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STATEMENT OF THE LAW**

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1) INTRODUCTION

This report provides information concerning the passport, immigration and nationality services provided by the Passport, Immigration and Nationality Service of the Crown and External Relations Division of the Cabinet Office.

It includes detailed information on immigration into the Isle of Man of migrants from outside the United Kingdom and the European Economic Area (EEA), persons seeking to be naturalised as British Citizens within the Isle of Man, and data on the provision of British passports.

The Immigration Rules can be found on the immigration website at www.gov.im/immigration

Terminology

Foreign Nationals

A foreign national is someone who is not a British citizen or an EEA National.

EEA Nationals

An EEA national is defined in regulation 3(1) of the Immigration (European Area) Regulations 2009 as "a national of an EEA State;

"EEA State" means (a) a member State, other than the United Kingdom; (b) Norway, Iceland or Liechtenstein; or (c) Switzerland;"

Non Visa National

A non-visa national may apply for a visit visa, but is not required to unless they are: (a) visiting the United Kingdom (UK) to marry or to form a civil partnership, or to give notice of this; or (b) seeking to visit the UK for more than 6 months.

Visa national

A list of Visa Nationals – and exceptions – can be found at Appendix 2 of Appendix V of the Isle of Man Immigration Rules. All those appearing on that list are 'visa nationals' and must apply for a visa in advance of travel to the Isle of Man as a visitor, or for any other purpose for less than six months.

2) DEMOGRAPHIC CONTEXT

The 2016 census shows that the number of people resident on the Island who were born outside of the British Isles has risen steadily from 6.2% of the population in 2006 to 7.5% at the 2011 interim census and then to 8.5% (7082 people) of the population in 2016. Many of these individuals will however have been resident in the Isle of Man or the United Kingdom for many years and will either have been granted or be eligible for British Citizenship. The 2016 census showed that 1982 people resident on the Isle of Man were born outside the European Union. This is 2.4% of the population.

3) ISLE OF MAN IMMIGRATION SERVICE

The Immigration Act 1971 was first extended to the Isle of Man by Order in Council in 1972 with the agreement of the Isle of Man Government. On 12 March 2008, [The Immigration \(Isle of Man\) Order 2008](#) (as amended) was made. The 2008 Order extended certain provisions of the UK immigration and related legislation to the Isle of Man, with modifications as necessary. In the Isle of Man the majority of powers under the 2008 Order are exercised by Her Majesty's Lieutenant Governor in the Isle of Man.

The functions of the Lieutenant Governor are delegated to immigration officers who are part of the Crown and External Relations Directorate of the Cabinet Office, to deliver. Some powers however rest with the Council of Ministers.

The Council of Ministers in the Isle of Man makes the immigration rules under the 2008 Order, which are broadly similar to the UK immigration rules. The limitations are that discretion can only be exercised within the constraints of the rules and that it will be *ultra vires* for Council to incorporate any provision into the rules which would be contrary to the provisions of the immigration primary legislation or any other binding provision.

The Immigration Office administers visa applications from people seeking to come to the Isle of Man or those who wish to vary their leave to remain in the Island from countries outside of the European Economic Area (EEA) as referred to in Appendix D.

Entry Clearance

Entry Clearance is applied for in advance of travel to the Isle of Man and must be obtained by visa nationals for visits and by all foreign nationals for a period longer than six months. As a British Crown Dependency, the Isle of Man is entitled to, and uses the services of the British Embassies and other diplomatic offices around the world. One of these services is to handle visa applications for those people seeking to come to the Isle of Man.

Applicants who wish to come to the Isle of Man must complete their visa application online via the UK Visas & Immigration online service. Applications for the Isle of Man are processed by the British Embassy/Visa Application Centre and are referred to the Isle of Man Immigration Office for consideration against the Isle of Man Immigration Rules.

Having made the decision to grant or refuse the visa, the Isle of Man Immigration Office sends its decision to the British Embassy/Visa Application Centre post for relaying to the applicant and issuance of the visa. The Isle of Man Immigration Office will liaise with either the Embassy/Visa Application Centre, the applicant and/or the applicants sponsor should it have queries, wherever practicable.

Further information regarding each visa category is available in the Isle of Man Immigration Rules which are on the Isle of Man Government's website.

