



# Immigration Rules: Appendix X – Business Migrants

## Contents

Appendix X: Business Migrants.....	3
Part 1: Introduction.....	3
Available Categories.....	3
Start Up.....	3
Innovator.....	3
Investor.....	4
Part 2: Endorsement.....	4
2.1 Applications for a Letter of Endorsement.....	4
2.2 Letter of Endorsement.....	4
2.3 Letter of Endorsement Validity.....	5
Part 3: Lengths and conditions of leave and curtailment.....	5
3.1 Lengths of Leave.....	5
3.2 Conditions of leave.....	5
3.3 Curtailment.....	6
Part 4: General requirements – Entry Clearance and Leave to Remain.....	7
4.1 Endorsement.....	7
4.2 Evidence provided with applications.....	7
4.2 Age.....	7
4.3 Immigration Status.....	7
4.4 Restrictions for Tier 4 (General) students applying under this Appendix.....	8
4.5 Breach of Immigration Laws.....	8
4.6 General grounds for refusal.....	9
4.7 Credibility Assessment.....	9

4.8	English Language.....	9
4.9	Maintenance.....	12
4.10	Criminality.....	13
Part 5: General Requirements – Indefinite Leave to Remain.....		13
5.1	Evidence provided with applications.....	13
5.2	Knowledge of Language and Life in the Isle of Man .....	14
5.3	Breach of Immigration Laws .....	14
5.4	General Grounds for refusal .....	14
5.5	Continuous Residence .....	14
5.6	Absences from the Isle of Man .....	14
5.7	Periods without valid leave .....	15
Annex 1 - Glossary.....		17

DRAFT

## **Appendix X: Business Migrants**

### **Part 1: Introduction**

- (1) On the introduction of this Appendix on 6 April 2020 entry clearance under Part 6A of the Immigration Rules in the following categories are closed to new applicants;
  - (a) Tier 1 (Entrepreneur),
  - (b) Tier 1 (Investor), and
  - (c) Tier 1 (Graduate Entrepreneur).
- (2) To qualify under this Appendix as a Start-up, Innovator or Investor, an applicant must meet either:
  - (a) the requirements in Part 4 of this Appendix where the application is for entry clearance or leave to remain, or
  - (b) Part 5 of this Appendix where the application is for indefinite leave to remain.
- (3) If the applicant meets the requirements, the application will be granted. If the applicant does not meet the requirements, the application will be refused.
- (4) Applications will be assessed by Immigration Officers based on the information provided by the applicant, and any other relevant circumstances, at the date of decision.
- (5) Unless stated otherwise, all migrants arriving in the Isle of Man and wishing to enter under this Appendix must have a valid entry clearance for entry under the relevant category. If they do not have a valid entry clearance, entry will be refused.
- (6) Definitions of terms and phrases used in this Appendix are set out in Annex 1 of this Appendix.

### **Available Categories**

This section provides an overview of the title, purpose and main features of each sub-category contained in this Appendix.

#### **Start Up**

This category is for people seeking to establish a business in the Isle of Man for the first time. Applicants will have the innovative, viable and scalable business idea which is supported by the Department for Enterprise. This category offers leave for 2 years and 4 months, and does not lead directly to settlement, but applicants may progress into the Innovator category below.

#### **Innovator**

This category is for more experienced businesspeople seeking to establish a business in the Isle of Man. Applicants will have an innovative, viable and scalable business idea which is supported by the Department for Enterprise. With some exceptions, applicants will have funding to invest in their business. This category may lead to settlement.

## **Investor**

This category is for individuals making a substantial financial investment into the Isle of Man. Applicants will invest funds via means allowable under this Appendix. This category may lead to settlement.

### **Part 2: Endorsement**

All applicants for entry clearance, leave to remain or indefinite leave to remain under this Appendix must submit a valid Letter of Endorsement issued by the Department for Enterprise with their visa application.

This section sets out the criteria for, and validity of, a Letter of Endorsement.

