



**STATEMENT OF
CHANGES IN
IMMIGRATION RULES**

Laid before Tynwald on 16th February 2016 under section 3(2) of the
Immigration Act 1971 (an Act of Parliament as extended to the Isle of Man by the
Immigration (Isle of Man) Order 2008 (SI 2008 no. 680))

The Council of Ministers has made the following changes to the Immigration Rules laid down by it as to the practice to be followed in the administration of the Immigration Act 1971¹ (of Parliament) as it has effect in the Isle of Man² for regulating entry into and the stay of persons in the Isle of Man and contained in the Statement laid before Tynwald on 17th May 2005³.

The changes in this Statement shall take effect on 28th January 2016. However, if an applicant has made an application for entry clearance or leave before 28th January 2016 and the application has not been decided before that date, it will be decided in accordance with the rules in force on 27th January 2016.

Changes to the Introduction

- I1. In paragraph 6, delete the definition of “Control of Employment Act” and substitute:

“**Control of Employment Act**” means the Control of Employment Act 2014 (of Tynwald)”

- I2. In paragraph 6 after the definition for “Tier 4 Migrant” insert:

“**expected end date of a course leading to the award of a PhD**” means the date the PhD is expected to be formally confirmed, by the sponsor, as completed to the standard required for the award of a PhD and recorded on the confirmation of acceptance for studies accompanying the application for leave to remain as a Tier 4 (General) Student on the doctorate extension scheme.”

- I3. In Immigration Rules: Introduction, paragraph 6 after the definition of “working day” insert, “**National Referral Mechanism**” means the arrangements administered by the Competent Authorities as set out in the guidance found at <https://www.gov.uk/government/publications/victims-oftrafficking-guidance-for-competent-bodies>.”

Changes to Part 1

- 1.1 In paragraph 12 after “by producing” insert “either:”

¹ 1971 c. 77

² See the Immigration (Isle of Man) Order 2008 (S.I. 2008 No 680)

³ S.D. 62/05 amended by S.D.692/05, S.D. 442/06, S.D. 547/06, S.D. 781/06, S.D. 871/06, S.D. 124/07, S.D. 303/07, S.D. 534/07, S.D. 02/08, S.D. 500/08, GC 32/09, GC 35/09, GC 14/10, GC 26/10, GC 02/11, SD 518/11, SD 40/12, SD 0288/12, SD 0625/12, SD 0657/12, SD250/13, SD 302/13, SD 345/13 ,SD 2014/0004, SD 2014/0082, SD 2014/241, 2014/314 , 2014/324 and 2015/0265.

- 1.2. In paragraph 14(i) delete “Channel Islands” and substitute “any of the Islands”
- 1.3. In paragraph 14(ii) delete “had” and substitute “has”
- 1.4. After paragraph 17 insert:

“17A. Where a person is outside the Isle of Man but wishes to travel to the Isle of Man an Immigration Officer may give or refuse him leave to enter. An Immigration Officer may exercise these powers whether or not he is, himself, in the Isle of Man. However, an Immigration Officer is not obliged to consider an application for leave to enter from a person outside the Isle of Man.

17B. Where a person having left the common travel area, has leave to enter the Isle of Man which remains in force under article 13 of the Immigration (Leave to Enter and Remain) Order 2008, an Immigration Officer may cancel that leave. An Immigration Officer may exercise these powers whether or not he is, himself, in the Isle of Man. If a person outside the Isle of Man has leave to remain in the Isle of Man which is in force in this way, the Secretary of State may cancel that leave.”

- 1.5. In paragraph 34(i) delete “website of the Chief Secretary’s Office of the Isle of Man Government,” and substitute “Immigration page of the Isle of Man Government website,
- 1.4. In paragraph 34BB(3)(iii), after “e.g.”, insert “where it has been retained by an employer or other person in circumstances which have led to the applicant being determined by the Isle of Man Immigration Inspector to be a victim of slavery or human trafficking (as defined in the Modern Slavery Act of Parliament) applying the criteria used by the UK Competent Authorities under the UK National Referral Mechanism, or”.

Changes to Part 5

- 5.1. In Paragraph 159A(iv) after “whichever is the earlier; and” insert “does not intend to live for extended periods in the Isle of Man through frequent or successive visits; and”
- 5.2. In Paragraph 159A(v), delete “,and does not intend to live for extended periods in the Isle of Man through frequent or successive visits”
- 5.3. After paragraph 159A(va), insert:

“(vb) provides a written and signed statement from the employer confirming that the applicant is an employee and the work that will be carried out by the applicant will not constitute work within the meaning of paragraph 2(2) of the National Minimum Wage Regulations 2015 (as amended from time to time); and”
- 5.4. In Paragraph 159A(vi), after, “employer intends to live in” delete “where there is

evidence of this in the form or written terms and conditions of employment in the Isle of Man as set out in Appendix 7 and evidence that the employer is living in the Isle of Man.”