Immigration Data

The Isle of Man Immigration Service collects and records immigration data which is published in this report. It is important to note that because of the integration of United Kingdom and Isle of Man immigration law, the data provided by the Isle of Man Immigration Service is not necessarily a true reflection of the numbers and visa categories of foreign nationals visiting, working or studying in the Isle of Man.

For example, a non-visa national for the visit purposes can arrive at a port in the UK and be granted leave to enter for up to six months and can move freely within the Common Travel Area (CTA).

This data therefore is not collected by the Isle of Man Immigration Service. However, non-visa foreign nationals who follow this route into the Island are not entitled to take up employment or have recourse to public funds, and must not remain in the Isle of Man or UK past 6 months from the date of entry. Nonetheless, the data provided in this report gives a good indication of the main types of immigration category dealt with in the Isle of Man.

Immigration Control

There are 4 main stages to the process of immigration control, namely:-

- Entry Clearance – The applicant applies for 'entry clearance' in their country of current residency.
- Leave to Enter– requirements to be met by non-visa nationals arriving at the border.
- In-Country – 'switch visa category, further leave, indefinite leave' by a person with valid leave.
- Enforcement – dealing with immigration breaches or offences.

Entry Clearance

Entry Clearance is a requirement for visa nationals and for applicants who are seeking admission to the Isle of Man for over six months. Persons seeking entry clearance to the Isle of Man must complete their visa application on-line, in the same way as applicants wishing to visit the UK. The British Embassy or Visa Application Centre in the country where the applicant is currently residing will take an applicant's biometric data and refer their application directly to the Isle of Man Immigration Service for consideration and decision. If approved, the visa is issued by the British Embassy or Visa Application Centre and placed in the applicant's passport. The paper visa is called a vignette.

Leave to Enter

"Leave to Enter" relates to controls which exist at ports and airports for all passengers who:

- Need to show they have Right of Abode;
- Are a returning resident;
- Are a non-visa national seeking leave to enter for less than six months or;
- Have the correct entry clearance.

The Immigration Service continues to provide border control at both the Isle of Man Harbours for visiting cruise ships and the Isle of Man Airport for over 55 flights arriving from outside the Common Travel Area (see Appendix D). Whilst the majority of air passengers are returning holiday makers, these flights can and indeed do carry passengers who are required to be landed by an immigration officer due to their immigration status. The majority of cruise ship passengers are non EEA nationals who do require entry clearance.

In-Country

In-country applications exist for all foreign nationals seeking to extend their leave to remain in the Isle of Man or vary their conditions of stay. This would include extending the duration of leave

(further leave), or transferring from one immigration category to another where the Immigration Rules permit.

Indefinite Leave to Remain

Indefinite leave to remain (ILR) confers permission for a foreign national to settle in the Island and indeed the United Kingdom, without the need for further immigration control or time restriction. In some circumstances, a person who has obtained ILR but who stays outside the Common Travel Area for longer than 2 continuous years can lose their ILR status. A person applying for ILR must, in addition to meeting all the requirements under the particular category in which they apply, also demonstrate their Knowledge of Life and Language in the United Kingdom and Islands.

Immigration Figures

Overall Summary of Visa's Issued

Category	2012 - 2013	2013 - 2014	2014 - 2015	2015 - 2016	2016 - 2017
Entry Clearance	668	513	497	586	721
Variation of Leave	183	214	223	229	250
Indefinite Leave to Remain	140	89	123	246	60
Total	991	816	843	1061	1031

Entry Clearance by Visa Type

The table below shows the number and types of entry clearance granted by the Isle of Man Immigration Service. The number of refused entry clearance applications is shown as a total for the year in question. These figures do not include people who have entry clearance issued by the UK or Crown Dependencies and who may be in the Island.

Category	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017
Business Visitors	128	70	52	85	94
General & Family Visitors	318	272	283	331	437
Dependant of a settled person	39	5	6	11	5
Spouses/Partner of a settled person	22	6	14	15	14
Tier 1 visas	2	1	5	3	3
Tier 2 visas	76	57	54	47	98
Tier 4 Student visas	5	10	9	10	9
Tier 5 Youth Mobility	0	0	0	0	0
Tier 5 Temporary workers	0	1	0	2	3
Spouse/Partner of Tier 1 or Tier 2	15	16	20	28	24
Child of a Tier 1 or Tier 2 visa holder	16	23	15	22	18
EEA Permanent Residence	previously captured as "Other"			0	1
EEA Family Member	previously captured as "Other"			4	9
Others	47	52	39	28	6
Total	668	513	497	586	721
Refusal Notices Issued	55	61	28	45	17

In-Country Applications by Visa Type

The table below sets out the number of applications processed by the Isle of Man Immigration Service under the category which an applicant applied.

