



## CONTROL OF EMPLOYMENT REGULATIONS 2014

### Index

<b>Regulation</b>	<b>Page</b>
1 Title .....	3
2 Commencement .....	3
3 Interpretation.....	3
4 Application for grant or renewal of permit .....	3
5 Matters in respect of which regard shall or may be had in determining an application .....	5
6 Consolidation and staying of applications.....	5
7 Change of circumstances justifying revocation of permit .....	5
8 Decision on application for permit.....	6
9 Employer to notify Department .....	6
10 Holder of a spouse etc. permit to notify Department.....	6
11 Meaning of “immigration employment document” .....	7
12 Revocation .....	7
13 Transitional provisions .....	7
<b>SCHEDULE 1</b>	<b>9</b>
<b>INFORMATION TO BE CONTAINED IN APPLICATION</b>	<b>9</b>
<b>SCHEDULE 2</b>	<b>14</b>
<b>MATTERS TO BE CONSIDERED IN DETERMINING APPLICATION FOR PERMIT ETC.</b>	<b>14</b>
<b>SCHEDULE 3</b>	<b>16</b>
<b>CHANGE OF CIRCUMSTANCES JUSTIFYING REVOCATION OF PERMIT</b>	<b>16</b>



Statutory Document No. XX/20XX



*Control of Employment Act 2013*

## **CONTROL OF EMPLOYMENT REGULATIONS 2014**

*Laid before Tynwald:*

*Coming into Operation:*

---

The Department of Economic Development makes the following Regulations under section 23(1) of the Control of Employment Act 2014.

### **1 Title**

These Regulations are the Control of Employment Regulations 2014.

### **2 Commencement**

These Regulations come into operation on.....

### **3 Interpretation**

In these Regulations —

“**the Act**” means the Control of Employment Act 2014;

“**the applicant**” means the person by whom an application is made;

“**application**” means an application for the grant or renewal of a permit;

“**EEA national**” means a national of a State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2<sup>nd</sup> May 1992 as it has effect for the time being;

“**holder**” in relation to a permit, means the person in respect of whose employment the permit is granted;

“**permit**” means a permit granted under section 8 of the Act;

“**the person concerned**” means the person in respect of whose employment an application is made;

“**relevant person**” means any person living with, or likely to live with, the person concerned as a member of his or her family or household.

### **4 Application for grant or renewal of permit**

(1) An application for the grant or renewal of a permit shall be made in a form approved by the Department —

- (a) if in respect of a permit for an employee or prospective employee (except under section 9(1) of the Act), by the employer or prospective employer;
- (b) if in respect of –
  - (i) a permit for a self-employed person (except under section 9(1) of the Act; or
  - (ii) a permit under section 9(1) of the Act by the person concerned.
- (2) Different forms may be approved by the Department in respect of –
  - (a) different classes of employees;
  - (b) different classes of self-employed persons; and
  - (c) permits under section 9(1) of the Act.
- (3) An application for the grant of a permit shall contain, in respect of the applicant, the person concerned (if different) and any relevant person the information specified in –
  - (a) Part 1 of Schedule 1, in the case of an application for a permit for an employed person (except under section 9(1) of the Act);
  - (b) Part 2 of Schedule 1, in the case of an application for a permit for a self-employed person (except under section 9(1) of the Act);
  - (c) Part 3 of Schedule 1, in the case of an application for a permit under section 9(1) of the Act.
- (4) The applicant shall furnish such certificates, documents and evidence for the purpose of the application as may be required by the Department.
- (5) The applicant and the person concerned (if different) shall, if reasonably so required, attend at such office or place as the Department may direct for the purpose of supplying any matter referred to in paragraph (4).
- (6) The application form shall be signed by –
  - (a) the applicant; and
  - (b) in the case of an application for the grant of a permit, by the person concerned (if different),and shall contain a certificate that its contents are true and complete to the best of his, her or their knowledge and belief.
- (7) An application for renewal of a permit shall be made not less than 28 days before the date of expiry of the permit.

## **5 Matters in respect of which regard shall or may be had in determining an application**

- (1) The matters to which regard shall be had in determining whether to grant or renew a permit, or to specify a condition in a permit, are those specified in Part 1 of Schedule 2.
- (2) The matters to which regard may be had in determining whether to grant or renew a permit, or to specify a condition in a permit, are those specified in Part 2 of Schedule 2.