#### **2.1 Applications for a Letter of Endorsement**

Before applying for entry clearance, leave to remain or indefinite leave to remain, an applicant must first make an application to the Department for Enterprise for a Letter of Endorsement, this application must:

- (1) be made to the Department for Enterprise using the specified form;
- (2) meet the requirements specified in the Endorsement Policy (GC XXX); and
- (3) provide the documentation specified in the Endorsement Policy (GC XXX).

The issuance of a Letter of Endorsement does not guarantee the success of a migrant's visa application.

#### **2.2 Letter of Endorsement**

- (1) A Letter of Endorsement issued by the Department for Enterprise must include all of the following information:
  - (a) the endorsement reference number;
  - (b) the date of issue;
  - (c) the applicant's name, date of birth, nationality and passport number;
  - (d) confirmation that the applicant holds sufficient funds to maintain themselves without recourse to public funds as prescribed in paragraph 4.6 of this Appendix (if applicable);
  - (e) Where the Letter of Endorsement is for a Start-up application, confirmation that the applicant has not previously established a business in the UK or Isle of Man (unless the applicant's last grant of leave was under the Start-up or Tier 1 (Graduate Entrepreneur) category);
  - (f) confirmation the Letter of Endorsement is provided for the purpose of an entry clearance, leave to remain or indefinite leave to remain visa application;
  - (g) confirmation the Letter of Endorsement is issued for the purpose of a visa application in one of the following sub-categories:
    - (i) Start-up;
    - (ii) Innovator; or
    - (iii) Investor.

### 2.3 Letter of Endorsement Validity

- (1) A Letter of Endorsement issued by the Department for Enterprise is valid for the purpose of a visa application under this Appendix where:
  - (a) it contains all information specified in paragraph 2.2 above; and
  - (b) is dated within 3 calendar months of the date that the application for entry clearance, leave to remain or indefinite leave to remain is made.
- (2) The Department for Enterprise must not have Withdrawn the Letter of Endorsement by the time the application is considered by the Decision Maker.
- (3) A Letter of Endorsement will no longer be valid where the Department for Enterprise notifies the Immigration Service that a Letter of Endorsement has been withdrawn in accordance with the Endorsement Policy (GC XXX).

## Part 3: Lengths and conditions of leave and curtailment

This section sets out the lengths of leave that may be granted in each sub-category of this Appendix, including any time limits and timescales for applying for settlement. It also sets out the conditions of that leave and circumstances in which that leave may be curtailed.

### 3.1 Lengths of Leave

- (1) If an application is successful, leave will be granted for the time stated in the table below:

<b>Sub-Category</b>	<b>Length of Leave, initial application, (entry clearance)</b>	<b>Length of Leave, extension application, (leave to remain)</b>	<b>Maximum time permissible in this category</b>
Start-up	2 years	2 years minus the time already granted in the Tier 1 (Graduate Entrepreneur) and Start-up categories.	2 years
Innovator	3 Years	3 Years	No time limit
Investor	3 Years	3 Years	No time limit

- (2) If an applicant has already been granted the maximum time permissible in the sub-category applied for, the application will be refused.

### 3.2 Conditions of leave

- (1) If an application is successful, leave will be granted subject to all of the following conditions:
  - (a) no recourse to public funds,

- (b) registration with the police, if this is required by Part 10 of the Immigration Rules.
- (c) No employment as a professional sportsperson (including as a sports coach).
- (d) No Employment as a Doctor or Dentist in Training, unless the applicant:
  - (i) has obtained a primary degree in medicine or dentistry at bachelor's level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System, and provides evidence of this degree; or
  - (ii) has, or has last been granted, entry clearance, leave to enter or leave to remain that was not subject to any condition restricting him from taking employment as a Doctor in Training, has been employed during that leave as a Doctor in Training, and provides a letter from the Postgraduate Deanery or NHS Trust employing them which confirms that they have been working in a post or programme that has been approved by the General Medical Council as a training programme or post; or
  - (iii) has, or has last been granted, entry clearance, leave to enter or leave to remain that was not subject to any condition restricting him from taking employment as a Dentist in Training, has been employed during that leave as a Dentist in Training, and provides a letter from the Postgraduate Deanery or NHS Trust employing them which confirms that they have been working in a post or programme that has been approved by the Joint Committee for Postgraduate Training in Dentistry as a training programme or post.
- (e) If the applicant is in the Innovator category, no employment other than working for the business(es) the applicant has established. Working for such business(es) does not include any work pursuant to a contract of service or apprenticeship, whether express or implied and whether oral or written, with another business. This means successful applicants cannot effectively fill a position or hire their labour to another business, even if the work is undertaken through contracting with the applicant's own business or through a recruitment or employment agency.
- (f) Study is permitted, subject to the conditions set out in Part 15 of the Immigration Rules.

