft Registry or in connection with the Isle of Man Ship Registry.

2.6.7 Supply etc. of machinery

Employment for up to 30 days a year in connection with the supply, installation, maintenance, and repair of specialist plant, machinery or equipment, or training in its use. But the exemption does not apply where the necessary expertise or service is available in the Island.

2.6.8 Disaster recovery

Employment for up to 48 days a year for the purpose of disaster recovery.

Certain Island companies host disaster recovery facilities, such as data backup, for off Island businesses; the exemption allows staff from those businesses to come to the Island to access their data and implement recovery plans in the event of a disaster.

2.6.9 Media representatives

Employment for up to 30 days a year as a media representative reporting on events of public interest.

2.6.10 Delivery workers

Employment for up to 48 days a year in the delivery of goods from a place outside the Island to a place of business in the

Island. This covers, for example, a UK company that makes a weekly delivery of goods to businesses in the Isle of Man that have placed orders with that company.

2.6.11 Coach drivers

Employment for up to 48 days a year as a coach driver, provided that the vehicle is:

- registered outside the Island;
- can carry more than 8 passengers (in addition to the driver); and
- is being used commercially for the carriage of passengers visiting the Island (otherwise than as a taxi).

2.6.12 Regulatory aircraft surveyors

Employment for up to 48 days a year as an aircraft regulatory surveyor employed by the Department in connection with the Isle of Man Aircraft Registry.

2.6.13 Employment in connection with conferences

Employment for up to 30 days in a year in connection with any conference to be held in the Island. The exemption covers both the conference organisers and participants.

2.6.14 International organisations

Employment for a period of up to 30 days a year as a representative or an official of an international organisation, that is, an organisation of which 2 or more governments are members (e.g. the World Trade Organisation).

2.6.15 Theatrical and musical productions

Employment for a period of up to 48 days a year in connection with any theatrical or musical performance (but not any film production) in the Island. The exemption covers employment as director, producer, actor, singer, dancer, musician or production crew.

2.6.16 Inspections and investigations by certain bodies

Employment of a temporary nature of any person who is not ordinarily resident in the Island for the purpose of conducting or assisting in an inspection or investigation by —

- the Isle of Man Financial Services Authority; or

- any United Kingdom or Channel Islands body prescribed by the Department, the function of which is to regulate or supervise a trade or profession.

3. Departmental practice and policy

3.1 How the work permit system is administered

The work permit system is administered by the Department.

The Department's work permit office is the contact point for permit applications. Each application is assessed and determined upon its merits on a case by case basis.

The Minister of the Department has delegated his powers to decide on individual applications to:

- the Department's officers for all routine cases; and
- a Work Permit Committee (see 3.6), for a minority of cases.

Economic data is issued to both officers and the Committee to inform the decision making process.

3.2 The work permit office

The office handles applications for work permits in a confidential and discreet manner recognising the sensitive and personal information contained in applications and enquiries.

Staff are available to provide assistance and to answer any questions. There is a work permit helpline (tel. 01624 682393). Additionally, personal callers are welcome but it is advisable to ring in advance to make an appointment. Persons with communication difficulties should contact the office (or ask a friend or helper to do so) so that alternative arrangements can be made. The office can provide forms and information in alternative formats (large print, audio and Braille).

Application forms and other documents can be downloaded from the website. For contact details of the office and the website address see Section 5.

3.3 Timescales

Application for a permit should be submitted at least 14 days before the date when the employment is proposed to begin. The employment must not begin until the application is approved and the permit has been issued.

An application for renewal of a permit must be made at least 28 days before the expiry of the permit.

Decisions on straightforward applications made on fully completed forms are usually made within 10 working days. More complicated circumstances may take longer to allow for additional investigation.

In certain circumstances the Department may verbally approve the grant of a work permit.

However, if a case is referred to the Work Permit Committee for consideration it may take longer than 10 days for a decision to be made. If an application is referred to the Committee, the applicant will be notified by email (if an email address has been supplied).

3.4 Application fee

The prescribed fee must be paid when the application is submitted. For the amount of the fee see 1.8 above.

The Department accepts credit and debit card payments (please ask when the application is submitted).

By prior arrangement and at the Department's discretion, accounts can be arranged for employers who submit frequent applications for permits.