5.5. In Paragraph 159D(iv) after “that the employer lives in” insert “where there is evidence of this in the form of written terms and conditions of employment in the Isle of Man as set out in Appendix 7 and evidence that the employer is living in the Isle of Man.”

5.6. After 195D(iva), insert

“(ivb) provides a written and signed statement from the employer confirming that the applicant is an employee and the work that will be carried out by the applicant will not constitute work within the meaning of paragraph 2(2) of the National Minimum Wage Regulations 2015 (as amended from time to time); and”

5.5. After 159EA(iii)(a), insert

“(iii)(b) provides a written and signed statement from the employer confirming that the applicant is an employee and the work that will be carried out by the applicant will not constitute work within the meaning of paragraph 2(2) of the National Minimum Wage Regulations 2015 (as amended from time to time); and”

5.6. After paragraph 159H, insert:

“Domestic workers who are the victim of slavery or human trafficking

Requirements for leave to remain as a domestic worker who is the victim of slavery or human trafficking

159I(IOM). The requirements to be met by a person seeking leave to remain as a domestic worker who is the victim of slavery or human trafficking are that:

- (i) the applicant’s most recent grant of leave to enter or remain in the Isle of Man has been granted:
 - (a) as a domestic worker in a private household;
 - (b) Not Used
 - (c) as a domestic worker who is the victim of slavery or human trafficking;
- (ii) the applicant has been determined by the Isle of Man Immigration Inspector to be a victim of slavery or human trafficking (as defined in the Modern Slavery Act of Parliament) applying the criteria used by the UK Competent Authorities under the UK National Referral Mechanism;
- (iii) except where the applicant is applying to extend a previous grant of leave to

remain as a domestic worker who is the victim of slavery or human trafficking, the application:

- (a) is made within 28 days of the decision at (ii) being notified to the applicant; or
 - (b) if the applicant has an outstanding application for leave to remain on the date that the decision at (ii) is notified to the applicant, or the applicant makes an application for (or is being considered for a grant of) leave to remain on some other basis within 28 days of that date, is made within 28 days of the outcome of that application or consideration being notified to the applicant; and
- (iv) the applicant can maintain and accommodate him or herself without recourse to public funds.

Leave to remain as a domestic worker who is the victim of slavery or human trafficking

159J. A person meeting the requirements of paragraph 159I(IOM) will be granted leave to remain for a period not exceeding 6 months. A person previously granted leave to remain as a domestic worker who is a victim of slavery or human trafficking for a period of less than six months may, if they continue to meet the requirements of paragraph 159I(IOM), be granted a further period of leave to remain such that their total leave to remain as a domestic worker who is a victim of slavery or human trafficking does not exceed 6 months. Leave to remain granted in accordance with this paragraph will be subject to the following conditions:

- (i) no recourse to public funds; and
- (ii) no employment except:
 - (a) as a domestic worker in a private household;

Refusal of leave to remain as a domestic worker who is the victim of slavery or human trafficking

159K. Leave to remain as a domestic worker who is the victim of slavery or human trafficking may be refused if the Lieutenant Governor is not satisfied that each of the requirements of paragraph 159I(IOM) is met.”

5.7. Delete 178 to 185 - [Not Used] and substitute:

“Indefinite leave to remain for a member of the operational ground staff of an overseas owned airline

184. Indefinite leave to remain may be granted, on application, to a member of the

operational ground staff of an overseas-owned airline provided the applicant:

- (i) has spent a continuous period of 5 years lawfully in the United Kingdom or Isle of Man in this capacity; and
- (ii) has met the requirements of paragraph 181 throughout the 5 year period; and
- (iii) is still required for the employment in question as certified by the employer; and
- (iv) has demonstrated sufficient knowledge of the English language and sufficient knowledge about life in the Isle of Man, in accordance with Appendix KoLL; and
- (v) does not fall for refusal under the general grounds for refusal; and
- (vi) is not in the Isle of Man in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded; and
- (vii) provides the specific documents in paragraph 184-SD to evidence the reason for the absences set out in paragraph 128A.

184-SD Specified documents

The specified documents referred to in paragraph 184(vii) are:

- (a) A letter from the employer detailing the purpose and period of absences in connection with the employment, including periods of annual leave.
- (b) Where the absence was due to a serious or compelling reason, a personal letter from the applicant which includes full details of the reason for the absences and all original supporting documents in relation to those reasons – e.g. medical certificates, birth/death certificates, information about the reasons which led to the absence from the Isle of Man.