### **3.3 Curtailment**

- (1) Entry clearance or leave to remain may be curtailed as set out in paragraph 323 in Part 9 of the Immigration Rules.
- (2) Entry clearance or leave to remain in any sub-category under this Appendix will be curtailed if the Department for Enterprise Withdraws a Letter of Endorsement.
- (2) Entry clearance or leave to remain in any sub-category under this Appendix may be curtailed if-
  - (a) the applicant breaches a condition of his or her visa;
  - (b) to support any assessment of in sub-paragraph (a), the Minister may require the applicant to submit additional evidence or attend an interview in order to demonstrate that they are continuing to meet the conditions of their current visa;

- (c) in accordance with sub-paragraph (b), the applicant fails to provide the requested evidence within 28 working days or fails to attend the interview; or
- (d) the applicant’s current Letter of Endorsement from the Department for Enterprise ceases to be valid as it has been withdrawn, and a replacement Letter of Endorsement has not been obtained.

**Part 4: General requirements – Entry Clearance and Leave to Remain**

This section sets out the general requirement that all applicants for entry clearance and leave to remain under this Appendix must satisfy.

**4.1 Endorsement**

- (1) All applicants for entry clearance or leave to remain under this Appendix must provide a Letter of Endorsement issued by the Department for Enterprise in accordance with Part 2 of this Appendix.
- (2) The Letter of Endorsement must be valid at the time the application is considered by the Decision Maker.

**4.2 Evidence provided with applications**

- (1) The Decision Maker will only consider documents received before the date the application is considered.
- (2) If specified evidence is missing, a document is in the wrong format (for example, if a letter is not on letterhead paper as specified), or a document does not contain all of the specified information, the Decision Maker may contact the applicant or his representative in writing to request the correct documents. The requested documents must be received at the specified address within 10 working days of the date of the request.
- (3) Documents will not be requested where the Decision Maker does not think that the submission of missing or correct documents will lead to a grant because the application will be refused for other reasons.
- (4) If missing information is verifiable from other documents provided with the application or elsewhere, the decision maker may grant the application despite the error or omission, if they are satisfied that the applicant meets all the other requirements of this Appendix.

**4.2 Age**

All applicants under this appendix must be at least 18 years old.

**4.3 Immigration Status**

If the applicant is applying for leave to remain, one of the following must apply:

- (1) The applicant’s last grant of leave was in the same category as they are applying in.
- (2) The applicant’s last grant of leave was in an eligible switching category as shown in the table below:

<b>Category the applicant is applying</b>	<b>Eligible Switching categories</b>
---	--------------------------------------

in	
Start-up	<ul style="list-style-type: none"> <li>• Tier 1 (Graduate Entrepreneur)</li> <li>• Tier 2</li> <li>• Tier 4 (General) – the restrictions in paragraph 4.4 apply</li> <li>• Worker Migrant</li> <li>• A visitor who has been undertaking permitted activities as a prospective entrepreneur, as set out in Appendix V</li> </ul>
Innovator	<ul style="list-style-type: none"> <li>• Start-up</li> <li>• Tier 1 (Graduate Entrepreneur)</li> <li>• Tier 1 (Entrepreneur)</li> <li>• Tier 2</li> <li>• Worker Migrant</li> <li>• A visitor who has been undertaking permitted activities as a prospective entrepreneur, as set out in Appendix V</li> </ul>
Investor	<ul style="list-style-type: none"> <li>• Tier 1 (Investor)</li> <li>• Tier 2</li> <li>• Worker Migrant</li> </ul>

#### 4.4 Restrictions for Tier 4 (General) students applying under this Appendix

If the applicant's last grant of leave was as a Tier 4 (General) Student, the following restrictions apply.