Category	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017
Tier 1 (Investor)	0	0	1	2	0
Tier 1 (Entrepreneur)	2	0	0	1	0
Tier 1 (General)	13	2	1	0	0
Tier 1 (Post Study Work)	1	1	0	0	0
Tier 1 (Exceptional Talent) wef March 2016	N/A	N/A	N/A	0	0
Tier 2	41	68	88	60	65
Tier 4	1	0	1	2	3
Tier 5	1	0	0	1	0
Spouse/Partner of Tier 1 or Tier 2	25	34	36	28	38
Child of T1 or T2 visa holder	30	50	41	46	55
Spouse/Partner of a settled person	27	20	11	26	27
Dependant of a settled person	4	3	5	8	
EEA Family Member - Permit & Permanent Residence	9	13	5	16	54
No Time Limit application	8	12	11	11	6
Overseas Domestic Worker	2	2	1	0	0
Others includes UK Ancestry	19	9	22	28	0
Total	183	214	223	229	248

Indefinite Leave to Remain

The table below provides details of the number of applications for ILR considered by the Immigration Service over the past five years.

2012 - 2013	2013 - 2014	2014 - 2015	2015 - 2016	2016 - 2017
140	89	123	41	60

Immigration Enforcement

The term "enforcement" relates to immigration functions carried out in respect of immigration offending and is aimed at preventing the abuse of immigration rules, tracking immigration offenders and increasing compliance with immigration law.

For example all new residents to the Isle of Man, regardless of whether they are subject to immigration control, are not automatically entitled to claim benefits from the Island's Social Security system. Under Isle of Man Immigration legislation a foreign national is not entitled to public funds.

If the Immigration Service is made aware that a person subject to immigration control was claiming benefits to which they were not entitled, the matter would be investigated and appropriate action taken. Another example would be if an employer employed a foreign national

and did not hold the required Sponsor Licence which all employers are required to hold when employing foreign nationals.

There are a number of ways in which the Immigration Service will be aware of persons who may be subject to enforcement decisions.

1. Immigration Officers may curtail the leave of a person subject to immigration control if they are satisfied that the person has breached their conditions e.g. working when not permitted to.
2. Information on persons suspected of breaching immigration requirements may also be provided to the Immigration Service by members of the public, agencies, government departments etc.

Any intelligence on suspected illegal immigration activity has to meet certain standards or threshold tests before any action can be taken. Enforcement activities against individuals or employers should not be undertaken unless there is reliable information available.

Immigration Enforcement Terminology

Illegal Migrants

An illegal migrant is defined as a person unlawfully entering the country or seeking to enter by means of deception, already in the country without valid leave, or is seeking to enter in breach of a deportation order. The powers to remove illegal migrants back to their country are found in paragraph 9 of schedule 2 to the Immigration Act 1971 as extended to the Isle of Man; these powers enable an immigration officer to issue any authorised directions for removal.

Removal

Part 4 of the Immigration (Isle of Man) Order 2008 allows for the removal of certain persons who are unlawfully in the Isle of Man. Administrative removals or 'removals', refers to a process which involves the enforced removal of foreign nationals who have either entered the country illegally or deceptively, stayed in the country longer than their visa permitted, or otherwise violated the conditions of their leave to remain in the Isle of Man. Where an individual is removed from the Isle of Man, they may apply to return to the Isle of Man subject to any time limits which may be in place at the time of applying that restrict them.

Curtailment

A person's leave to remain in the country may be curtailed if they cease to meet the requirements of the rules under which their leave to enter or remain was granted.

Refused Leave to Enter

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

Voluntary Departure

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

Deportation

Deportation is a specific term that applies to the enforced removal of foreign nationals and their children even if they hold a valid visa, whose removal from the Isle of Man is deemed 'conductive

to the public good' by the Lieutenant Governor because they have breached Isle of Man immigration rules, whether because they are here illegally or because they are 'over stayers'.

They will be prohibited from re-entering the Isle of Man for the duration of the deportation order; and any leave to enter or remain in the Isle of Man given before the order was made, is invalidated. Deportation can also be recommended by a court in connection with a conviction of a criminal offence that carries a prison term. A deportation order may not be made while it is still open to the person to appeal against the relevant conviction, sentence or recommendation, or while an appeal is pending.