3.5 Online applications for renewals

The following online services are available to employers:

- applications for new permits;
- applications to renew existing permits;
- monitoring of current work permits;
- monitoring progress of any new applications;
- cancelling of work permit applications

Employers who wish to use this service should register with Government's Online Services in advance of the renewal being required. See further at www.gov.im/onlineservices/

3.6 The Work Permit Committee

The Work Permit Committee operates under delegated powers of the Minister. It consists of a chairperson and two other members and has a wide knowledge of employment matters. The Committee considers those cases set out in the following section.

3.7 Cases that are referred to the Work Permit Committee

The Committee deals with applications in any of the following circumstances:

- where there may be an actual or reasonably perceived conflict of interest if an officer of the Department were to determine the

application;¹³

- where the person concerned falls within section 10 (criminal records) of the Act which deals with certain unspent criminal convictions etc. (see further at 1.6); (however, an officer may deal with other cases which are outside section 10);
- where the Department has received representations from a person who objects to a permit being granted and who, if it were granted, would be entitled to appeal to the Tribunal (see further at 3.8);
- where, exceptionally, the wider fiscal costs of the person concerned or any relevant persons might need to be considered (see further at 1.11.8, 1.11.14, 1.11.15 and 1.11.16);
- where an officer of the Department reasonably considers that the application should be dealt with by the Committee.

The Committee also deals with cases of revocation (see further at 1.20).

3.8 How the Committee deals with applications

Unless there are exceptional circumstances the Committee will not hear oral submissions from the applicant and the application will be determined solely on evidence contained in the application to the Department. For this reason **the Department strongly recommends that an applicant provides all relevant information at the time the application is made.** In a minority of cases, particularly where there is a dispute of fact, the Committee may defer making a decision and invite the applicant to a meeting to make oral submissions.

3.9 Objections to the granting of a work permit

Where a written objection in respect of a work permit application is received from a directly interested person, it will generally be referred to the Committee for consideration. The Committee will consider both the application and the written objection. In such cases, the Committee may defer making a decision and invite both the applicant and the objector (at separate times) to its next meeting.

3.10 Advertisements

The Department will, other than in exceptional or agreed cases, require information about any advertising for the vacancy or position and, where appropriate, a copy of the advertisement.

¹³ Such cases might include for example, posts within the Department and also senior civil servants posts.

- **Executive and managerial positions** (for the purpose of this guidance deemed to include responsibility for the management of staff, resources, or processes): these must be either advertised in the local press or advertised with a recruitment agency and the Isle of Man JobCentre for a minimum of two weeks or where a job is re-advertised this must be for a minimum of one week.
- **Other positions:** as a minimum, vacancies must normally be advertised in the JobCentre for a minimum of two weeks or where a job is re-advertised this must be for a minimum of one week.

(Jobs advertised at the Jobcentre will be automatically displayed on the Jobcentre website and can also be e-mailed to individuals or organisations on request).

Advertising at the JobCentre is free of charge.

Advertisements must:

- be in English, though advertisements can be in other languages as well;
- be fair and must not be tailored to suit a certain person;
- be lawful under the Employment (Sex Discrimination) Act 2000; and
- usually have been placed within three months before the date the application for a permit is received by the Department.

3.11 Other documentary evidence that should be supplied

Where Isle of Man workers have applied for a post but are considered unsuitable, the employer should provide:

- evidence that the position was adequately advertised, including a copy of the advertisement;
- the job specification (which should be reflected in the advertisement);
- brief details as to the number of applications received from Isle of Man workers and the reasons why those workers are considered unsuitable.

If that information is considered insufficient, the employer may be asked to provide further details, in redacted form, such as:

- short-listing summary sheets;
- application forms or CVs of all Isle of Man workers who applied for the position, together with reasons why they were unsuitable;
- interview assessment sheets; or
- the report of the chairperson of the interview panel.

Note: where a particular position specifies that a long period of previous experience is required employers may be asked to justify this, and to consider the following questions:

- why the position requires someone with such a long period of experience and which elements of the position require this experience;
- why the position could not be carried out to the required standard by someone with less experience; and
- how a worker might be expected to gain this experience before being appointed to the post.