- (1) The applicant must have studied at an institution which holds a Tier 4 Sponsor Licence and at that institution, completed and passed during the last grant of leave (or a period of continuous leave which includes the last grant of leave):
  - (a) A UK recognised bachelor's or master's degree (not a qualification of equivalent level which is not a degree);
  - (b) a UK Postgraduate Certificate in Education or Professional Graduate Diploma of Education (not a qualification of equivalent level); or
  - (c) the applicant must have completed a minimum of 12 months study in the Isle of Man towards a UK PhD.
- (2) If the applicant undertook the study for the qualification specified in (1) whilst holding leave as a Tier 4 student, the applicant must have undertaken the study at the institution which is the Tier 4 sponsor, and not through supplementary study.
- (3) Where (1) applies, the applicant must provide an original degree certificate, academic transcript or an academic reference on headed paper of the institution, which clearly shows:
  - (a) the applicant's name,
  - (b) the course title/award,
  - (c) the course duration (except in the case of a degree certificate), and
  - (d) unless the course is a PhD course, the date of course completion and pass (or the date of award in the case of a degree certificate).

#### 4.5 Breach of Immigration Laws



The applicant must not be in the Isle of Man in breach of immigration laws, except that any current period of overstaying will be disregarded where any of the exceptions set out in paragraph 39E in Part 1 of the Immigration Rules apply.

#### 4.6 General grounds for refusal

The applicant must not fall for refusal under the general grounds for refusal set out in Part 9 of the Immigration Rules.

#### 4.7 Credibility Assessment

- (1) The Decision Maker must be satisfied that the applicant does not intend to work in the Isle of Man in breach of their conditions.
- (2) The Decision Maker will take into account any Letter of Endorsement held by the applicant and required under this Appendix, and may also take into account the following factors:
  - (a) the evidence the applicant has submitted and its credibility;
  - (b) the applicant’s previous educational, work and immigration history;
  - (c) declarations made to other government Departments regarding the applicant’s previous employment and other activity in the Isle of Man; and
  - (d) any other relevant information.
- (3) The Decision Maker may request additional information and evidence from the applicant or (where relevant) the Department for Enterprise. The requested documents must be received at the specified address within 10 working days of the date of the request.
- (4) The Decision Maker may ask the applicant to attend an interview. If the applicant fails to attend the interview without providing a reasonable explanation, the Decision Maker may assess the application based on the information and evidence the applicant has already provided.
- (5) The Decision Maker may decide not to carry out the credibility assessment if the application already falls for refusal on other grounds. The Decision Maker reserves the right to carry out this assessment in any reconsideration of the decision.

#### 4.8 English Language

Where the application is made in either the Start-up or Innovator sub-categories, the following requirements must be met:

- (1) The applicant must have a B2 level of English language ability, as defined in the Council of Europe’s common European Framework for language learning.
- (2) The applicant must show they meet the English language requirement in one of the ways shown in the table below:

Row	Requirement	Evidence Required
1.	<b>The applicant is a national of a majority</b>	(1) The applicant must provide their current valid passport or travel document for <b>one</b> of the following countries: <ul style="list-style-type: none"> <li>• Antigua and Barbuda</li> <li>• Australia</li> </ul>

