



# Immigration & Nationality

A Division of the Guernsey Border Agency

## Committee for Home Affairs Work Permit Policy

### Immigration Act 1971 as extended to the Bailiwick of Guernsey by the Immigration (Guernsey) Order 1993

- 1) **Employment sectors** - The policy is sector based. Eligible sectors are detailed in the Sector Schedule ('the Schedule') on page 8. In addition, there is provision for intra-company transfers for up to 2 years; see page 6.
- 2) **Work permit** - The term "work permit" includes any permission to take employment granted under the "Work Permit Employment" provisions of Part 5 of the Immigration (Bailiwick of Guernsey) Rules 2008.

Work permits will be issued or refused on behalf of the Committee by officers of the Immigration and Nationality Division acting in accordance with this policy working under the direction of the Chief of the Guernsey Border Agency

- 3) **Permit free workers** - The Committee for Home Affairs starts with the premise that the work permit policy is restrictive and the granting of a permit must be viewed as the exception. The Policy has been developed in recent years against the background of European Union enlargement and the Committee is determined that recruitment must, wherever possible, take place from the pool of permit free workers preferably from those who are resident in the Bailiwick of Guernsey.

Permit free workers for the purposes of this policy include the following:

- a) British citizens
- b) Other nationals of Member States of the European Economic Area and Switzerland

- c) Other nationals who have permanent settlement (such as indefinite leave to enter or remain in the Bailiwick of Guernsey, United Kingdom, Bailiwick of Jersey or the Isle of Man)
- d) Participants in the Youth Mobility Scheme
- e) Working Holidaymakers (whilst entry clearances remain valid - this category is now closed)

Persons not included in the above list will normally require a work permit to take employment in the Bailiwick of Guernsey.

- 4) **Full time employment** - Except in the case of work permits issued under paragraph 10 below, applications will be considered for full time employment only. For the purposes of this policy, full time employment means employment equivalent to at least 7 hours a day, 5 days a week, 46 weeks a year. 46 weeks to be reduced *pro rata* for employment of less than a year.
- 5) **Advertising:** All jobs must be advertised both locally and throughout the European Economic Area (EEA).

The job must be advertised in the most appropriate medium that provides the best way of reaching suitably qualified permit free workers.

Any advertisement must include the following:

- Job Title;
- the main duties and responsibilities of the job;
- the qualifications and experience needed;
- an indication of the salary package or salary range or terms on offer.

Any one of the following will be accepted as advertising in the EEA

**Internet**

**Recruitment Agency**

**Professional or trade journal**

**Newspaper advertising**

The employer should allow at least 3 weeks from the date the advertisement first appeared or recruitment process commenced before submitting a work permit application.

Evidence of advertising or recruitment process must be produced. Details of the responses the employer has received to all advertising or other recruitment methods used must also accompany any application. This should include the total number of people who responded, the number short-listed for interview and full reasons why no permit free worker was suitable for the post

This does not apply to applications made under paragraph 10 or for Legacy Policy permits in Sector C of the Schedule.

- 6) Validity of work permit** - A work permit, if approved, will be issued for specified full time employment within eligible sectors as defined in the Schedule. The period for which the permit will be valid will be for the period specified in the work permit application up to a maximum period of 5 years.

Legacy Policy work permits in Sector C of the Schedule or work permits made valid for periods of 6 months or less will not be extended unless the permit holder otherwise qualifies for a work permit under this policy. This includes fully satisfying the advertising and English language requirements of paragraphs 5 and 8.

- 7) Change of employment** - Changes of employment will not be considered for employment outside of the sector for which the original permit was issued.
- 8) English language requirement** in force from 1st January 2013 - In all cases, except for permits issued under paragraph 10 below and Legacy Policy permits in Sector C of the schedule, the potential permit holder must have an adequate command of the English language. To satisfy this criterion, the potential work permit holder must;

- i) be a national of a majority English Language speaking country as listed below: Antigua and Barbuda, Australia, the Bahamas, Barbados, Belize, Canada, Dominica, Grenada, Guyana, Jamaica, New Zealand, St Christopher (Kitts) and Nevis, St Lucia, St Vincent and the Grenadines, Trinidad and Tobago, the United States of America; or
- (ii) have passed a test on the list of approved English language tests approved by the Home Office in speaking and listening. The level of English must be equivalent to the level B1 or above of the Council of Europe's Common European Framework; or
- (iii) have passed an English language test in speaking and listening from an English language test provider approved by the Guernsey Border Agency or by the Jersey Customs and Immigration Service. The level of English must be equivalent to level B1 or above of the Council of Europe's Common European Framework.