3.12 Additional requirements for particular occupations

Applicants for the following occupations should provide the following additional information with their applications:

- driving instructors - evidence of registration in the appropriate Isle of Man register;
- childminders or providers of day-care for children - evidence of registration in the appropriate Isle of Man register;
- taxi drivers - a copy of the public passenger vehicle driver licence;
- security staff for licensed premises - evidence of registration in the appropriate Isle of Man register;
- persons offering acupuncture, tattooing, body-piercing or electrolysis - evidence of registration in the appropriate Isle of Man register.

3.13 Criminal conviction checks

It is the responsibility of the employer to apply for a police check if there is any statutory requirement to do so. An employer must apply direct to the Isle of Man Constabulary (for contact details see section 5). The Department itself may obtain a police check in certain circumstances (and see also 1.23).

3.14 Status as an "Isle of Man worker"

When requested by an employer or worker, and on provision of all relevant information, the Department will give its opinion in a letter as to whether a person is an Isle of Man worker. A fee of £25 is payable to the Department at the time an application for such a letter is made.

However, the letter is issued on the clear understanding that such an opinion is not legally or factually conclusive; only a ruling by the Tribunal or the High Court is legally binding.

4. Frequently asked questions

Eligibility / requirement for a permit

I am an EEA national thinking of moving to the Island; do I need a work permit?

EEA nationals are normally free to move to the Isle of Man and take up residence without the need for permission. However, an EEA national wishing to take up employment (including self-employment) must obtain a work permit, unless he or she is an "Isle of Man worker" or the employment is exempt.

Who is an Isle of Man worker?

See 1.3

Which employments are exempt from the requirement for a permit?

See 2

I am not an EEA national; do I need a work permit to work in the Island?

In general, non EEA nationals are, covered by separate arrangements under immigration legislation. Provided that a non EEA national has an 'immigration employment document' he or she will not require a work permit (see further at 2.2). If you are in doubt as to whether or not you have an immigration employment document you should contact the Isle of Man Passport, Immigration and Nationality Office (see 5)

Starting work

Can I start work without a work permit?

No. If you are not an Isle of Man worker, or in an exempt employment, then you must not work as an employee or self-employed person in the Isle of Man except in accordance with a work permit.

Cost

How much does a permit cost, and who has to pay it?

See 1.8 and 3.4

Entitlement to automatic permits

Who is entitled to an automatic permit?

With certain exceptions, the following are entitled, upon application, to a 1 year automatic permit which can be renewed annually -

- the spouse, civil partner or cohabiting partner of a work permit holder or exempt person who is engaged in permanent, regular, full-time employment (see 1.13); and
- the cohabiting partner of an Isle of Man worker (see 1.14).

I hold an automatic permit and since it was granted, the relationship which gave rise to the entitlement to the permit has broken down. Does this affect my work permit?

Yes. See 1.13 and 1.14.

I hold an automatic permit but since it was granted, my spouse, civil partner or cohabiting partner has died. Does this affect my permit?.

Yes. See and 1.14.

The application process

I am an employer and have been asked to supply copies of applicants' CVs, which are confidential documents; do I have to supply them?

If requested by the Department, CVs of all applicants for the post must be submitted in redacted form in order to establish whether any suitable Isle of Man workers applied for the position.

How long does a permit take to process?

The work permit office has a target to process 80% of work permit applications within 10 working days of receipt. An application referred to the Work Permit Committee will usually take longer.

Can I apply for a permit online?

See 3.5

Will my application go to the Work Permit Committee?

See 3.7

Can a permit be renewed?

Yes. If the employment is to continue past the date of expiry of the work permit, an application to renew a permit is required. Normally, it is not necessary to fill out a new application form; the original permit includes a renewal slip which can be sent to the work permit office.

For renewal fees see 1.8 and 3.4

Changing employment

I am hoping for a change of position or promotion with my current employer. Does my employer need to apply for a new permit and advertise the position?

Yes, a work permit is limited to a specified employment by a specified employer. However, this is not the case with automatic permits or in certain other limited circumstances (see 1.16). A worker may not take up a different job with the same employer, without a new work permit, and the same procedures must be followed (including advertising, where appropriate) as before.

I have to move a pregnant employee due to health and safety concerns – do I need a new work permit?

No, see 1.16.3.

Criminal records

I have a criminal conviction; do I have to declare it?

Any criminal conviction which is not “spent” under the provisions of the Rehabilitation of Offenders Act 2001 or which is in respect of an employment type to which the Act does not apply (e.g. doctors, accountants) must be declared on the application. The Department of Home Affairs can also advise on the legislation (for contact details see section 6).