A deportation order requires the individual to leave the Isle of Man and is exercised so as to secure the person's return to the country of which he is a national, or which has most recently provided him with a travel document, unless he can show that another country will receive him. Deportation is a serious matter and any person subject to a deportation order will find their ability to obtain a visa in the future severely affected.

The table below provides details of the number of enforcement functions carried out by the Immigration Service.

Category	2012 - 2013	2013 - 2014	2014 - 2015	2015 - 2016	2016-2017
Illegal Immigrant	5	3	0	0	2
S10 Offenders	1	2	0	0	0
Curtailement	1	1	3	1	2
Refused Leave to Enter	0	0	0	0	0
Deportation	0	0	0	0	0
Voluntary Departure	2	5	0	0	2

Immigration Appeals

The Immigration Service carefully considers all applications against the requirements detailed within the immigration rules. The circumstances and rights of individuals and families must be balanced against the need to retain an effective immigration control and to treat each application in a consistent, fair and lawful manner.

When an applicant disagrees with the decision of the Immigration Service, there may be a right of appeal. This can be an appeal against a refusal of entry clearance from outside the country, or appeals in-country against a variation of leave (known as curtailement), or a refusal to vary leave (to change a category or extend leave or for indefinite leave to remain).

An individual outside the Isle of Man, who wishes to appeal against the decision to refuse them entry clearance, has 28 days to submit an appeal against the decision. The time starts from the date the refusal is served on them. An individual who is already in the Isle of Man and who wishes to appeal against a variation of leave or a refusal to vary leave has 10 days from the date the decision to refuse is served on them. An applicant who is eligible to appeal the decision serves a notice of appeal on the Immigration Service.

The table below provides details of the number of immigration appeals received over the last five years and the resultant outcome.

Appeals	2012-2013	2013 - 2014	2014 - 2015	2015 - 2016	2016-2017
Submitted	6	2	2	7	4
Appeals Allowed	4	0	1	2	1
Appeals Dismissed	2	2	1	0	0
Overtured at Review	-	-	-	5	2
Appeal Withdrawn	0	0	0	0	1

4) Points Based System

The Points Based System (PBS); Tiers 1 and 4 were introduced in the Isle of Man in December 2009 and Tiers 2 and 5 were introduced in July 2010. The PBS applies to 'foreign nationals or non-EEA nationals' wishing to come, or who are already here and hold a PBS visa.

The PBS framework was designed to create structured decision making based on points. Points are awarded for attributes differently depending on the Tier for which the individual was applying. The system balances objectivity against the need to be robust against abuse. This is achievable by the applicant claiming points for certain factors such as qualifications, salary, and providing evidence to support the points claimed. This information is then assessed by the decision-maker in a structured fashion; ensuring consistency is given to each application.

For each Tier, applicants need to be awarded sufficient points to obtain entry clearance or leave to remain in the Isle of Man. Points are awarded according to criteria such as qualifications, and for Tier 2, whether their skills match an occupation at a certain degree level, or whether the occupation is on the shortage occupation list.

Employers of 'foreign nationals must hold a valid Sponsorship Licence. Once a Sponsor Licence is approved the sponsor is entered onto the public register of sponsors. In the case of Tier 2, an employer can request the issuance of a Certificate of Sponsorship (CoS) which contains a unique reference number, the job title and salary to the migrant they wish to employ. The migrant uses this CoS when applying for their visa to come to the Isle of Man to work.

An educational establishment must hold a valid Licence to request the issuance of a Confirmation of Acceptance (CAS) for studies in the same way as a CoS. The Points Based System framework covers:-

Tier 1

(Entrepreneur) Migrants - This route is for those who wish to establish, join or take over one or more businesses in the Isle of Man.

(Investor) Migrants - This route is for high net worth individuals making a substantial financial investment to the Isle of Man.

(Graduate Entrepreneur) Migrants - This route is for MBA and other Isle of Man graduates who have been identified by Higher Education Institutions as having developed genuine and credible

business ideas and entrepreneurial skills to extend their stay in the Isle of Man after graduation to establish one or more businesses in the Isle of Man.

(Exceptional Talent) - This route is for exceptionally talented individuals, already internationally recognised at the highest level as world leaders in their particular field, or who have already demonstrated exceptional promise and are likely to become world leaders in their particular area, who wish to work in the Isle of Man.

