

Statutory Document 2018/0134



**STATEMENT OF
CHANGES IN
IMMIGRATION RULES**

Laid before Tynwald on 20 November 2018 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.

All changes set out in this statement take effect from 1 November 2018.

Changes to Appendix C

- C1. In the table at sub-paragraph 5(a), for “Worker” substitute “Worker Migrant” and for “Worker (Intra Company Transfer)” substitute “Worker (Intra Company Transfer) Migrant”.

Changes to Appendix V

- V1. In paragraph A2 of Appendix 2 to Appendix V substitute “UK” with “Isle of Man”.
- V2. In paragraph 2 of Appendix 2 to Appendix V substitute “UK” with “Isle of Man”.
- V3. In paragraph 3 of Appendix 2 to Appendix V substitute both mentions of “UK” with “Isle of Man”.
- V4. In paragraph 4 of Appendix 2 to Appendix V substitute “UK” with “Isle of Man”.
- V5. In paragraph 5A of Appendix 2 to Appendix V substitute “UK” with “Isle of Man”.
- V6. For paragraph 6 of Appendix 2 to Appendix V substitute “An EVW Document relates to one person and may only be used for one application for leave to enter the Isle of Man.”.
- V7. For paragraph 8 of Appendix 2 to Appendix V substitute “8 The EVW Document must specify the flight or ship on which the holder intends to arrive in the Isle of Man, including the port of departure and arrival, and the scheduled date and time of departure and arrival.”.
- V8. Delete paragraph 9 of Appendix 2 to Appendix V.
- V9. Delete paragraph 10 of Appendix 2 to Appendix V.

¹ 1971 c.77

² See the Immigration (Isle of Man) Order (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, SD2014/314 , SD2014/324, SD2015/0265. SD2015/0386, SD2016/0092, SD2016/0175, SD5016/0211, SD2017/0066, SD2017/0183, SD2017/0314 and SD2018/0084

- V10. For paragraph 12 of Appendix 2 to Appendix V substitute “12 An EVW Document may not be issued more than 3 months before the date of the holder’s scheduled departure to the Isle of Man as specified on the EVW Document before the intended date of the holder’s arrival in the Isle of Man as specified on the EVW Document.”.
- V11. For paragraph 13 of Appendix 2 to Appendix V substitute “13 An EVW Document may not be issued more than 3 months before the date of the holder’s scheduled departure to the Isle of Man as specified on the EVW Document.”.
- V12. For paragraph 14 of Appendix 2 to Appendix V substitute “14 The holder must present the EVW Document to an Immigration Officer on request upon the holder’s arrival at the Isle of Man border.”.
- V13. For paragraph 16 of Appendix 2 to Appendix V substitute “16 The holder must travel on the flight or ship as specified on the EVW Document.”.
- V14. For paragraph 17 of Appendix 2 to Appendix V substitute
 “17 If the holder travels on a different flight or ship this must depart from the same port and arrive at the same Isle of Man port as specified on the EVW Document; and
 (a) depart after the departure time specified on the EVW Document and arrive in the Isle of Man no more than 8 hours after the arrival time specified on the EVW Document.”.
- V15. Delete paragraph 18 of Appendix 2 to Appendix V.

Changes to Appendix W

- W1. In 1.1.1(2)(a)(iii) for “(3)” substitute “(2)”.
- W2. Delete paragraph 2.3(13).
- W3. Delete paragraph 2.3(14).
- W4. In paragraph 2.3(23) delete the text following sub-paragraph (ix).
- W5. After paragraph 2.3(23) insert:
 “(24) Paragraph (23) does not apply to:
 (1) applicants whose most recent entry clearance, leave to enter or leave to remain, was granted as a Tier 2 (General) Migrant under the Rules in place prior to 6 April 2018, and the applicant’s gross annual salary (including such allowances as are specified as acceptable for this purpose in paragraph 6.3.2 of this appendix) to be paid by the Employer is £159,600 (or £155,300, if the recruitment took place before 6 April 2017) or higher; or
 (2) SOC Codes:

- (a) 2413 Solicitors; or
- (b) 2211 Medical Practitioners.”.

- W6. Renumber sub-paragraphs 2.3(24) and 2.3(25) as (25) and (26) respectively.
- W7. Delete paragraph 2.3.2(5).
- W8. In paragraph 2.4(8), for “grant of entry clearance” substitute “most recent grant of entry clearance, leave to enter or leave to remain”.
- W9. In the introductory wording of Part 3 delete “that cannot be filled by a suitable Isle of Man, British or EEA worker”.
- W10. In paragraph 4.1 insert “.” after the first occurrence of Worker (Intra Company Transfer) Migrant.
- W11. In paragraph 4.1(2)(c) after “below” insert “,”.
- W12. For paragraph 5.1(e) substitute:

“The gross annual salary (including such allowances as are specified as acceptable for this purpose in paragraph 1.1 of the Appendix) falls below the appropriate rate for that Employment as specified in paragraph 1.1 of this Appendix.”.
- W13. After paragraph 5.1(2) insert

“(3) Where a prohibited change is made as listed in paragraph (2) above and a further Confirmation of Employment has not been granted in accordance with paragraph (1) above, the migrant’s leave may be curtailed in accordance with paragraph 4.1(2)(c).”
- W14. In paragraph 6.1(2)(f)(ii) for “Confirmation of Employment” substitute “Certificate of Sponsorship”.
- W15. In paragraph 6.1(4) delete “For the purpose of this paragraph disregard the deeming of any pre-existing category of Tier 2 Migrant as a Worker Migrant or Worker (Intra Company Transfer) Migrant.”.
- W16. In paragraph 6.1(5) for “(c)” and “(d)” substitute “(a)” and “(b)” respectively.
- W17. In paragraph 6.2(3)(b) after “higher” insert “.”.
- W18. In paragraph 6.2(4) for “the” substitute “The”.

W19. In the introductory wording of Part 6.3 for “a” substitute “an”.

W20. For paragraph 6.3.1, substitute:

“6.3.1 Resident Labour Market Test Exemptions Applies

- (1) In order for a Resident Labour Market Test Exemption to apply under this Appendix:
 - (a) The Confirmation of Employment application must be for a Worker (Intra Company Transfer) Migrant.
 - (b) The Confirmation of Employment application must be for a SOC Code listed as Key Employment in column 6 of Tables 1 to 6 of Part 7 of this Appendix and contracted working hours for the employment must be for at least 30 hours per week.
 - (c) The Confirmation of Employment application must be for a Worker Migrant who is applying for leave to remain, and the applicant must:
 - (i) have last been granted, or deemed to have been granted, entry clearance, leave to enter or leave to remain as a Worker Migrant;
 - (ii) be continuing employment with the same employer as recorded on the most recent Confirmation of Employment or Certificate of Sponsorship; and
 - (iii) be continuing in the same SOC code as recorded by the most recent Confirmation of Employment or Certificate of Sponsorship.
 - (d) The Confirmation of Employment application must be for a Worker Migrant who is applying for leave to remain, and the applicant must:
 - (i) have last been granted entry clearance, leave to enter or leave to remain as a Tier 2 (General) Migrant under the rules in place prior to 6 April 2018; and
 - (ii) have a gross annual salary (including such allowances as are specified as acceptable for this purpose set in paragraph 6.3.2

of this Appendix) to be paid by the employer of £159,600 (or £155,300, if the recruitment took place before 6 April 2017) or higher.

6.3.2 Appropriate salary (Specified Allowances)

- (1) For the purposes of paragraph 2.3(24) and paragraph 6.3.1(1)(d) the following items only will be taken into account to calculate the appropriate salary:
 - (a) guaranteed gross basic pay; and
 - (b) guaranteed allowances which will be paid for the duration of the applicant's employment in the Isle of Man and would be paid to a Settled Worker in similar circumstances.

- (2) For the purposes of paragraph 2.3(24) and paragraph 6.3.1(1)(d) the following items will not be taken into account to calculate the appropriate salary:
 - (a) any allowances other than those specified in (1)(b) above;
 - (b) one off payments, such as those associated with the cost of relocation which do not form part of the applicant's regular salary package;
 - (c) payments which cannot be guaranteed, such as bonus or incentive related pay;
 - (d) overtime payments, whether or not overtime is guaranteed;
 - (e) payments to cover business expenses, including (but not limited to) training, travel to and from the sending country, hotels and business travel within the Isle of Man or United Kingdom;
 - (f) any payments for which the applicant will need to reimburse the sponsor or any linked overseas business;
 - (g) employer pension contributions;
 - (h) medical benefits;
 - (i) payment of any tuition fees; or
 - (j) the value of any shares which the applicant has obtained in exchange for some of their Isle of Man employment rights as an employee owner.”.

W21. In part 7, in the New Entrant Salary column for SOC codes 3213, 6141, 4123 and 4129 insert “The salary for this SOC code falls below the absolute minimum wage, in accordance with 1.1(1)(a) workers must be paid a minimum salary of £20,800 in order to be eligible for a Confirmation of Employment.”.

- W22. In part 7, in the Experienced Salary column for SOC code 6141 insert “The salary for this SOC code falls below the absolute minimum wage, in accordance with 1.1(1)(a) workers must be paid a minimum salary of £20,800 in order to be eligible for a Confirmation of Employment.”.
- W23. In part 7, in the New Entrant Salary column for SOC codes 2231, 2232, 3218 and 3219 insert “A salary for this SOC code falls below the absolute minimum wage, in accordance with 1.1(1)(a) workers must be paid a minimum salary of £20,800 in order to be eligible for a Confirmation of Employment.”.