## **6 Consolidation and staying of applications**

- (1) Where 2 or more applications for the grant of a permit relate to the same employment, the Department may consider and determine the applications together.
- (2) Where applications are made for –
  - (a) a permit relating to regular full-time employment which will be the primary employment for the purpose of section 9(1) in relation to the employment referred to in sub-paragraph (b); and
  - (b) a permit under section 9(1) for the employment of the spouse or civil partner of the holder of the permit referred to in sub-paragraph (a),the Department may consider and determine the applications together.
- (3) Nothing in paragraph (2) enables the permit referred to in paragraph (2)(b) to be granted before the employment referred to in paragraph (2)(a) has commenced.
- (4) Where an appeal has been made in relation to an application for the grant of a permit, the Department may postpone, until the appeal is determined or withdrawn, consideration of any other application for the grant of a permit in respect of the same employment.
- (5) Where an appeal has been made in relation to an application for the grant of a permit, the Department may postpone, until the expiration of a period of not more than 3 months after the determination or withdrawal of the appeal, consideration of another application for the grant of a permit in respect of the same person and the same employment.
- (6) The Department shall forthwith notify the applicant and the person concerned (if different) of any decision to deal with an application in accordance with paragraphs (1), (2), (4) or (5).

## **7 Change of circumstances justifying revocation of permit**

The changes of circumstances which justify revocation of a permit are those specified in Schedule 3.

## 8 Decision on application for permit

- (1) The decision of the Department on an application shall be given to the applicant in writing.
- (2) A decision –
  - (a) to refuse to grant or renew a permit;
  - (b) to grant or renew a permit for a period less than that applied for; or
  - (c) to include a condition in a permit,shall include –
  - (i) a statement of the reasons for the decision; and
  - (ii) information as to how an appeal can be made to the Work Permit Appeal Tribunal.
- (3) A permit shall be in writing and in such form as the Department may determine.

## 9 Employer to notify Department

- (1) Within 14 days after the holder of a permit, other than a permit granted under section 9(1) of the Act, ceases to work for an employer, the employer shall notify the Department of the following information –
  - (a) the full name of the employee;
  - (b) the number of the permit;
  - (c) the date the employee left the employment; and
  - (d) to the best of the employer's knowledge, whether the employee is still working in the Island and the name and address of the new employer.
- (2) A person who fails to comply with paragraph (1) is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.
- (3) Section 17 of the Act applies to an offence under paragraph (2), and the amount of a fixed penalty in the case of such an offence is £100.

## 10 Holder of a spouse etc. permit to notify Department

- (1) Within 14 days after the holder of a permit granted under section 9(1) of the Act, commences work for an employer, the holder shall notify the Department of the following information –
  - (a) his or her full name;
  - (b) the number of the permit;
  - (c) the name of the employer and the business address, telephone number, email address and place of residence in the Island;
  - (d) the nature of the employment; and

- (e) the date the holder commenced the employment.
- (2) Within 14 days after the holder ceases to work for an employer or to be self-employed, the holder shall notify the Department of the following information –
  - (a) his or her full name;
  - (b) the number of the permit;
  - (c) the name of the employer; and
  - (d) the date the holder left the employment.
- (3) If the holder's marriage or civil partnership is terminated by divorce, dissolution or annulment as the case may be, the holder shall notify the Department of
  - (a) the relevant event; and
  - (b) the date of its occurrencewithin 14 days.
- (4) A person who fails to comply with paragraph (1), (2) or (3) is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.
- (5) Section 17 of the Act applies to an offence under paragraph (4), and the amount of a fixed penalty in the case of such an offence is £100.

## **11 Meaning of “immigration employment document”**

- (1) For the purposes of the Act “immigration employment document” means –
  - (a) a permit indicating, in accordance with the immigration rules, that a person named in it is eligible, though not a British citizen, for entry into the Island for the purpose of taking employment; or
  - (b) any other document which relates to employment and is issued for a purpose of immigration rules or in connection with leave to enter or remain in the Island.
- (2) In this regulation “immigration rules” means the rules laid down under section 3(2) of the Immigration Act 1971 (an Act of Parliament), as it has effect in the Island.

## **12 Revocation**

Subject to regulation 13 and to paragraph 8 of Schedule 3 to the Act, the Control of Employment Regulations 1993 are revoked.

## **13 Transitional provisions**

These Regulations do not apply to an application for the grant or renewal of a permit received by the Department before the commencement of these Regulations.

**MADE**

**JOHN SHIMMIN**  
*Minister for Economic Development*





**SCHEDULE 1**

[regulation 4(3)]

**INFORMATION TO BE CONTAINED IN APPLICATION****PART 1****EMPLOYED PERSON***Details of prospective employer*

1. The employer's full name and name of the person to contact within the organisation.
2. The employer's business address, telephone number, email address and place of residence in the Island.
3. Nature of business or occupation.
4. The length of time the employer's business has been established.
5. The number of Isle of Man workers employed by the employer, and the percentage those workers are of the total number of persons employed by the employer.