Tier 2

(Intra-Company Transfer) Migrants - This route enables multinational employers to transfer their existing employees from outside the EEA to their Isle of Man branch for training purposes or to fill a specific vacancy that cannot be filled by an Isle of Man Worker, British citizen or other EEA national.

(General) Migrants, (Minister of Religion) Migrants and (Sportsperson) Migrants - This route enables Isle of Man employers to recruit workers from outside the EEA to fill a particular vacancy that cannot be filled by an Isle of Man Worker, British citizen or other EEA national.

Tier 3 – No longer Used

Tier 4

(General) Migrant - This route is for migrants aged 16 or over who wish to study in the Isle of Man.

(Child) Migrant - This route is for children at least 4 years old and under the age of 18 who wish to be educated in the Isle of Man.

There are foreign national students who attend the Isle of Man College or King William's College. The requirements for their admission and their conditions relating to employment have historically followed those applicable to foreign students in the United Kingdom.

Tier 5

(Youth Mobility Scheme) Temporary Migrants - This route is for sponsored young people from participating countries and territories who wish to live and work temporarily in the Isle of Man.

(Temporary Worker) Migrants - This route is for certain types of temporary worker whose entry helps to satisfy cultural, charitable, religious or international objectives, including volunteering and job shadowing.

5) NATIONALITY SERVICE

Becoming a British Citizen is a significant life event. For an application to succeed applicants must show that they satisfy a number of requirements as set out in British Nationality Act 1981. The Isle of Man (and the Channel Islands) forms part of the United Kingdom under the British Nationality Act 1981.

Establishing British nationality is complex and is defined in law. A person's claim to British nationality can be determined by applying the definitions and requirements of the British Nationality Act 1981 and related legislation to the facts of their date and place of birth and descent.

Types of British Nationality

British citizenship is one of the six different forms of British nationality. Some of these were defined in the British Nationality Act 1981, which came into force on 1 January 1983.

The types of nationality are:

- British citizenship;
- British overseas citizenship;
- British overseas territories citizenship;
- British national (overseas);
- British protected person; and
- British subject.

The Good Character Requirement

There is no definition of 'good character' in the British Nationality Act 1981 ('the BNA 1981') and therefore no statutory guidance as to how this should be interpreted or applied. However, the good character requirement applies to anybody over the age of ten who applies for naturalisation or registration as a British citizen unless an application is made under:

- the statelessness provisions in Schedule 2 of the BNA 1981, or;
- section 4B of the Act from an eligible applicant.

His Excellency the Lieutenant Governor must be satisfied that an applicant is of good character on the balance of probabilities. To facilitate this, applicants must answer all questions asked of them during the application process honestly and in full. They must also inform the Nationality Office of any significant event (such as a criminal conviction or a pending prosecution) that could have a bearing on the good character assessment.

A person is not normally considered to be of good character if there is information to suggest:

- They have not respected and/or are not prepared to abide by the law. For example, they have been convicted of a crime or there are reasonable grounds to suspect (i.e. it is more likely than not) they have been involved in crime; or
- They have been involved in or associated with war crimes, crimes against humanity or genocide, terrorism or other actions that are considered not to be conducive to the public good. For further information on this particular element; or
- Their financial affairs were not in appropriate order. For example, they have failed to pay taxes for which they were liable; or

- Their activities were notorious and cast serious doubt on their standing in the local community. For further information on notoriety; or
- They had been deliberately dishonest or deceptive in their dealings with the UK or Isle of Man Government; or
- They have assisted in the evasion of immigration control; or
- They have previously been deprived of citizenship.

This is a non-exhaustive list. The Nationality Service carry out checks with the police and other government departments to establish:-

- An applicant has paid required income tax and National Insurance contributions.
- An applicant's criminal record (for those aged 10 and over).
- An applicant has not incurred considerable debt.

If an applicant has a conviction or caution that occurred within the three years prior to submitting their application, the application for citizenship is unlikely to be successful. Given the nature of the requirements, the Home Office produce a number of publications to assist applicants in the process and to help them decide whether they meet the necessary requirements.

Full details of this and the many other requirements are set out in various publications issued by the UK Home Office and which are available for download from our website www.gov.im/categories/travel-traffic-and-motoring/naturalisation-and-registration-as-a-british-citizen

Unsuccessful Applications

Where an application is unsuccessful, the applicant is sent a written explanation setting out the reasons why. There is no legal right of appeal against the decision to refuse an application. However, where an applicant can show that we have not applied the correct Nationality Law or current Home Office policy to our decision then they can request in writing for the decision to be reconsidered.