Refusal of indefinite leave to remain for a member of the operational ground staff of an overseas owned airline

185. Indefinite leave to remain in the Isle of Man for a member of the operational ground staff of an overseas owned airline is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 184 is met.”

Changes to Part 6A

- 6A.1. In paragraph 245ZT after “who wish to study in the Isle of Man” insert “at an institution that is not an Academy or a school maintained by a local authority”

- 6A.2. In paragraph 245ZV(da) delete “provide the specified documents to show that these requirements have been met.” and substitute “provide a print-out of his Academic Technology Approval Scheme clearance certificate to show that these requirements have been met.”
- 6A.3. In paragraph 245ZV(e)(1) delete “General”
- 6A.4. In paragraph 245ZV(g) delete “3” and substitute “2”
- 6A.5. In paragraph 245ZV((ga)(i) after “as a Tier for (General) Migrant” insert “,or as a Student,”
- 6A.6. In paragraph 245ZW(b) delete the table and substitute:

“

Type of course	Period of entry clearance to be granted before the course starts	Period of entry clearance to be granted after the course ends
12 months or more	1 month before the course starts or 7 days before the intended date of travel, whichever is later	4 months
6 months or more but less than 12 months	1 month before the course starts or 7 days before the intended date of travel, whichever is later	2 months
Pre-sessional course of less than 6 months	1 month before the course starts or 7 days before the intended date of travel, whichever is later	1 month
Course of less than 6 months that is not a pre-sessional course	7 days before the course starts	7 days
Postgraduate doctor or dentist	1 month before the intended date of travel, whichever is later	1 month

”

- 6A.7. In paragraph 245ZW delete Notes(i),(ii) and (iii), and substitute:

“Notes

- (i) If the grant of entry clearance is made less than 7 days before the intended date of travel, entry clearance will be granted with immediate effect.

(aii) The intended date of travel is the date recorded by the applicant either through the relevant online application process or in the specified application form for Tier 4 (General) Students, as their intended date for travel to the Isle of Man.

(ii) A pre-session course is a course which prepares a student for the student's main course of study in the Isle of Man.

(iii) The additional periods of entry clearance granted further to the table above will be included for the purposes of calculating whether a migrant has exceeded the limits specified at 245ZV(g) to 245ZV(gb)."

6A.8. In paragraph 245ZW(c)(iii)(1) after "degree level study and is" insert "either:"

6A.9. After paragraph 245ZW(c)(iii)(1)(a) insert:

"(b) sponsored by an overseas higher education institution to undertake a short-term study abroad programme in the Isle of Man."

6A.9. Delete paragraph 245ZW(c)(iii)(3) and substitute "(3) Deleted"

6A.10. Delete paragraph 245ZW(c)(iii)(4)(ii) and substitute:

"(ii) where the placement does not exceed one half of the total length of the course undertaken in the Isle of Man and the student is following a course of degree level study and is either:

(a) sponsored by a UK recognised body or a body in receipt of public funding as a higher education institution from the Department of Education and Children; or

(b) sponsored by an overseas higher education institution to undertake a short-term Study Abroad Programme in the Isle of Man."

6A.11. In paragraph 245ZW(c)(iii)(7) after "and any appeal" insert "or administrative review"

6A.12. In paragraph 245ZW(c)(iii)(8)(b) after "in receipt of public funding as a higher education institution" insert "from the Department of Education and Children,"

6A.13. Delete paragraph 245ZW(c)(iv) and substitute:

"(iv) no study except:

(1) study at the institution that the Confirmation of Acceptance for Studies records as the migrant's sponsor, unless:

(a) the migrant is studying at an institution which is a partner institution of the migrant's sponsor; or

(b) until such time as a decision is received from the Isle of Man Immigration Office on an application which is supported by a Confirmation of Acceptance for Studies assigned by a sponsor with Tier 4 Sponsor status and which is made while the applicant has extant leave, and any appeal or administrative review against that decision has been determined, the migrant is studying at the sponsor with Tier 4 Sponsor status that the Confirmation of Acceptance for Studies records as having assigned such Confirmation of Acceptance for Studies to the migrant; or

(c) the study is supplementary study,

(2) study on the course, or courses where a pre-sessional is included, for which the Confirmation of Acceptance for Studies was assigned, unless the student:

(a) has yet to complete the course for which the Confirmation of Acceptance for Studies was assigned; and

(b) begins studying a new course at their sponsor institution, instead of the course for which the Confirmation of Acceptance for Studies was assigned, that represents academic progress (as set out paragraph 120A (b) of Appendix A to these Rules) from the course(s) preceding the migrant's last grant of leave, and: the new course is either:

1. at a higher or the same level as the course for which the Confirmation of Acceptance for Studies was assigned; or

