

Consultation on further reforms to the Work Permit system

March 2023



Isle of Man
Government

Reiltys Ellan Vannin

Contents

1. Background	3
2. Previous reforms - 2017 / 18.....	5
3. Link to Island Plan and Economic Strategy	6
4. The case for further reform.....	7
5. The impact of Brexit.....	9
6. The vision for the Work Permit system.....	10
7. Consultation questions.....	12
8. How to respond to the consultation.....	14
9. Freedom of Information.....	15
10. Data Protection.....	15

1. Background

- 1.1. The Control of Employment Act 2014¹ (the “CEA”) requires that all persons who are not classified as ‘Isle of Man Workers’² are in possession of a work permit prior to commencing employment. The CEA and associated regulations make provision for certain exemptions to this requirement, across a range of permanent and temporary employments.
- 1.2. The work permit system has historically faced challenges from all sides – from the employer’s perspective (desiring an ability to appoint the best candidate for a role) and the Isle of Man employees’ / public perspective (as a means to protect Isle of Man workers and society in general).
- 1.3. In recognition of these challenges, in 2017 the Department consulted on a series of reforms which sought to maintain the principle of the work permit system, whilst streamlining and simplifying the process for both employers and prospective employees. A summary of the reforms ultimately introduced is provided in the next section of this consultation.
- 1.4. Given the ongoing critical labour shortages across most, if not all, of the Island’s economic sectors and the increasingly global challenge in attracting suitably skilled workers, the Department is proposing further reforms to simplify the current work permit process for both employers and prospective employees.
- 1.5. In November 2022, Tynwald approved a long term Economic Strategy which included four economic ambitions, the first two being:
 - 1.5.1. Create and fill 5,000 new jobs across new, enabling and existing key sectors, by 2032, reaching an overall GDP of £10bn - By actively investing in skills, productivity, infrastructure, businesses and sectors to deliver a strong and diverse economy;
 - 1.5.2. Further develop the infrastructure and services for our community to plan for an estimated population of 100,000 by 2037 - By actively investing in key services & infrastructure that attract and retain economically active people, supported by a range of incentives and disincentives to sustain targeted growth.
- 1.6. In line with these the Island Plan, approved in January 2023, committed the Department to consult on further reforms that seek to remove any disincentives and barriers to employment and support targeted positive economic migration, whilst recognising the need to improve data to inform appropriate decisions and ensuring protection of Isle of Man workers remains an available tool for the future should circumstances change.
- 1.7. In summary, the Department’s proposals seek to remove the complexity of work permits and exemptions as two separate processes. Instead these processes would be consolidated into a single registration process, providing rapid and confident approval for both the employer and employee.
- 1.8. The proposals would temporarily remove the need for work permits to apply across all sectors and all occupations, enabling the Department to provide unconditional five year confidence to potential workers looking to migrate to the Island, that they and their family will be able to take up employment and move roles without conditions or subsequent work permit applications.
- 1.9. A revised, single registration process is simpler for employers and provides meaningful real time information for the Department in support of the Island Plan and Economic Strategy, whilst

¹ https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2014/2014-0011/ControlofEmploymentAct2014_14.pdf

² <https://www.gov.im/categories/working-in-the-isle-of-man/work-permits/definitions/isle-of-man-worker/>

retaining the existing level of protection around the declaration of criminal convictions, together with the ability to reintroduce work permit requirements should the economic circumstances change.

- 1.10. This consultation sets out the Department's proposals, which seek to strike a balance between supporting economic growth and protecting the interests of Isle of Man Workers, and looks for feedback from businesses and individuals in order to fully inform any final proposals to be brought forward.