I have been convicted of an offence since being granted an automatic permit. How might this affect my permit?

If the conviction is of a kind falling within section 10 of the 2014 Act (see section 1.6) then you must notify the Department of your conviction and your automatic permit will be revoked. In such circumstances you could apply for an ordinary work permit, although the conviction would be taken into consideration.

If the conviction does not fall within section 10 then your automatic permit will not be affected.

My employment is exempt from the requirement for a permit but I have recently gained a conviction. Can I continue to work?

If the conviction is of a kind falling within section 10 of the 2014 Act (see 1.6) you will no longer be entitled to continue to use the exemption and your continued employment would be unlawful. In such circumstances

you could apply for an ordinary work permit, although the conviction would be taken into consideration.

If the conviction does not fall within section 10 then you and your employer may continue to rely upon the exemption.

Miscellaneous

What is "full time education" for the purpose of obtaining Isle of Man worker status?

Your educational establishment should be able to provide written confirmation as to whether any course undertaken is "full time" or not.

What are the penalties for not complying with the legislation?

See 1.21

English is not my first language; will I be refused a work permit?

No. whether or not you speak English is a matter which the Department may take into account when considering your application. However, not speaking English as your first language is not as a sufficient reason for refusing to grant a permit.

I cannot find the information I am looking for / I do not understand the Guide. Who can help?

You can contact the work permit office in person on 01624 682393.

5. Contact details and further information

(1) For Control of Employment Act permit enquiries

The Work Permit Office
Nivison House
31 Prospect Hill
Douglas
Isle of Man
IM1 1ET

Tel.: (01624) 682393 (work permit helpline)

Fax: (01624) 682388

Email: workpermit@gov.im

Web: www.gov.im/categories/working-in-the-isle-of-man/work-permits/

Online services: www.gov.im/onlineservices/

Compliance

The Work Permit Inspectorate
Address as above

Tel.: (01624) 682385 / 682386 / 689344

Fax: (01624) 682388

Email: dedinspectors@gov.im

(2) Appeals to the Work Permit Appeal Tribunal

The Clerk to the Work Permit Appeal Tribunal
Isle of Man Courts of Justice
Deemsters Walk
Bucks Road
Douglas
Isle of Man
IM1 3AR

Tel.: (01624) 685941 (Mon.- Fri. 9 a.m. to 5 p.m.)

Fax: (01624) 685573

Email: tribunals@gov.im

Web: <https://www.gov.im/about-the-government/offices/general-registry-isle-of-man-courts-and-tribunals/tribunals-service/tribunals/work-permit-appeal-tribunal/>

(3) For enquiries about immigration matters (for workers from outside the European Economic Area).

Isle of Man Passport, Immigration and Nationality Office
Government Office
Bucks Road
Douglas
Isle of Man
IM1 3PU

Tel.: (01624) 685203

Fax: (01624) 685210

Email: immigration@gov.im

Web: www.gov.im/categories/travel-traffic-and-motoring/immigration/

(4) Craftspersons' Skill Cards

Training Services
Nivison House
31 Prospect Hill
Douglas
Isle of Man
IM1 1ET

Tel.: (01624) 687156

Email: training@gov.im

Web: <https://www.gov.im/categories/business-and-industries/construction/register-of-craftsmen-and-craftswomen/>

(5) Advice on employment law matters.

[The Manx Industrial Relations Service](#)

5th Floor
Victory House
Prospect Hill
Douglas
IM1 1EQ

Tel.: (01624) 672942

Email: iro@ir.gov.im

Web: www.mirs.org.im

(6) For information and assistance concerning police checks for recruitment purposes on the Island.

[Isle of Man Vetting Bureau](#)

Chief Executive's Office
Department of Home Affairs Headquarters
Tromode Road
Douglas
IM2 5PA

Tel.: (01624) 694300

Email: paula.hay@gov.im or generalenquiries.dha@gov.im

Web: <https://www.gov.im/categories/working-in-the-isle-of-man/vetting-and-safer-recruitment/isle-of-man-vetting-bureau/>

(7) For advice on the Rehabilitation of Offenders Act 2001.