Citizenship Ceremonies

Where an application is successful, the applicant will be invited to attend a citizenship ceremony, where applicants together will either swear or affirm an oath of allegiance to Her Majesty the Queen and pledge loyalty to the United Kingdom.

Making the Oath or Affirmation and Pledge at a citizenship ceremony is a legal requirement and signifies the point at which an applicant becomes a British Citizen. The ceremonies in the Isle of Man are administered by the Nationality Service on behalf of the Lieutenant Governor and are held in the Barrool Suite in the Tynwald Chambers.

The process of naturalising or registering as a British citizen is a lengthy one, with a number of the key stages to the process being completed by the Home Office. Traditionally it is these off-island elements of the process which take considerable time to complete so we ask applicants to allow up to 12 months from the date of filing their application to being invited to attend at a citizenship ceremony.

Nationality Statistics

The table below provides details of the numbers of naturalisation and registration applications received over the last five years.

Month	2012 - 2013	2013 - 2014	2014 - 2015	2015 - 2016	2016-2017
April	30	21	2	1	16
May	29	13	5	2	19
June	18	19	1	0	7
July	11	13	13	0	6
August	14	29	4	0	2
September	18	44	8	0	7
October	24	53	19	0	3
November	20	8	6	38	5
December	18	2	5	30	6
January	20	1	4	8	10
February	17	4	5	13	4
March	14	8	13	16	14
Total	233	215	85	108	99

During the 2016-2017 reporting period 3 applications for British citizenship were refused.

6) PASSPORT SERVICE

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

The Royal Prerogative

The power to issue Isle of Man variant British passports is derived from the Royal Prerogative. On the Isle of Man this is formally exercised by the Lieutenant Governor on behalf of the Crown. The Isle of Man is an issuing authority for British passports and complies with Her Majesty's Passport Office issuance policy for British passports with some local variation.

The powers of the Lieutenant Governor allow the issuance of an Isle of Man variant British Passport to a person resident in the Isle of Man at the time the application is made; or a person who is born in the Isle of Man and who is resident in the United Kingdom at the time the application is made, for example a student at University; or a person whom His Excellency the Lieutenant Governor considers there are exceptional grounds for him to use discretion to issue a passport, to be considered case by case. An example of this discretion could be a person born overseas to parents who were Isle of Man born, but were serving in the RAF, Navy etc at the time the child was born; the child was then brought up in the Isle of Man and went to University in the United Kingdom. The powers of the Lieutenant Governor do not extend to the issue of passports

to British nationals resident overseas where the Prerogative is exercised by the Home Secretary exclusively.

The Isle of Man Variant British Passport

There are some distinctive differences with passports issued in the Isle of Man (and Crown Dependencies); most notably the salutation on the inside of the passport refers to the Lieutenant Governor, as the Crown representative in the Island.

The Isle of Man variant of the British passport is printed at a secure facility in the United Kingdom. This allows eligible persons who apply for a British passport to benefit from the latest generation of a secure British passport. The decision-making and processing of passport applications is undertaken by the Isle of Man Passport Service which has retained its issuing authority status as the 'Isle of Man'.

Passports can be renewed at any time before their due expiry date with a maximum of nine month unused validity being able to be carried forward onto a new passport. Where a new passport is needed, this should be obtained prior to booking and paying for any travel as the Isle of Man Passport Service cannot accept any liability for being unable to issue a passport in time for a person to go on holiday. The Passport Service provides 3 types of service:

- Standard service of 20 working days for a 10 year validity passport
- 5 working day express service for a 10 year validity passport
- Same Day Emergency Travel Document valid only for 12 months

The Isle of Man Passport Office experiences high volumes of applications throughout the year. The 5 working day express and emergency travel document services take priority over the standard service applications.

It is a criminal offence under section 11 of the Forgery Act 1952 for anyone who either forges a passport or makes a statement which is to their knowledge untrue for the purpose of obtaining a passport whether for himself or any other person. A person convicted of this can face up to 2 years in prison or a maximum £500 fine or both.