2. at a lower level than the course for which the Confirmation of Acceptance for Studies was assigned, provided that the requirements and conditions of the migrant's grant of leave as at the date of commencement of the new course are the same requirements and conditions to which the migrant's leave would have been subject had he made an application to study at that lower level under the Rules in force at the time of commencement of the new course, and

(3) subject to (1) and (2) above, study on a course (or period of research) to which paragraph 245ZV(da) applies only if the migrant holds a valid Academic Technology Approval Scheme certificate issued prior to the commencement of the course (or period of research) that specifically relates to the course or (area of research) and to the institution at which the migrant undertakes such course (or period of research). Where:

(a) the migrant's course (or research) completion date reported on the Confirmation of Acceptance for Studies is postponed or delayed for a period of more than three calendar months, or if there are any changes to the course contents (or the research proposal), the migrant must apply for a new

Academic Technology Approval Scheme certificate within 28 calendar days;
and

(b) the migrant begins studying a new course (or period of research) as permitted in (2) above and the new course (or area of research) is of a type specified in paragraph 245ZV(da), the migrant must obtain an Academic Technology Approval Scheme clearance certificate relating to the new course (or area of research) prior to commencing it.”

6A.14. Delete paragraph 245ZW(c)(v) and substitute:

(v) no employment as a Doctor or Dentist in Training unless:

(1) the course that the migrant is being sponsored to do (as recorded by the Confirmation of Acceptance for Studies) is a recognised Foundation Programme, or

(2) the migrant has made an application as a Tier 4 (General) Student which is supported by a Confirmation of Acceptance for Studies assigned by a sponsor with Tier 4 Sponsor status to sponsor the applicant to do a recognised Foundation Programme, and this study satisfies the requirements of (iv)(2) above, or

(3) the migrant has made an application as a Tier 2 (General) Migrant which is supported by a Certificate of Sponsorship assigned by a licensed Tier 2 Sponsor to sponsor the applicant to work as a Doctor or Dentist in Training, and this employment satisfies the conditions of (iii)(7) above.

(vi) no study at Academies or schools maintained by a local authority.

6A.15. In paragraph 245ZX(b)(i) after “as a Tier 4(General) Student,” insert:

“and, in respect of such leave, is or was last sponsored by:

(1) a UK recognised body or a body in receipt of public funding as a higher education institution from the Department of Education and Children; or

(2) an overseas higher education institution to undertake a short-term study abroad programme in the Isle of Man; or

(3) an Embedded College offering Pathway Courses.”

6A.16. Delete paragraph 245ZX(b)(v) and substitute:

“(v) as a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme),”

6A.17. Delete paragraph 245ZX(b)(xiii) and substitute “(xiii) Not Used”

6A.18. At the end of paragraph 245ZX(ea) insert:

“Applicants applying for leave to remain under the doctorate extension scheme are not required to meet the conditions of paragraph 245ZX (ea) if they continue to study on a course (or period of research) for which they have a valid Academic Technology Approval Scheme certificate.”

6A.19. In paragraph 245ZX(f)(i)(1) delete “General”

6A.20. In paragraph 245ZX(h) delete “more than 3 years” and substitute “more than 2 years”

6A.21. In paragraph 245ZX(ha) delete “entry clearance” and substitute “leave to remain”

6A.22. In paragraph 245ZX(ha)(i);

(i) Delete “entry clearance” and substitute “leave to remain”

(ii) After “as a Tier 4 (General) Migrant” insert “, or as a Student,”

6A.23. In paragraph 245ZX(ha)(ii) delete “entry clearance” and substitute “leave to remain”

6A.24. In paragraph 245ZX(hb) delete “entry clearance” and substitute “leave to remain”

6A.25. In paragraph 245ZX(hb) delete “UK” and substitute “Isle of Man”

6A.26. Delete paragraph 245ZX(l) and substitute:

“(l) Unless applying for leave to remain as a Tier 4 (General) Student on the doctorate extension scheme, the applicant must be applying for leave to remain for the purpose of studies which commence within 28 days of the expiry of the applicant’s current leave to enter or remain or, where the applicant has overstayed, within 28 days of when that period of overstaying began.”

6A.27. Delete paragraph 245ZX(n) and substitute:

“(n) Where the applicant is applying for leave to remain as a Tier 4 (General) Student on the doctorate extension scheme:

(i) leave to remain as a Tier 4 (General) Student on the doctorate extension scheme must not have previously been granted;

(ii) the applicant must have leave to remain as a Tier 4 (General) Student and must be following a course leading to the award of a PhD;

(iii) the applicant must be sponsored by a UK recognised body or a body in receipt of public funding as a higher education institution from the

Department of Education and Children and that sponsor will be the sponsor awarding the PhD; and

(iv) the date of the application must be within 60 days of the expected end date of a course leading to the award of a PhD.”