(The Guernsey College of Further Education and Highlands College in Jersey both offer approved language tests in the Channel Islands.); or

- (iv) have obtained an academic qualification (not a professional or vocational qualification), which meets the recognised standard of a Bachelor's or Master's degree or PhD in the UK, from an educational establishment in one of the following countries, **evidenced by the original certificate of award**:

Antigua and Barbuda, Australia, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, New Zealand, St Christopher (Kitts) and Nevis, St Lucia, St Vincent and the Grenadines, Trinidad and Tobago, the United States of America, United Kingdom and Republic of Ireland. ; or

- (v) have obtained an academic qualification (not a professional or vocational qualification) taught in English which is deemed by UK NARIC (see note below) to meet the recognised standard of a Bachelor's or Master's degree or PhD in the UK. **A statement of comparability from UK NARIC, and a letter from the academic institution with confirmation that the qualification was taught in English must be submitted with the application.**

**9) Multiple employment** - A work permit authorises full time employment in a specified post for a specified period of time. No more than one job at a time will be permitted.

**10) Short term permits** – Short term permits will be considered for;

- (i) established professional entertainers to perform in carnivals, music concerts and other cultural events. Evidence of previous tours in the UK or the European Economic Area such as past publicity material or press reviews (with source clearly identified) will be required. Permits will be issued for a maximum period of up to 1 month.
- (ii) personnel required for the purpose of progressing a particular project or assignment in eligible establishments within Sectors A-C but who do not qualify to be treated as an inter company transfer (see below). Permits will be issued for a maximum period of up to 6 months.

**11) References** - Where references are required to be produced in support of an application, they must be original, **photocopies or faxes are not acceptable**. They should be in English where possible, and must be on business letter-headed paper and show the dates the employment started and ended and the title, duties and responsibilities of the job(s) held. Where it is not possible for a reference to be in English, it must be accompanied by a notarised translation. References not complying with these requirements will be rejected.

**12) Refusal or rescinding of work permit** - Work permits will not be issued to those who have an adverse immigration record or who pose a security, criminal or immigration threat to the United Kingdom or Islands (the Bailiwicks of Guernsey and Jersey and the Isle of Man). Reasons to refuse or withdraw a work permit also include any of the grounds specified in Part 9 of the Immigration (Bailiwick of Guernsey) Rules 2008.

In addition, applications will be refused or work permission withdrawn where any checks to confirm the veracity of references are unsuccessful for whatever reason e.g. where a previous employer fails to respond or an establishment no longer exists. This may also include circumstances where a British Diplomatic Mission is unable to establish the *bona fides* of a particular reference or establishment.

- 13) **Employment prohibition** - Applications for work permits will not be considered in relation to persons who are in the United Kingdom and Islands or the Republic of Ireland and whose immigration status prohibits employment e.g. as a visitor.
- 14) **Monies due to the States of Guernsey** - The employer must undertake to pay the States of Guernsey any monies which are due to the States of Guernsey from the employee and which are unpaid, this to include all costs of repatriation should that be necessary
- 15) **Indefinite leave to Remain** – a work permit holder may, on application, be granted indefinite leave to remain if, amongst other things he or she has spent a continuous period of 5 years in approved work permit employment and the employer certifies that he or she is still required for the employment in question. In addition a person applying for indefinite leave to remain must satisfy the English language and knowledge about life in the United Kingdom and Bailiwick of Guernsey requirements specified in the Rules and provide evidence that the permit holder has maintained and accommodated himself or herself and will continue to do so. Accommodated includes compliance with the provisions of any legislation controlling the occupation of dwellings.

### **INTRA-COMPANY TRANSFER**

Work permits valid for up to 2 years will be considered for transfers of personnel between companies of common ownership which have a presence in more than one jurisdiction. The transfer must be for the purpose of progressing a particular project or for career development.

There is no language or advertising requirement.

The requirements, conditions and criteria to be met for the granting of permission to take employment on the basis of an intra-company transfer are that:-

- i) The transferee must have been in the employ of the company for a period of at least 12 months, that period ending on the date of the work permit application.

If the transferee has been absent from the company by reason of maternity, paternity, shared parental or adoption leave or long term sick leave that lasted for one month or longer during that 12 month period, employment in the previous 24 months will count towards the 12 month employment requirement;

- ii) The employment must relate to the work of the employing company;

- iii) The company in the Bailiwick of Guernsey and the company branch outside the Bailiwick must be linked by common ownership or control;
- iv) the employment must be for a particular assignment / project or for career development purposes;
- v) it must be the intention that at the end of the transfer period, the transferee will resume employment for the same company overseas;
- vi) the period of transfer must not exceed 2 years - no further permission will be granted;
- vii) Paragraphs 1- 15 and the Schedule will apply to any application for change of employment to another permitted category
- viii) Permission will not be granted if the transferee has been in work permit employment in the United Kingdom and Islands within the previous 12 months or if, as a result of the work permit being issued, the transferee would qualify for settlement in the Bailiwick of Guernsey.

**Paragraphs 9, 12, 13 and 14 will apply to applications made for intra-company transfers.**

### **LEGAL BASIS**

**Section 3(2) of the Immigration Act 1971** as extended to the Bailiwick of Guernsey by the Immigration (Guernsey) Order 1993 empowers the Home Department to make rules as to the practice to be followed in the administration of the Immigration Act 1971 (the Act) for regulating the entry into and stay in the Bailiwick of Guernsey of persons who require leave to enter. The Rules are in the form of a Statutory Instrument and, because the rules contain references to both time factors and duration of stay as well as references to employment restrictions and prohibitions, are made with the concurrence of the Lieutenant Governor. The current Rules are the Immigration (Bailiwick of Guernsey) Rules 2008 (the Rules).