2. Previous reforms – 2017/18

- 2.1. In 2017, the Department undertook consultation on a set of proposed reforms aimed at simplifying and streamlining the work permit system, with the vision being to create a 'frictionless' process for both employers and prospective employees.
- 2.2. Following overwhelming support for the proposals set out in the consultation, between October 2017 and January 2018 the following changes were introduced:
- A single application form completed by the employer only, combined with a move to fully online applications;
 - A simplified list of matters which the Department is required to consider in determining an application;
 - A single fee of £60 regardless of the length of permit applied for, to encourage an increase in 5 year permit applications (previously, given the list of matters required to be considered by the Department, the majority of work permits were approved for 1 year, with annual renewals required each attracting a renewal fee);
 - Extension of 'automatic' 1 year permits available for spouses and civil partners to cohabiting partners of Isle of Man workers, work permit holders and exempted persons;
 - Establishment of a register of exempt persons; and
 - Broadened definition of an 'immigration employment document'³ to remove the requirement for an additional work permit for some persons who hold an immigration status which permits employment.
- 2.3. Broadly, the reforms introduced have been successful. Time and complexity has been taken out of the work permit application process (both for the employer prior to submission and for the Department during the approval process).
- 2.4. All applications are now submitted online (although the ability to submit paper-based applications is retained), and a significant majority of applications (c.70%) fully considered by the Department are approved the same, or next working day after submission, increasing to almost 99% being approved within 3 days.
- 2.5. The 2017 consultation also sought views on 'flipping' the work permit system, in essence moving from a position where there is a requirement for all non-Isle of Man Workers to obtain a work permit, save for those in employments covered by an exemption, to a system where work permits are not required, save for a selected list of employments or persons of a particular description (e.g. those with certain criminal convictions).
- 2.6. Whilst a majority of respondents to the consultation also supported this idea, it was not fully progressed at the time. However, enabling provisions for such an approach were included in the revised Control of Employment legislation and the Department did not rule out revisiting this proposal in the future.
- 2.7. A full summary of the 2017 consultation responses is available [here](#).

³ <https://www.gov.im/categories/working-in-the-isle-of-man/work-permits/definitions/immigration-employment-document-ied/>

3. Link to Our Island Plan and Economic Strategy

3.1. Our Island Plan⁴, as supported by Tynwald, sets out an overarching vision to continue to build a secure, vibrant and sustainable future for our Island. Of particular relevance to this consultation within this overall vision, the core strategic objective of vibrant states:

*Our Island is vibrant, diverse and welcoming, providing excellent educational, recreational and economic opportunities for all, and **our businesses are able to grow with confidence**, accessing the **skills and people required** now and into the future.*

3.2. As part of broader strategic programmes aligned to the overarching vision, Our Island Plan includes a commitment to consult on further reforms to the work permit system.

3.3. More recently, the approval of the Economic Strategy by Tynwald and its subsequent incorporation into Our Island Plan, has provided additional focus on the bold ambitions set out, which include the strategic aim of creating and filling 5,000 additional jobs by 2032 to contribute to the reshaping of the Island's economy.

3.4. If we are to realise our ambitions and reap the social and economic benefits of increased employment, both across industry and critical public services, then it is right that we consider the various levers and barriers which are relevant to our goals.

3.5. Whilst Our Island Plan makes clear commitments to invest in the skills of Island residents to provide the opportunity for people to reach their fullest potential, critical labour shortages across almost all economic sectors, together with the ambition to attract a younger demographic means that inward migration of economically active new residents will be integral to achieving our ambitions.