	<p><b>English speaking country</b></p>	<ul style="list-style-type: none"> <li>• The Bahamas</li> <li>• Barbados</li> <li>• Belize</li> <li>• Canada</li> <li>• Dominica</li> <li>• Grenada</li> <li>• Guyana</li> <li>• Jamaica</li> <li>• New Zealand</li> <li>• St Kitts and Nevis</li> <li>• St Lucia</li> <li>• St Vincent and the Grenadines</li> <li>• Trinidad and Tobago</li> <li>• United States of America (USA)</li> </ul> <p>(2) If the applicant cannot provide either their current valid original passport or travel document, they must provide <b>all</b> of the following:</p> <ul style="list-style-type: none"> <li>(a) full reasons why they cannot provide the documents (acceptable reasons are because the documents are lost, stolen, held elsewhere in the Home Office, or have expired and have been returned to the relevant authorities)</li> <li>(b) a current national identity document</li> <li>(c) an original letter from their home government or embassy, which confirms their full name, date of birth and nationality</li> </ul>
<p>2.</p>	<p><b>The applicant has a degree taught in English</b></p>	<p>(1) The applicant must have <b>one</b> of the following qualifications:</p> <ul style="list-style-type: none"> <li>(a) a UK Bachelor’s degree, Master’s degree or PhD.</li> <li>(b) a qualification which meets or exceeds the recognised standard of a Bachelor’s degree in the UK, and was taught or researched in English to the relevant level.</li> </ul> <p>(2) The following requirements apply in the case of (i)(2):</p> <ul style="list-style-type: none"> <li>(a) The qualification must be an academic qualification, not a professional or vocational qualification.</li> <li>(b) The applicant must provide evidence from UK NARIC, confirming the qualification meets or exceeds the recognised standard of a Bachelor’s degree in the UK</li> <li>(c) The evidence from UK NARIC must also confirm the qualification was taught or researched in English to the required level, unless the qualification was awarded in one of the following countries: <ul style="list-style-type: none"> <li>• Antigua and Barbuda</li> <li>• Australia</li> <li>• The Bahamas</li> <li>• Barbados</li> <li>• Belize</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>• Dominica</li> <li>• Grenada</li> <li>• Guyana</li> <li>• Ireland</li> <li>• Jamaica</li> <li>• New Zealand</li> <li>• St Kitts and Nevis</li> <li>• St Lucia</li> <li>• St Vincent and The Grenadines</li> <li>• Trinidad and Tobago</li> <li>• United States of America (USA)</li> </ul> <p>(3) The applicant must provide the certificate of the award, unless <b>either</b> of the following applies:</p> <p style="padding-left: 40px;">(a) The applicant is awaiting graduation, having successfully completed the qualification.</p> <p style="padding-left: 40px;">(b) The applicant no longer has the certificate and the awarding institution is unable to provide a replacement.</p> <p>(4) If the applicant cannot provide the certificate of the award, they must provide an academic transcript (or letter in the case of a PhD qualification) from the awarding institution</p>
3.	<b>The applicant has passed a Secure English Language Test</b>	<p>(1) The applicant must have passed a Secure English Language Test from a provider listed in Appendix O and taken at a Secure English Language Test centre approved by the Secretary of State. The provider’s online booking system will allow the applicant to choose the location of the test.</p> <p>(2) The applicant must have met or exceeded the required level in all four components (reading, writing, speaking and listening), unless they were exempted from sitting a component on the basis of a disability.</p> <p>(3) Where two or more of the components were examined and awarded together, the applicant must have achieved the required scores in all the relevant components during a single sitting.</p> <p>(4) The applicant must provide their unique reference number for the test, which allows their score to be verified using the provider’s online verification system.</p>
4.	<b>The applicant met the requirement in a previous successful application</b>	<p>(1) The applicant must have had a previous grant of entry clearance or leave to remain in <b>any</b> of the following categories:</p> <ul style="list-style-type: none"> <li>• Start-up</li> <li>• Innovator</li> <li>• Tier 1 (General)</li> <li>• Tier 1 (Post-Study Work)</li> <li>• Tier 1 (Entrepreneur) under the rules in place before 13 December 2012</li> </ul>

		<ul style="list-style-type: none"> <li>• Tier 2 (Minister of Religion)</li> <li>• Tier 4 (General), supported by a Confirmation of Acceptance for Studies (CAS) assigned on or after 21 April 2011</li> </ul> <p>(2) The applicant will not meet the requirement if false information or documents were included in relation to the English language requirement, in the application which led to the above grant, whether it was to their knowledge or not.</p>
--	--	--

#### 4.9 Maintenance

Where the application is made in either the Start-up or Innovator sub-categories, the Letter of Endorsement must confirm that the following requirements are met:

- (a) The applicant must have at least £945.
- (b) If a **main applicant** and their partner or children are applying at the same time, there must be enough maintenance funds in total, as required for all the applications, otherwise all the applications will be refused.
- (c) The funds in (a) above must be held in a personal bank or building society account, where the applicant is the account holder (or one of the account holders in the case of a joint account).
- (d) Where the funds are in one or more foreign currencies, the funds will be converted to pound sterling (£) using the spot exchange rate which appears on [oanda.com](http://oanda.com) for the date of application.
- (e) The funds will not meet the maintenance requirement if **any** of the following apply:
  - (i) the funds are in a financial institution listed in Appendix P of the Immigration Rules;
  - (ii) the funds are not in cash. The decision maker will not accept evidence of shares, bonds, credit cards, overdraft facilities or pension funds; or
  - (iii) the applicant was in the Isle of Man illegally, or in breach of their leave conditions, when they obtained any of the funds.
- (f) The funds must have been held in the account for a consecutive 90 days, ending no earlier than 31 days before the date of application.
- (g) The applicant must provide evidence of the above, which may be in **any** of the following forms:
  - (i) personal bank or building society statements;
  - (ii) a building society pass book;
  - (iii) a letter from their bank or building society;
  - (iv) a letter from another financial institution regulated by the Financial Services Authority (FSA) for the purpose of personal savings accounts; or
  - (v) a letter from an overseas financial institution regulated by the official regulatory body for the country in which the institution operates and the funds are located.
- (h) The evidence in (g) must show **all** of the following:

- (i) the name of the account holder;
  - (ii) the account number;
  - (iii) the financial institution's name and logo;
  - (iv) that the funds in the account have been at the required level throughout the 90-day period;
  - (v) the date of each document; and
  - (vi) in the case of personal bank or building society statements, any transactions during the 90-day period.
- (i) Bank or building society statements must not be mini-statements from automatic teller machines (ATMs) and must be **one** of the following:
- (i) statements printed on the bank's or building society's letterhead;
  - (ii) electronic statements, accompanied by a supporting letter from the bank or building society, on company headed paper, confirming the statements are authentic; or
  - (iii) electronic statements, bearing the official stamp of the bank or building society on every page.
- (j) The end date of the 90-day period will be taken as the date of the closing balance on the most recent document provided. Where documents from two or more accounts are submitted, this will be the end date for the account that most favours the applicant.
- (k) If the applicant is applying in the Start-up or Innovator categories, they do not need to provide evidence of maintenance funds if the letter from the Department for Enterprise confirms they have been awarded funding of at least £945. In the case of Innovator applicants, this must be in addition to the £50,000 investment funds required in that category.

#### **4.10 Criminality**

Where the application is made in the Investor sub-category, the following must be provided.

- (1) Where the applicant is 18 years of age or older, the applicant must provide either an original or scanned copy of a criminal record certificate from the relevant authority in any country in which they have been resident for 12 months or more (whether continuously or in total) in the past 10 years, while aged 18 or over. This requirement does not need to be met where the Minister is satisfied, by way of an explanation provided in or with the application, that it is not reasonably practicable for the applicant to obtain a certificate from the relevant authority.
- (2) If the applicant has failed to provide a criminal record certificate or an explanation in accordance with sub-paragraph (3), the decision maker may contact the applicant or his representative in writing, and request the certificate(s) or an explanation. The requested certificate(s) or explanation must be received at the address specified in the request within 28 calendar days of the date of the request.

### **Part 5: General Requirements – Indefinite Leave to Remain**

This section sets out the general requirements that all applicants for indefinite leave to remain in this Appendix must satisfy.

#### **5.1 Evidence provided with applications**

The requirements set out in paragraph 2.1 (Evidence provided with applications) of this Appendix also apply to applications for indefinite leave to remain.

## **5.2 Knowledge of Language and Life in the Isle of Man**

The applicant must have sufficient knowledge of English Language and sufficient knowledge about life in the Isle of Man, as set out in Appendix KOLL of the Immigration Rules.

## **5.3 Breach of Immigration Laws**

The applicant must not be in the Isle of Man in breach of immigration laws, except that any current period of overstaying will be disregarded where any of the exceptions set out in paragraph 39E in Part 1 of the Immigration Rules apply.