6A.28. In paragraph 245ZY(a) after “subject to paragraphs (b)” insert “(ba)”

6A.29. In paragraph 245ZY within the section entitled Notes (iii)

(i) delete “entry clearance” and substitute “leave to remain”

(ii) delete “disregarded” and substitute “included”

6A.30. In paragraph 245ZY following Section entitled Notes(i) and before (c) insert:

“(ba) Leave to remain as a Tier 4 (General) Student on the doctorate extension scheme will be granted for 12 months, commencing on the expected end date of a course leading to the award of a PhD.

(bb) Leave to remain as a Tier 4 (General) Student on the doctorate extension scheme will not be subject to the conditions on the limited time that can be spent as a Tier 4 (General) Student or as a student, specified at 245ZX(hb).”

6A.31. Delete paragraph 245ZY(c)(iii)(3) and substitute “(3) DELETED”

6A.32. Delete paragraph 245ZY(c)(iii)(4) and substitute:

“(4) employment as part of a course-related work placement which forms an assessed part of the applicant's course and provided that any period that the applicant spends on that placement does not exceed one third of the total length of the course undertaken in the Isle of Man except:

(i) where it is a statutory requirement that the placement should exceed one third of the total length of the course; or

(ii) where the placement does not exceed one half of the total length of the course undertaken in the Isle of Man and the student is following a course of degree level study and is either:

(a) sponsored by a UK Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Education and Children; or

(b) sponsored by an overseas higher education institution to undertake a short-term study abroad programme in the Isle of Man.

(iii IOM) In each case before the student commences the employment referred to in sub-paragraphs (1), (2), (3) or (4) above he must produce a valid document issued by the Department of Economic Development confirming that he has been granted permission to work as a student in accordance with the Overseas Student Scheme.”

6A.33. In paragraph 245ZY(c)(iii)(7) after “and any appeal” insert “or administrative review”

6A.34 After paragraph 245ZY(c)(iii)(8) delete paragraph (iv) and substitute:

(9) where, during the current period of leave, the migrant has successfully completed a PhD at a UK recognised body or a body in receipt of public funding as a higher education institution from the Department of Education and Children, and has been granted leave to remain as a Tier 4 (General) Student on the doctorate extension scheme or has made a valid application for leave to remain as a Tier 4 (General) Student on the doctorate extension scheme but has not yet received a decision from the Isle of Man Immigration Office on that application, there will be no limitation on the type of employment that may be taken, except for:

(a) no employment as a Doctor or Dentist in Training other than under the conditions of (v) below;

(b) no employment as a professional sportsperson (including a sports coach).

(iv) no study except:

(1) study at the institution that the Confirmation of Acceptance for Studies records as the migrant’s sponsor, unless:

(a) the migrant is studying at an institution which is a partner institution of the migrant’s sponsor; or

(b) until such time as a decision is received from the Isle of Man Immigration Office on an application which is supported by a Confirmation of Acceptance for Studies assigned by a sponsor with Tier 4 Sponsor status and which is made while the applicant has extant leave, and any appeal or administrative review against that decision has been determined, the migrant is studying at the sponsor with Tier 4 Sponsor status that the Confirmation of Acceptance for Studies records as having assigned such Confirmation of Acceptance for Studies to the migrant; or

(c) the study is supplementary study, and

(2) study on the course, or courses where a pre-sessional is included, for which the Confirmation of Acceptance for Studies was assigned, unless the student:

(a) has yet to complete the course for which the Confirmation of Acceptance for Studies was assigned; and

(b) begins studying a new course at their sponsor institution, instead of the course for which the Confirmation of Acceptance for Studies was assigned, that represents academic progress (as set out paragraph 120A (b) of Appendix A to these Rules) on the course(s) preceding the migrant's last grant of leave, and: the new course is either:

1. at a higher or the same level as the course for which the Confirmation of Acceptance for Studies was assigned; or

2. at a lower level than the course for which the Confirmation of Acceptance for Studies was assigned, provided that the requirements and conditions of the migrant's grant of leave as at the date of commencement of the new course are the same requirements and conditions to which the migrant's leave would have been subject had he made an application to study at that lower level under the Rules in force at the time of commencement of the new course, and

(3) subject to (1) and (2), study on a course (or period of research) to which paragraph 245ZX(ea) applies only if the migrant holds a valid Academic Technology Approval Scheme certificate issued prior to the commencement of the course (or period of research) that specifically relates to the course or (area of research) and to the institution at which the migrant undertakes such course (or period of research). Where:

(a) the migrant's course (or research) completion date reported on the Confirmation of Acceptance for Studies is postponed or delayed for a period of more than three calendar months, or if there are any changes to the course contents (or the research proposal), the migrant must apply for a new Academic Technology Approval Scheme certificate within 28 calendar days.