⁴ <https://islandplan.im/>

4. The case for further reform

- 4.1. Whilst the work permit system has been simplified and streamlined significantly, such that the overwhelming majority of applications are approved and are done so quickly, feedback continues to be received from industry that even having such a process around the recruitment of employees in such a tight global labour market places the Island at a competitive disadvantage. The system is now fully digital with 100% of applications being through a simplified portal from employers.
- 4.2. Whilst the overarching principle and purpose of the work permit system is to protect Isle of Man Workers, it stems from a time when unemployment was more pronounced and therefore it is questionable as to the extent that such protection is relevant, or justified, at a time when there continues to be a critical shortage of labour in almost all sectors of our economy. A shortage of available labour inhibits the growth potential of existing businesses and potentially deters businesses and entrepreneurs considering relocating to the Island. Such potential consequences could ultimately lead to fewer employment opportunities, including for Isle of Man Workers.
- 4.3. The level of registered unemployment in the Island has been very low for a sustained period. Whilst there was understandable concern over a potential rise in unemployment levels as a result of the COVID19 pandemic, the recovery of the economy and demand for labour has been strong, with no evidence that this trend will change in the short to medium term. The most recent labour market report, together with previously issued reports, is available [here](#) and although there have been significant Cost of Living concerns, in reality vacancies remain significantly high and unemployment significantly low.
- 4.4. Additionally, whilst the previous reforms have led to a simpler and quicker application and decision making process, there remain a number of areas where the work permit system continues to create difficulties for certain people, or has unintentionally become increasingly complex as incremental changes have been introduced over time. Such areas include:
 - 4.4.1. Automatic permits – available for spouses, civil or cohabiting partners of Isle of Man Workers, work permit holders or those in exempted employment. Whilst automatic permits provide some degree of flexibility for the holder, being fully transferrable between any employment, at present, permits are only issued for 12 months with a renewal required annually and retain a link to either the holder of the primary work permit, exempted worker or Isle of Man Worker. Essentially, such criteria were applied to ensure that the relationship to the 'primary permit holder' was maintained (i.e. marriage, civil partnership or cohabitation). Whilst this was a reasonable precaution to take at the time of introducing such provisions, it does not take into account the difficulties such a provision places on existing residents who have relocated and are economically active, who experience a change in personal circumstances. For example, in the case of a breakdown in relationship, or even a change in circumstances for the primary work permit holder, this may require the holder of an automatic work permit to obtain a work permit in their own right even if they are in stable, long term employment. Whilst the Department does take into account personal circumstances, and invariably a work permit would likely ultimately be approved, it brings the relevance of such provisions into question, both from a moral and practical perspective.
 - 4.4.2. Moving / losing employment – a relocating worker will require a work permit, unless they are to be employed in an exempted employment, until they have achieved Isle of Man worker status, which for many would mean 5 years continuous residency. This inhibits the ability of a relocating resident, who has already made a significant commitment in relocating to the Island, from moving employment either through choice, or perhaps more importantly, in the event of displacement from their original employment (i.e. through redundancy etc.). Whilst, as covered previously, it is highly likely that in the current economic climate a work permit would subsequently be issued, this presents an overly bureaucratic process for an existing resident to face having already committed to playing an active role in the Island's economy.

- 4.4.3. Establishing a business – those persons seeking to relocate to establish their own business, either through self-employment, or by setting up a limited company of which they will be a paid employee, are required to obtain a work permit, unless the occupation is already exempted.
- 4.4.4. Secondary employment – should the holder of a work permit, or a person in an exempted employment, wish to undertake secondary employment in another role, again a further work permit would be required specific for this additional employment (unless this secondary employment was itself exempted). At a time of critical labour shortages across most economic sectors, particularly in domestic sectors where secondary / part-time additional employment is more commonplace, it could be considered anomalous to require such a process for an existing resident who is already actively contributing to the Island's economy, and wishes to make an even greater contribution, together with the opportunity to secure additional income for themselves.
- 4.4.5. Dependents – whilst there are certain provisions within the CEA and associated Regulations which provide a route to Isle of Man Worker status for younger children (i.e. those who complete 12 months in education on Island), such provisions, or those for automatic permits, do not currently extend to older dependents. Given the ambition of the Island Plan and Economic Strategy to attract a younger demographic / working families, the potential requirement for older children, who are not able to satisfy the education criteria for Isle of Man Worker status, to obtain a work permit could present a barrier in choosing to relocate to the Island.
- 4.4.6. Complexity – the CEA and associated Regulations provide for a range of exempted employments, or exemptions for persons of a particular description. The range and scope of exemptions has been added to and amended over time, which has resulted in a relatively complex structure to exemptions with differing qualifying and eligibility criteria. The proposals within this consultation seek to provide a more uniform approach to all forms of employment, to further simplify the process for both employers and relocating workers.