**Paragraph 128 (i) of the Rules** requires a person seeking to enter the Bailiwick of Guernsey to seek or take employment to hold a valid Committee for Home Affairs work permit unless that person is otherwise eligible for admission for employment elsewhere under the Rules.

**Section 4(1) of the Act** empowers the Committee for Home Affairs to vary any leave to enter or remain otherwise than as regards duration, i.e. prohibit or restrict employment.

**Paragraph 1(3) of Schedule 2 of the Act** empowers the Committee for Home Affairs to direct immigration officers to act in accordance with directions in matters other than the entry of persons into the Bailiwick of Guernsey and the period for which that person may remain.

**Section 33 of the Act** defines a work permit.

# SCHEDULE OF ELIGIBLE SECTORS

## **SECTOR A**

### FINANCE

**Eligible Establishments:** Banks, Investment Businesses, Insurance Businesses, Fiduciary Businesses; and professions supporting the foregoing, principally Accountants, Actuaries and Advocates (Commercial Lawyers).

The Committee will seek the support of the Commerce and Employment Department (or the equivalent bodies in Alderney or Sark if the application is from those islands) before approving any application.

**Supporting Documentation:** Schedule of professional qualifications with confirmation from employer that professional qualifications and any references have been verified.

### INDUSTRY

**Eligible Establishments:** Companies or Firms:-

- 1) whose principal business is the manufacture of goods for export outside the Bailiwick of Guernsey or the rendering of export sector services to clients outside the Bailiwick of Guernsey.
- 2) who provide services and/or products to the Finance Sector or to businesses defined in 1) above in any of the following fields:-
  - i) Financial Technology;
  - ii) Information and Communications Technology;
  - iii) Digital Technology.

If required by statute, the business must also be licensed by the appropriate regulatory body.

**Eligible Employment:** Positions requiring high level qualifications or occupational skills specific to overseas markets which are essential to the operation of the business.

The support of the Office of the Committee for Economic Development (or the equivalent bodies in Alderney or Sark if the application is from those islands) may be required. Applications will, therefore, be referred to that Office for comment.

**Supporting Documentation:** Schedule of professional qualifications and experience with confirmation from employer that professional qualifications and any references have been verified.

# SECTOR B

## HEALTH

**Eligible Establishments:** Hospitals, the Medical Specialist Group, Nursing Homes, Residential Homes, Doctor's Practices, Dental Practices, Physiotherapy Practices and Pharmacies. Brecqhou Medical Centre.

**Eligible Employment:** Professionally qualified medical / health personnel in full time employment whose qualifications are recognised by the Health and Social Services Department.

**Supporting Documentation:** Schedule of professional qualifications with confirmation from employer that professional qualifications and any references have been verified.

## EDUCATION

**Eligible Establishments:** States Schools and College of Further Education, Elizabeth, Ladies' and Blanchelande Colleges

**Eligible Employment:** Professionally qualified teachers

**Supporting Documentation:** Schedule of professional qualifications with confirmation from employer that professional qualifications and any references have been verified.

## GOVERNMENT

**Eligible Establishments:** St. James' Chambers

**Eligible Employment:** Professionally qualified lawyers and legal draughtsmen

**Supporting Documentation:** Schedule of professional qualifications with confirmation from employer that professional qualifications and any references have been verified.

## VETERINARY SURGEONS

**Eligible Establishments:** Established Veterinary Practices

**Eligible Employment:** A recognised Veterinary Surgeon who is registered to practice in the Bailiwick under current Veterinary Surgery and Animal Welfare legislation, in full time employment in that capacity.

**Supporting documentation:** Schedule of professional qualifications with confirmation from employer that professional qualifications and any references have been verified

## SECTOR C

### HOSPITALITY

**Eligible Establishments:** Restaurants and Hotels of a quality, where the service, menu prices and range of dishes offered reflect the need for such a worker. The establishment must serve food and offer a range of suitable wines to patrons.

**Eligible Employment:** Director, Hotel/Restaurant Manager, Hotel Receptionist, Skilled Chef, Waiting Staff.

**Supporting Documentation:** Original references, where possible in English, showing at least 3 years recent experience in a similar standard establishment doing the type of job, full time, for which the permit is sought. If the overseas national has completed a relevant full time training course of at least 1 year, this may count towards the 3 years' experience required. Where it is not possible for a reference or certificate to be in English, it must be accompanied by a notarised translation.

### Legacy Policy Permits

**Nationals of Serbia:** work permits may also be issued to nationals of Serbia who qualified under previous policies and who are currently issued with permits on an annual seasonal basis.

**Duration of Permitted Employment: 9 months in 12. Three months to be spent outside the United Kingdom and Islands.**