(b) the migrant begins studying a new course (or period of research) as permitted in (2) above and the new course (or period of research) is of a type specified in paragraph 245ZX(ea), the migrant must obtain an Academic Technology Approval Scheme clearance certificate from the Counter-Proliferation Department of the Foreign and Commonwealth Office relating to the new course (or area of research) prior to commencing it.

6A.35. In paragraph 245ZY(c)(9)(v)(2) delete "a Highly Trusted Sponsor" and substitute "a sponsor with a Tier 4 Sponsor status"

6A.36. After paragraph 245ZY(c)(9)(v)(3) insert:

"(vi) no study at Academies or schools maintained by a local authority."

6A.2. In paragraph 245ZZE (i)(6) delete “£500” and insert “£570”.

Changes to Part 8

8.1. In paragraph 319H(i)(ii)(2) delete “Recognised Body” and insert “Isle of Man recognised body”.

Changes to Part 9

- 9.1. In paragraph 320 delete “provisions” and substitute “grounds”
- 9.2. In paragraph 320(2A) delete “United Kingdom” and substitute “Isle of Man”
- 9.3. In paragraph 320(7) delete “entry to” and substitute “leave to enter”
- 9.4. At the end of paragraphs 320(7B)(a),(b), (c),(i),(ii) and (iii) delete “or”
- 9.5. In paragraph 320(18A) delete “preceding” and substitute “prior to”
- 9.6. In paragraph 321 delete “entry to” and substitute “leave to enter”
- 9.7. In Paragraph 321(iii) delete “refusal is justified on grounds of restricted returns ability; on medical grounds;”
- 9.8. In paragraph 322, after “curtailment of leave,” insert “, except that only paragraphs (1A), (1B), (5), (5A), (9) and (10) shall apply in the case of an application made under paragraph 159I(IOM) of these Rules.”
- 9.9. Delete paragraph 322(1D) and substitute “(1D) Deleted”
- 9.10. In paragraph 322(2) after “in support of the application” insert “for leave to enter or a previous variation of leave.”
- 9.11. Delete paragraph 322(5) and substitute:
“(5) the undesirability of permitting the person concerned to remain in the Isle of Man in the light of his conduct (including convictions which do not fall within paragraph 322(1C), character or associations or the fact that he represents a threat to national security;”
- 9.12. In paragraph 322(8) delete “to stay for a further period in the Isle of Man” and substitute “to remain in the Isle of Man for a further period;”
- 9.13. In paragraph 323A(a) delete “, or its duration varied,”
- 9.14. In paragraph 323A(a)(i)(1) delete “working with the sponsor”
- 9.15. Delete paragraph 323A(a)(i)(2) and substitute

“(2) the migrant ceases, or will cease, before the end date recorded on the Certificate of Sponsorship, the employment, volunteering, training or job shadowing (as the case may be) that the migrant has been sponsored to do.”

9.16. Delete paragraph 323A(a)(ii)(2) and replace

“(2) the sponsor has excluded or withdrawn the migrant, or the migrant has withdrawn, from the course of studies, or

“(2A) the migrant’s course of study has ceased, or will cease, before the end date recorded on the Certificate of Sponsorship, or

(3) the sponsor withdraws their sponsorship of a migrant on the doctorate extension scheme, or

(4) the sponsor withdraws their sponsorship of a migrant who, having completed a pre-sessional course as provided in paragraph 120(b)(i) of Appendix A, does not have a knowledge of English equivalent to level B2 of the Council of Europe’s Common European Framework for Language Learning in all four components (reading, writing, speaking and listening) or above.”

9.17. Delete paragraph 323A(a)(iii)

9.18. In paragraph 323A(b) delete “,or its duration varied”

9.19. In paragraph 323A(b)(ii)(4) after “Certificate of Sponsorship” insert “or Confirmation of Acceptance for Studies”

9.20. Delete paragraph 323A(b)(iii) and substitute:

“in the case of a Tier 2 Migrant or a Tier 5 Migrant, if the employment that the Certificate of Sponsorship records that the migrant is being sponsored to do undergoes a prohibited change as specified in paragraph 323AA;”

9.21. Delete paragraph 323AA(b)(ii) and substitute:

“(ii)(IOM) the migrants’ Sponsor transfers the trade, business or undertaking for which the migrant works to another person (the Transferee) and the Migrant continues to work in the same job and

(1) the Transferee has an existing Sponsor licence or makes a successful application to the Department for a sponsor licence within 28 days of the date of the transfer of the business; and

(2) the Sponsor licence is in a category that allows the Transferee to either issue a Certificate of Sponsorship to the migrant or transfers the migrant’s Certificate of Sponsorship to the Transferee.