5. The impact of Brexit

- 5.1. Since the previous consultation and resulting reforms, there has been a fundamental shift impacting the operation of the work permit system following the UK's decision to leave the EU and the ending of free movement between member states (and by association the Isle of Man, save for the requirement to obtain a work permit or be in an exempted employment prior to commencing work).
- 5.2. Whereas previously European Economic Area (EEA) nationals taking up employment in the Isle of Man were required to obtain a work permit, or be in an exempt employment, such persons (other than citizens of Eire) are required to hold a relevant Visa under the Isle of Man Immigration Rules in order to take up employment.
- 5.3. This means that for those persons not classed as an Isle of Man Worker, the requirement to hold a work permit only applies to UK and Irish nationals, with the provisions also extending to some EU nationals who hold the relevant status under the European Union Settlement Scheme (EUSS)⁵.
- 5.4. In summary this has contributed to a reducing number of work permit applications and a consequent increase in Immigration Visa applications as migrating workers from the EU follow a different process to relocate to the Island to take up employment.
- 5.5. Holders of relevant employment related visas are already exempted from the requirement to hold an additional work permit issued under the CEA, as being the holder of an 'immigration employment document'⁶, in order to prevent the employer and employee being subject to a dual process when relocating to the Island for employment purposes.
- 5.6. This situation has undoubtedly compounded labour shortages on the Island, as employers seeking to recruit are encountering a new process, whilst potential relocating workers are faced with additional complexity, time and cost when considering relocating to the Island to take up employment.
- 5.7. Whilst further reforms to the work permit system will not directly ease the challenge of recruiting new employees from outside of the UK and Eire, given the fact that such workers will continue to follow the relevant Immigration process, it does give additional impetus to trying to ensure that potential barriers to inward economic migration are mitigated as far as reasonably practical.
- 5.8. For clarity, this consultation addresses proposals to reform the work permit system only (i.e. relocating workers who are citizens of the UK and Eire, or those EU citizens who already hold a relevant status under the EUSS), and does not seek views on the broader Immigration process relating to relocating workers who are citizens of other countries.

⁵ <https://www.gov.im/categories/travel-traffic-and-motoring/immigration/eu-eea-and-swiss-citizens/eu-settlement-scheme/>

⁶ <https://www.gov.im/categories/working-in-the-isle-of-man/work-permits/definitions/immigration-employment-document-ied/>