## **5.4 General Grounds for refusal**

The applicant must not fall for refusal under the general grounds for refusal set out in Part 9 of the Immigration Rules.

## **5.5 Continuous Residence**

- (1) The applicant must have spent a continuous period lawfully in the UK and Islands counted backwards from whichever of the following dates is most beneficial to the applicant:
  - (a) the date for indefinite leave to remain;
  - (b) the date of decision;
  - (c) any date up to 28 days after the date of application.
- (2) The length of continuous period for each category is set out in the table below:

<b>Category</b>	<b>Continuous period needed for settlement</b>
Innovator	3 years
Investor	5 years

- (3) The applicant's most recent grant of leave must have been in the category they are applying for indefinite leave to remain in.
- (4) Time spent in the Channel Islands or United Kingdom with leave in an equivalent category may also be included in the continuous period.

## **5.6 Absences from the Isle of Man**

- (1) Absences from the UK and Islands will not break the continuous period if they occur while the applicant had valid leave and they total 180 days or less during any consecutive 12 months.
- (2) Absences which count towards the 180-day limit at paragraph (1) include **any** of the following:

- (a) the time between an applicant's grant of entry clearance and entering the UK and Islands;
  - (b) trips taken for personal, family or social reasons;
  - (c) business trips, including secondments, training and conferences;
  - (d) absences during annual leave from employment in the Isle of Man; or
  - (e) absences where the applicant had valid leave when they left the Isle of Man and they submitted a successful application for entry clearance before that leave expired.
- (3) The decision maker may exceptionally allow absences which exceed the 180- day limit if the applicant provides evidence that the reason was due to compelling, compassionate circumstances, such as:
- (a) life-threatening illness of the applicant or a close family member; or
  - (b) natural disaster.
- (4) Where the purpose of the absence was for the applicant to assist with a national or international humanitarian or environmental crisis overseas, this will not break the continuous period, regardless of the length of absence.

## **5.7 Periods without valid leave**

Subject to sub-paragraph (1) below, any period without valid leave will break the continuous period:

- (1) If the applicant had no valid entry clearance or leave to remain at any time during the continuous period, the continuous period will be paused, but not broken, if **any** of the following scenarios apply:
- (a) The applicant had no valid leave in the UK or Islands, but they made a successful leave to remain application and paragraph 39E in Part 1 of the Immigration Rules applied to them.
  - (b) The applicant left the UK and Islands when they had valid leave. They made an application for entry clearance before their previous leave expired. That application was subsequently granted.
  - (c) The applicant left the UK and Islands when they had valid leave. They made an application for entry clearance within 14 days of their previous leave expiring and the decision maker considers that there was a good reason why the application could not be made before the previous leave expired. The reason must have been beyond the control of the applicant or their representative, and an explanation must be provided in or with the application for indefinite leave to remain.
  - (d) The applicant left the UK and Islands when they had valid leave. They made an application which would fall into (a) or (b) above, except that it was refused. They then made a further successful application within 14 days of that refusal (or within 14 days of any appeal being concluded, withdrawn or abandoned or lapsing).
- (2) Time before and after the gap in leave can be combined when counting the continuous period. Time during the gap itself will not, count towards the continuous period.





## **Annex 1 - Glossary**

**"Decision Maker"** means an entry clearance officer, immigration officer or the Minister as the case may be.

**"Letter of Endorsement"** means a document issued by the Department for Enterprise to an applicant for use in connection with their visa application. The Letter of Endorsement will only be issued if the applicant has satisfied the requirements set out in the Endorsement Guidance issued by the Department for Enterprise.

**"Endorsement Policy"** means **GC XXXX** issued by the Department for Enterprise for the purpose of making an application for a Letter of Endorsement. The requirements stated in this guidance must be met by an applicant in order to obtain a Letter of Endorsement.

**"Settlement"** means indefinite leave to remain.

**"Withdrawn"** means that a Letter of Endorsement has been withdrawn by the Department for Enterprise in accordance with the Endorsement Policy.

**"UK and Islands"** means the Isle of Man, United Kingdom and Channel Islands taken together.