If the Transferee fails to apply for a Sponsor licence within 28 days of the business being transferred, applies for a Sponsor licence and is refused or applies for a Sponsor licence which is granted but in a category which does not allow the migrant to be issued with a Certificate of Sponsorship then it will be deemed that migrant has made a prohibited change to employment with effect from 28 days of the date of transfer.”

- 9.22. Delete section 323C(b) and substitute “ceases to be a sponsor with Tier 4 Sponsor status”

Changes to Part 12

- 12.1 After paragraph 353 insert:

“IOM 353A Upon receipt of a notice of appeal from an appellant to an adjudicator in accordance with the Immigration Appeals (Procedure) Rules 2008, the Immigration Inspector may undertake an administrative review of the relevant decision. The administrative review will be done within 15 days of receipt of the notice of appeal and shall be undertaken in accordance with Appendix AR of the United Kingdom’s immigration rules and related guidance with such modifications as **are**, in the reasonable opinion of the Immigration Inspector, **necessary or desirable**.

The Immigration Inspector shall review the decision to determine whether there has been any case working errors and, if the Immigration Inspector decides that a decision **was based upon a case working error**, the Immigration Inspector shall have the power to withdraw the decision or to amend the decision. If the Immigration Inspector upholds the decision then the appeal shall be sent to the adjudicator to be determined in accordance with the Immigration Appeals (Procedure) Rules 2008. If the Immigration Inspector determines that there has been a case working error then the appellant shall be informed and shall be invited to withdraw the appeal and the relevant decision shall be withdrawn or amended. The administrative review procedure set out in this paragraph is supplementary to the right to appeal under the Immigration Acts and the rules contained in the Immigration Appeals (Procedure) Rules 2008 and does not supersede or restrict such rights of appeal.”

Changes to Appendix 7

- App7.1. At the beginning of the employment contract set out in Appendix 7, after “Two copies of this form must be completed and signed by the employer and the overseas domestic worker and” insert “signed originals must be”.

- App7.3. In section 10 of the employment contract set out in Appendix 7, delete:

“It is the Employer’s obligation and responsibility to pay for the transportation costs and they cannot be passed on to the Employee through payroll deductions or any other means (for example, the Employee must not pay the transportation on behalf of the Employer to be reimbursed at a later date).

Under no circumstances are transportation costs recoverable by the Employer from the Employee.”

App7.5. At the end of section 10 of the employment contract set out in Appendix 7, insert:

“It is the Employer’s obligation and responsibility to pay for the transportation costs, any visa application fees and any other fees that may be payable by the Employee in order to obtain a visa to travel to the Isle of Man with their Employer or to join the Employer in the Isle of Man, and such costs and fees cannot be passed on to the Employee through payroll deductions or any other means (for example, the Employee must not pay the transportation or the visa fees on behalf of the Employer to be reimbursed at a later date). Under no circumstances are transportation costs or the fees described above recoverable by the Employer from the Employee.”

App7.6. In section 12 of the employment contract set out in Appendix 7, delete:

- “1. The Employer agrees to provide comprehensive sickness insurance cover for the Employee in the United Kingdom at no cost to the Employee.
2. The Employer agrees not to deduct money from the Employee’s salary **OR** wages for this purpose.
3. The Employer undertakes to ensure that the Employee has free access to medical treatment as the Employee requires.”

and substitute:

“Either:

- “1. The Employer agrees to provide comprehensive sickness insurance cover for the Employee in the Isle of Man at no cost to the Employee.
2. The Employer agrees not to deduct money from the Employee’s salary **OR** wages for this purpose.
3. The Employer undertakes to ensure that the Employee has free access to medical treatment as the Employee requires.”

or, if the Employee has remained (or will remain as a result of his/her application for entry clearance, leave to enter or leave to remain being granted)

in the Isle of Man as either a domestic worker in a private household for a period exceeding 6 months:

“1. The Employer agrees not to deduct money from the Employee’s salary **OR** wages for the purpose of meeting the cost of comprehensive sickness insurance cover.

2. The Employer undertakes to ensure that the Employee has free access to medical treatment as the Employee requires.”

App7.7. In section 15 of the employment contract set out in Appendix 7, delete:

“1.

2. Note: the Employer’s grievance procedure and disciplinary rules and procedure must comply with the ACAS statutory Code of Practice on discipline and grievance.”

and substitute:

“Note: the Employer’s grievance procedure and disciplinary rules and procedure must comply with the ACAS statutory Code of Practice on discipline and grievance.”

Changes to Appendix A

A7. In paragraph 124(e) delete “Sponsor Licence” and substitute “sponsor licence”.