6. The vision for the Work Permit system

- 6.1. Given the consistently low levels of unemployment and conversely, the sustained high levels of vacancies and continuing feedback from employers as to the difficulty in recruiting suitably skilled and experienced employees, the Department is proposing to reform the work permit system further.
- 6.2. The overarching principle of the proposed reforms is to **retain** the CEA, but temporarily utilise enabling provisions within the Act to be able to **'turn on / turn off'** the requirement to obtain a work permit prior to taking up employment in the Isle of Man dependent on prevailing economic conditions.
- 6.3. As previously mentioned, the Department consulted on the idea of 'flipping' the work permit system during 2017. The principle behind such an idea was to move from a situation where all workers, other than Isle of Man Workers or exempted persons, require a work permit prior to commencing employment, to one where only certain workers or occupations require a work permit. Whilst this idea was supported by a majority of respondents during the 2017 consultation, it was not fully progressed at that time. However, provision which enables the Department to modify the CEA to apply only to certain categories of workers was inserted by the Equality Act 2017. The modification only requires secondary legislation approved by Tynwald.
- 6.4. This proposed approach to 'turn off' the requirement to obtain a work permit is broadly similar to that already taken in respect of the wide range of exempted employments already provided for within the CEA and associated Regulations. These current exemptions cover an extensive range of temporary and permanent employments / economic sectors, where it has already been acknowledged that there are critical skills shortages, or that the nature of the employment was such that the availability of Isle of Man Workers to take up such employment was unlikely.
- 6.5. In line with the current approach for exempted employments, the proposed further reforms to 'turn off' the requirement for permits would seek to **retain the ability to maintain a register of non-Isle of Man Workers** by requiring a single online registration completed by the employer at the time of employment.
- 6.6. This registration would include a simple set of relevant information, such as employer details, economic sector, job role / occupation, salary level, a declaration in respect of criminal convictions and any other information deemed relevant to the Department to ensure the effectiveness of the proposals can be monitored, as well as providing key labour market information to inform broader policy development. This single registration process will also serve for the historic exemptions process and in doing so provide a single coherent process for employers and source of information for Government.
- 6.7. Upon completion of the registration, an immediate confirmation would be provided which includes a reference / ID number specific to the employee. This will serve as evidence of compliance with the requirements of the CEA and **will be valid for 5 years** (i.e. the usual time required to obtain Isle of Man Worker status via residency). As with the existing exemption process, there will continue to be an obligation placed on the employer to notify the Department of a material change to, or cessation of, the employment for which the registration has been made.
- 6.8. There is currently a £60 fee for each work permit application, regardless of the length of permit applied for (save for automatic permits which are currently limited to 12 months and must be renewed annually at £60 per renewal application). The Department proposes that a fee is retained and collected at the time of registration in order to continue to meet the costs of administering the system.

6.9. The Department is not proposing to amend the existing process in respect of workers with certain criminal convictions. In line with the current requirements for exempted workers and automatic permits, persons with certain criminal convictions cannot avail themselves of these routes and will remain subject to a work permit application so that a full assessment can be made at the time of application. These provisions are provided for within Section 10 of the CEA⁷.

6.10. In summary, therefore, the proposals are:

- To **temporarily suspend the requirement for a work permit** in all occupations and economic sectors, save for any specific employments or economic sectors where it is identified there is a justifiable case for the requirement to remain in place;
- To require a **single employer registration for all non-Isle of Man Workers**, which will collect key information for the purposes of monitoring, labour market information and to assist informing future policy, such as:
 - Basic employment / job role information, including salary level;
 - Basic information relating to the worker, including dependents and other demographic information; and
 - Declaration of any criminal convictions which are required to be declared in accordance with the existing provisions of the CEA.
- A **fee to be payable upon submission** of the employer registration, with the current fee of £60 which may be adjusted based on the outcome of this consultation;
- An **instant confirmation / unique reference number** issued to the employer and employee on completion of the employer registration **valid for 5 years**;
- A **requirement of the employer to notify of material changes** to the employment of the employee for which a registration has been completed, including **cessation of employment**;
- **Retention of the CEA**, to provide the ability to reintroduce work permit requirements should there be a significant **shift in the economic climate**.

⁷ https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2014/2014-0011/ControlofEmploymentAct2014_14.pdf

7. Consultation questions

- 7.1. The proposed further reforms center on the ability of the Department to 'turn on / turn off' the requirement for non-Isle of Man Workers to obtain a work permit prior to taking up employment in certain employments, occupations or economic sectors dependent on prevailing economic conditions.
- 7.2. In progressing this proposed approach, the Department wishes to seek the views of consultees on how such an approach may work in practice and provide an opportunity for feedback and suggestions to inform any final proposals brought forward.

Q1 In bringing forward the proposals as set out in this consultation, do you consider that are there any specific employments, occupations, or economic sectors for which the requirement to obtain a work permit (i.e. to maintain the current process) should be retained rather than temporarily being replaced by a registration requirement?

- 7.3. Under the proposals, where employment in a specific job role, occupation or economic sector is not to require a work permit (i.e. the requirement has been turned off), the Department proposes to require a single online registration to be completed by the employer in a similar way to the current exemption process.

Q2 Do you support the principle of requiring an employer to register non-Isle of Man Workers to provide key information for both monitoring purposes and to provide labour market intelligence? If NO, please provide further information.