Passport Statistics

Month	2012 - 2013	2013 - 2014	2014 - 2015	2015 - 2016	2016-2017
April	809	1089	1032	546	801
May	983	1040	842	757	662
June	992	840	782	1318	965
July	895	916	1220	885	1057
August	693	604	801	868	521
September	547	544	661	651	584
October	574	511	598	555	419
November	438	437	472	343	458
December	329	324	435	390	338
January	844	881	772	737	568
February	787	818	971	914	601
March	814	1089	792	629	1016
Total	8705	9093	9378	8593	7990

During the 2016 - 2017 reporting period 1 application for a passport was refused.

7) THE KNOWLEDGE OF LANGUAGE AND LIFE IN THE UK AND ISLANDS REQUIREMENT

Applicants applying for Indefinite Leave to Remain (ILR) or to be naturalised as a British citizen have to satisfy the knowledge of language and life in the United Kingdom and Islands requirement (KoLL), unless the individual is exempt. (Minors are ineligible for naturalisation; therefore no exemption applies).

Understanding and being able to use English at a level which facilitates interaction with the wider community is important to successful integration. It is also important that those wishing to live permanently in the Isle of Man have a basic understanding of the responsibilities which come with indefinite leave to remain and/or British Citizenship, the principles of British democracy and the history and culture from which they flow.

The KOLL requirement consists of 2 parts:

- By passing the Life in the UK & Islands test, a computer based test based on the Life in the UK & Islands handbook;
- Hold a speaking and listening qualification in English at B1 CEFR (Common European Framework of References for Languages) or higher, or an equivalent level qualification.

Both these test can be taken on the Isle of Man. Specific details of these requirements and how to apply can be found on our website www.gov.im/immigration

8) APPENDICES

- A - Legal Framework for Immigration
- B - The Common Travel Area
- C - European Union Nationals

LEGAL FRAMEWORK FOR IMMIGRATION

Immigration Legislation

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

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

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

The functions of the Lieutenant Governor are delegated to immigration officers who are part of the Crown and External Relations Directorate of the Cabinet Office, to deliver. Some powers however rest with the Council of Ministers.

Immigration Rules

The Council of Ministers has the power in the Isle of Man to make its own immigration rules under the 2008 Order (as amended), and these are broadly similar to the UK immigration rules. The limitations are that discretion can only be exercised within the constraints of the rules and that it will be *ultra vires* for Council to incorporate any provision into the rules which would be contrary to the provisions of the immigration primary legislation or any other binding provision.

The Immigration Rules are secondary legislation derived from the immigration acts. These Rules lay down the practice to be followed in the administration of the acts, for regulating entry and stay in the Isle of Man of persons not having right of abode; that is they provide definition for the application of the law. For example, they describe the conditions that an applicant must meet to be granted entry clearance.

The Home Office in the United Kingdom updates the Rules on an ongoing basis and to date the Isle of Man has considered and applied these changes, if deemed appropriate, to the Island. Following Council of Ministers agreement, the rule changes come into effect immediately; however Rule changes are laid before the next available sitting of Tynwald subject to negative resolution. If there are any objections at that Tynwald sitting, changes go back to the Council of Ministers for any amendments that are deemed appropriate.

COMMON TRAVEL AREA

The Immigration Act 1971, Section 1(3) refers to the Common Travel Area (CTA). The CTA consists of the United Kingdom, Republic of Ireland (ROI), the Channel Islands and the Isle of Man. A person accepted for entry at any point in the CTA does not normally require leave to enter any other part of it. There are exceptions for certain persons entering through the Republic of Ireland, which is of course not covered by the provisions of the Immigration Act 1971, Schedule 4.

Foreign nationals arriving from the Republic of Ireland are not examined by Immigration Officers at point of entry but are, by virtue of the Republic of Ireland Order, granted "deemed" leave to enter for a specified period, which varies according to their individual immigration status.

History of the Common Travel Area

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

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

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

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

Common Travel Area Today

The CTA is established by the 1971 Immigration Act. Section 1 (3) and (9) make provision for continuance of a CTA comprising of the United Kingdom, the Channel Islands, the Isle of Man and

the Republic of Ireland. British and Irish Citizens may travel freely within the Common Travel Area, and mean that travelling within the CTA is treated as a local journey and are not subject to controls on such journeys. It also means that a person who does not have a right of abode within the CTA but has been given permission to enter one of the CTA territories and to live, work and settle there (i.e. a third country national with a valid visa) is also not subject to control on journeys within the CTA and is free to enter any other part of the CTA. This position is modified slightly for third country nationals who enter the CTA from the Republic of Ireland. A third country national who enters the Isle of Man from outside the CTA, whether by private jet, yacht, cruise ship or direct charter flights, would be required to pass through immigration control.