Changes to Appendix C

C1. After paragraph 11(b) delete the table and replace:

“

Criterion	Points
i) Where the applicant is applying for leave to remain on the doctorate extension scheme, the applicant must have £1,015 for each month remaining of the course up to a maximum of two months	10
ii) In all other circumstances, the applicant must have funds amounting to the full course fees for the first academic year of the course, or for the entire course if it is less than a year long, plus £1,015 for each month of the course up to a maximum of nine months.	10

”

C1. In Appendix C in the table in paragraph 11 (i) under the title “If studying

outside London” delete “£820” and substitute “£1,015”.

Changes to Appendix V

V1. In paragraph 1(a) of Appendix 2 to Appendix V:

- i) for “paragraph” substitute “paragraphs 2 – 19”;
- ii) ii) insert, after “South Africa” and “Vietnam”, “*”.

V2. In paragraph 3 of Appendix 2 to Appendix V, at the end of sub-paragraph (g), insert:

“; or

(h) nationals of Vietnam who hold diplomatic passports issued by Vietnam.”

Explanatory Note to the Statement of Changes in Immigration Rules

1. Purpose of the Statement of Changes

The purpose of these changes is to:

- To make changes to the Immigration Rules to make provision for leave to remain in the Isle of Man to be granted to an overseas domestic worker who has been determined to be a victim of slavery or human trafficking. These changes also make a number of minor alterations to the existing Immigration Rules applied to overseas domestic workers;
- To add a provision for Indefinite Leave to Remain for a member of the operational ground staff of an overseas owned airline.

2. Policy Background - What is being done and why

Domestic workers who are the victim of slavery or human trafficking

2.1. The purpose of these provisions is to enable overseas domestic workers who have been determined to be a victim of slavery or human trafficking to continue to work as a domestic worker, and to change employer, for a period of time in order to be able to earn some money to assist in rebuilding their lives when they return overseas.

2.2. The change set out in paragraph 5.6 of this Statement implements these provisions by creating a new category of leave under which a person who has previously been granted leave to enter or remain as a domestic worker in a private household may be granted leave to enter or remain for up to six months where the applicant has been determined by the Isle of Man Immigration Inspector to be a victim of slavery or human trafficking (as defined in the Modern Slavery Act of Parliament). Where the initial period of leave granted is for less than six months, it will be possible to grant a subsequent extension of stay in this category to allow the individual to complete the maximum period of six months in this category.

2.3. A domestic worker granted leave to remain under these provisions will be permitted to take employment as a domestic worker in a private setting. It is assumed that a person applying under these provisions may not have a prior offer of employment at the point at which they apply. It is nevertheless intended that protections which apply to other non-EEA nationals granted leave to enter or remain for the purpose of domestic work should also apply here.

2.4. The change at paragraph 1.4 removes the requirement for an application to be accompanied by a passport in cases where the applicant's passport has been retained by their previous employer or other person in circumstances which have led to the applicant being determined by the Isle of Man Immigration Inspector to be a victim of slavery or human trafficking (as defined in the Modern Slavery Act of Parliament)

applying the criteria used by the UK Competent Authorities under the UK National Referral Mechanism.

2.5. The change set out in paragraph 9.8 has the effect that the General Grounds for Refusal of an application for leave to remain as set out in paragraph 322 of the Immigration Rules shall not apply to applications under the new category, except insofar as they provide for refusal on grounds of making false representations in connection with the application; failure to produce within a reasonable time information required in support of the application or to comply with a request to attend an interview; where the applicant is the subject of a deportation order; and grounds relating to criminal conduct or a threat to security.

Indefinite leave to remain for a member of the operational ground staff of an overseas owned airline

2.6. The addition of provision for indefinite leave to remain for a member of operational ground staff of an overseas owned airline has been added to the Isle of Man Immigration Rules to ensure this particular route is open in the Isle of Man as it is in the UK.

Tier 4 and changes to Part 6A

2.7. Changes are made to Part 6A of the Isle of Man Immigration Rules relating to Tier 4 Students to ensure consistency with the UK's Rules.

Part 12: Right of Appeal

2.8 The addition of paragraph IOM 353A has been made to these Rules to make clear the process followed in the Isle of Man relating to Appeals. Clarification is made that the practice in the Isle of Man is for the Immigration Inspector to conduct an administrative review of all applications submitted for appeal.

2.9 The Immigration Inspector, on receipt of an application for an appeal, will complete the administrative review within 15 days, and will do so on the basis of the UK's Appendix AR to the Immigration Rules and the UK guidance, so far as it is possible and applicable. The Immigration Inspector has the power to overturn a refusal or the imposition of conditions.

2.10 Should the Immigration Inspector confirm the refusal then the applicant's appeal shall be submitted to the Adjudicator in accordance with the Immigration Appeals (Procedure) Rules 2008.

2.11 Paragraph IOM 353A will remain within the Immigration Rules pending the completion of a more comprehensive Appendix AR