- 7.4. As set out previously, the Department is not proposing to change the current approach in respect of prospective workers with certain criminal convictions, requiring them to be subject to a full work permit application regardless of job role, occupation or economic sector – even if these are included in those areas where the requirement for a work permit is 'turned off'.
- 7.5. An obligation will remain for the employer to satisfy themselves that the prospective worker does not have such a criminal conviction and make a relevant declaration at the time of registration. Conversely, should the prospective worker have such a criminal conviction, the employer will be responsible for submitting a full work permit application in line with the existing process.

Q3 Do you support the principle of maintaining the existing provisions in respect of persons with certain criminal convictions? If NO, please provide further information.

- 7.6. A fee of £60 is currently payable by the employer in respect of a work permit application, which provides for a work permit to be issued for the length of time requested at the time of application.
- 7.7. An applicant for an automatic work permit also pays a fee of £60 personally, however, any work permit issued is limited to 12 months and renewable annually (i.e. 5 years of permits would result in a total cost of £300).

Q4 Do you support the retention of a fee, which would be paid at the time of registration by the employer for all new roles requiring off Island workers including those occupations and roles previously subject to exemptions? If YES, please provide feedback on whether this should be at the same level as currently charged, or an alternative rate. If NO, please provide further explanation for your answer.

-
- 7.8. The overarching vision for the work permit process, and the driver for the proposed reforms, is to further streamline the process for both employers and prospective employees by removing the requirement for a work permit where there are critical labour shortages and an abundance of employment opportunities.
 - 7.9. By requiring an online registration to still be completed, the employer and employee will receive immediate confirmation of a valid registration and therefore, can demonstrate compliance with the relevant legislation without delay. This registration will also provide the Department with key information to enable monitoring of the effectiveness of the process, together with labour market information and intelligence.
 - 7.10. Obligations will continue be placed on employers in respect of prospective employees with certain criminal convictions and to notify the Department of substantive changes to, or cessation of employment.
 - 7.11. The Department will monitor the effectiveness and impact of any final proposals brought forward. As the CEA is to be retained, with enabling provisions already contained within the legislation being utilised to implement the proposed approach, should economic circumstances change then the Department retains the ability to reconsider and amend the approach to how the work permit system operates in the future.

Q5 On balance, after considering the Department’s vision for the work permit system and subsequent proposals, do you support the proposed approach? If NO, please provide further explanation for your answer.

Q6 Please provide any further information and feedback on the Department’s proposals.

8. How to respond to this consultation

The deadline for responses is 23:59 on 28 April 2023.

Responses must be made via the Isle of Man Government Consultation Hub or in writing and sent by email to wpconsultation@gov.im or via post to:

Work Permit Consultation
Department for Enterprise
St Georges Court
Upper Church Street,
Douglas
Isle of Man,
IM1 1EX

When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

9. Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2015 (FOIA).

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the Data Protection Act 2018 and, in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

A copy of the Act is available here:

https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2018/2018-0010/DataProtectionAct2018_1.pdf

10. Data Protection

The Department for Enterprise is carrying out this consultation on possible changes to work permit processes and procedures.

This consultation and the processing of personal data that it entails is necessary for the exercise of our functions as a government department. If your answers contain any information that allows you to be identified, the Department will, under data protection law, be the controller for this information.

As part of this consultation, we are asking for your name and address. This is in case we need to ask you follow-up questions about any of your responses. You do not have to give us this personal information. If you do provide it, we will use it only for the purpose of asking follow-up questions and determining the impact of the proposals contained within this consultation.

The Department's privacy policy has more information about your rights in relation to your personal data; how to complain, and how to contact the Data Protection Officer. You can access this here: <https://www.iomdfenterprise.im/policy/privacy-policy>

Your information will be kept securely and destroyed within 1 month after the consultation has been completed.



Isle of Man
Government

Relliys Eilan Vannin