The maintenance of the CTA is based on the willingness of the United Kingdom, and other constituents of the CTA to allow free movement between its territory and other parts of the CTA based on the knowledge that the other constituents maintain effective control over entry from outside that area under a law and practice broadly similar to that of the UK. Clause 1(3) states "arrival in and departure from the United Kingdom on a local journey from or to any of the Islands (that is to say, the Channel Islands and Isle of Man) or the Republic of Ireland shall not be subject to control under this Act, nor shall a person require leave to enter the United Kingdom on so arriving, except in so far as any of those places is for any purpose excluded from this subsection under the powers conferred by this Act; and in this Act the United Kingdom and those places, or such of them as are not so excluded, are collectively referred to as the common travel area". Clause 9(5) states " if it appears to the Secretary of State necessary so to do by reason of differences between the immigration laws of the United Kingdom and any of the Islands, he may by order exclude that islands from section 1(3) above for such purposes as may be specified in the order, and references in this Act to the Islands other than any reference in section 2 shall apply to an island so excluded so far only as may be provided by the order of the Secretary of State".

In the period around 2009, the free movement of Island residents within the Common Travel Area and the proposed introduction of the United Kingdom's E-Borders system was the subject of public and political scrutiny in the Isle of Man. In June 2010, the Council of Ministers produced the report, GD No 37/10, "The Constitutional Aspects of Reform of Immigration Control" in response to the First Report of the Standing Committee of Tynwald on Constitutional Matters for the Session 2009-2010.

The stated priority of the Council of Ministers from 2010 was to safeguard the freedom of movement of Island residents between the Isle of Man, Ireland and the United Kingdom and vice versa, and without being required to produce a passport on journeys within the CTA, and this was supported by the July 2010 Tynwald Resolution. This remains the stated policy of the Council of Ministers.

EUROPEAN UNION NATIONALS

Although the Isle of Man is not a part of the European Union (EU) or European Economic Area (EEA) it does have certain obligations under section 7(1) of the Immigration Act 1988.

Broadly speaking the EEA unites the 28 EU and **3 EEA** member states into an internal market. Citizens of all 30 countries have a right of free movement throughout the EEA including the right of admission to live, study, work, invest and set up business, providing they, like British citizens, obtain the necessary work permits where required and are not excluded on grounds of public policy, public security or public health, (public policy prohibits EU and EEA nationals from becoming a burden on public funds).

Switzerland is not part of the EU/EEA but has since June 2002, enjoyed freedom of movement within the EEA as a concession. Swiss nationals are treated in the same way as EEA nationals for immigration purposes. Countries included are:

Austria	Greece	Norway
Belgium	Hungary	Poland
Bulgaria	Iceland	Portugal
Croatia	Ireland	Romania
Republic of Cyprus	Italy	Slovakia
Czech Republic	Latvia	Slovenia
Denmark	Liechtenstein	Spain
Estonia	Lithuania	Sweden
Finland	Luxembourg	United Kingdom (UK)
France	Malta	
Germany	Netherlands	

Article 299(6) (c) of the Treaty establishing the European Community ("the EC Treaty") provides that: *"this Treaty shall apply to the Channel Islands and the Isle of Man only to the extent necessary to ensure the implementation of the arrangements for those islands set out in the Treaty concerning the accession of new Member States to the European Economic Community and to the European Atomic Energy Community signed on 22 January 1972."*

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

EU nationals wishing to work in the Isle of Man

Any EU/EEA national must have a work permit (or valid exemption) under the Control of Employment Act (CEA). Provided that the Island treats all EU nationals (including people from the United Kingdom) in the same way it can restrict those persons from entering into employment on the Island, and restrict their access to benefits. It is for this reason that the Isle of Man operates its control of employment; the Island must though comply with international treaty obligations that it has accepted in relation to, amongst other things, human rights, prevention of discrimination and in relation to the treatment of refugees.

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

Non EU nationals who are family members of EU nationals

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

During this reporting period, in a referendum on 23 June 2016 the people of the United Kingdom and Gibraltar voted by a margin of 52% to 48% to leave the European Union. On 29 March 2017 British Prime Minister Theresa May triggered Article 50 which formally began the United Kingdom's withdrawal from the EU. This process is expected to be completed by March 2019.