Legislation Section
Department of Home Affairs
Headquarters Building,
Tromode Road,
Douglas,
Isle of Man,
IM2 5PA

Tel: (01624) 694306

Web: <https://www.gov.im/categories/working-in-the-isle-of-man/rehabilitation-of-offenders/>

Appendix 1: Meaning of 'construction operations'

(from section 2 of the Construction Contracts Act 2004)

(1) In this Act "**construction operations**" means, subject as follows, operations of any of the following descriptions —

- (a) construction, alteration, repair, maintenance, extension, demolition or dismantling of buildings, or structures forming, or to form, part of the land (whether permanent or not);
- (b) construction, alteration, repair, maintenance, extension, demolition or dismantling of any works forming, or to form, part of the land, including (without prejudice to the foregoing) walls, roadworks, power-lines, telecommunication apparatus, aircraft runways, docks and harbours, railways, inland waterways, pipe-lines, reservoirs, water-mains, wells, sewers, industrial plant and installations for purposes of land drainage, coast protection or defence;
- (c) installation in any building or structure of fittings forming part of the land, including (without prejudice to the foregoing) systems of heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply or fire protection, or security or communications systems;
- (d) external or internal cleaning of buildings and structures, so far as carried out in the course of their construction, alteration, repair, extension or restoration;
- (e) operations which form an integral part of, or are preparatory to, or are for rendering complete, such operations as are previously described in this subsection, including site clearance, earth-moving, excavation, tunnelling and boring, laying of foundations, erection, maintenance or dismantling of scaffolding, site restoration, landscaping and the provision of roadways and other access works;
- (f) painting or decorating the internal or external surfaces of any building or structure.

(2) The following operations are not construction operations within the meaning of this Act —

- (a) drilling for, or extraction of, oil or natural gas;
- (b) extraction (whether by underground or surface working) of minerals; tunnelling or boring, or construction of underground works, for this purpose;
- (c) assembly, installation or demolition of plant or machinery, or erection or demolition of steelwork for the purposes of supporting

or providing access to plant or machinery, on a site where the primary activity is —

(i) nuclear processing, power generation, or water or effluent treatment, or

(ii) the production, transmission, processing or bulk storage (other than warehousing) of chemicals, pharmaceuticals, oil, gas, steel or food and drink;

(d) manufacture or delivery to site of —

(i) building or engineering components or equipment,

(ii) materials, plant or machinery, or

(iii) components for systems of heating, lighting, air-conditioning, ventilation, power supply, drainage, sanitation, water supply or fire protection, or for security or communications systems,

except under a contract which also provides for their installation;

(e) the making, installation and repair of artistic works, being sculptures, murals and other works which are wholly artistic in nature.

Appendix 2: Additional information to be provided by a cohabiting partner seeking a 1 year automatic permit

1. The address or addresses at which the person concerned and his or her cohabiting partner —
 - lived together before the date of application, (if relevant);
 - are living together at the date of application;
 - intend to live (if known).

2. Four original documents, from at least two separate sources which are not connected to the person concerned or his or her cohabiting partner, and which demonstrate that the person concerned and his or her cohabiting partner have been or are living at the same address. A jointly held document which demonstrates the residence of both parties at the same address counts as two documents. Sources may include –
 - bank or building society statement
 - tenancy agreement
 - mortgage statement
 - utility bill
 - driving licence
 - income tax return or tax notification documentation
 - pay statement
 - house or motor insurance certificate
 - credit card statement
 - television licence
 - local authority rates bill
 - vehicle registration document
 - other banking, investment or insurance document

- correspondence from any Department or Statutory Board of the Government
 - correspondence from any other reputable source
3. Two references from two individuals confirming that the person concerned and his or her cohabiting partner are living together as if they were spouses or civil partners and the names, addresses and contact details of those individuals.
 4. A declaration signed by both the person concerned and his or her cohabiting partner that they are living, and intend to continue to live, together as cohabiting partners.
 5. Such other information as the Department may reasonably require.

Keeping up to date with Employment Law Developments

Information as to developments in employment law can be found here:

<https://www.gov.im/categories/working-in-the-isle-of-man/employment-rights/whats-new/>

Feedback

How helpful was this booklet to you? Did it answer your questions? Was it detailed enough? Was it clear? Does it contain any typographical errors? Do you have any comments or suggestions as to how the Department might improve future editions? Please email your feedback to emplaw@gov.im .



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Nivison House
31 Prospect Hill
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Tel. (01624) 682393
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