*Details of the particular employment*

6. Specific details of the employment for which the permit is required (the word "director" being treated as insufficiently specific for this purpose), including rate of pay, any bonuses, any accommodation offered, and hours of work.
7. Any skills, qualifications, or experience required for the employment.
8. The importance of the particular position to the employer.
9. If it is claimed that the employment of the person concerned may bring any special economic or social benefit to the Island, particulars of that benefit.
10. The period for which the permit is required.
11. The reasons for wishing to employ the person concerned.
12. Details of the steps taken to fill the vacancy, including any advertising and the response thereto.
13. The reason why any Isle of Man workers were considered unsuitable to carry out the employment.

*Details of person concerned*

14. The title and full name of the person concerned, and any previous name.
15. The gender of the person concerned.

16. The home address and last address outside the Island of the person concerned.
17. The email address and telephone number of the person concerned.
18. The National Insurance number of the person concerned.
19. The date and place of birth of the person concerned.
20. The nationality of the person concerned and whether he or she is an EEA national.
21. Whether English is the first language of the person concerned and, if not, details of his or her proficiency in English including any appropriate qualifications.
22. Particulars of schools in the Island (if any) which the person concerned has attended.
23. The marital or civil partnership status of the person concerned.
24. The date the person concerned arrived in the Island.
25. If the person concerned has any family or a partner living on the Island.
26. Particulars of employments in which the person concerned has been engaged in the previous 10 years, including any periods of sickness longer than 6 months.
27. Particulars of any current or previous work permit held by the person concerned.
28. If the person concerned is under 18 years of age, whether he or she is living with his or her parents, and if so the names and address of the parents.
29. Particulars of any criminal convictions (in the Island or elsewhere) of the person concerned.
30. If the person concerned engages or intends to engage in a construction trade, details of his or her "Skills Card".
31. The state of health of the person concerned.
32. If the person concerned has any Income Tax or National Insurance arrears.
33. Any other relevant information.

*Details of relevant persons*

34. The following details of any relevant person –
  - a full name and any previous name;
  - b relationship to the person concerned;
  - c gender;
  - d date and place of birth;

- e marital or civil partnership status;
- f nationality;
- g proficiency in English including any appropriate qualifications;
- h occupation;
- i employment history, in the case of a spouse or civil partner of the person concerned;
- j state of health;
- k any criminal convictions (in the Island or elsewhere);
- l whether intending to live with the person concerned;
- m whether requiring education;
- n means of meeting living expenses;
- o any other relevant information.

## PART 2

### SELF-EMPLOYED PERSON

#### *Details of self-employment*

1. Details of the proposed self-employment including the nature of the business, the business address and the work to be carried out.
2. Whether the business is a new or existing business and, in the latter case, when it was acquired.
3. Particulars of the financial structure of the business.
4. If the person concerned is to undertake work as a sub-contractor on a construction project, the name of the main contractor.
5. If it is claimed that the employment of the person concerned may bring any special economic or social benefit to the Island, particulars of that benefit.
6. The period for which the permit is required.

#### *Details of person concerned*

7. The title and full name of the person concerned, and any previous name.
8. The gender of the person concerned.
9. The home address and last address outside the Island of the person concerned.

10. The email address and telephone number of the person concerned.
11. The National Insurance number of the person concerned.
12. The date and place of birth of the person concerned.
13. The nationality of the person concerned and whether he or she is an EEA national.
14. Whether English is the first language of the person concerned and, if not, details of his or her proficiency in English including any appropriate qualifications.
15. Particulars of schools in the Island (if any) which the person concerned has attended.
16. The marital or civil partnership status of the person concerned.
17. If the person concerned has any family or a partner living on the Island.
18. The date the person concerned arrived in the Island.
19. Particulars of employments in which the person concerned has been engaged in the previous 10 years, including any periods of sickness longer than 6 months.
20. Particulars of any current or previous work permit held by the person concerned.
21. If the person concerned is under 18 years of age, whether he or she is living with his or her parents, and if so the names and address of the parents.
22. Particulars of any criminal convictions (in the Island or elsewhere) of the person concerned.
23. If the person concerned engages or intends to engage in a construction trade, details of his or her "Skills Card".
24. The state of health of the person concerned.
25. If the person concerned has any Income Tax or National Insurance arrears.
26. Any other relevant information.

*Details of relevant persons*

27. The following details of any relevant person –
  - a full name and any previous name;
  - b relationship to the person concerned;
  - c gender;
  - d date and place of birth;
  - e marital or civil partnership status;

- f nationality;
- g proficiency in English including any appropriate qualifications;
- h occupation;
- i employment history, in the case of a spouse or civil partner of the person concerned;
- j state of health;
- k any criminal convictions (in the Island or elsewhere);
- l whether intending to live with the person concerned;
- m whether requiring education;
- n means of meeting living expenses;
- o any other relevant information.

### **PART 3**

#### **SPOUSE OR CIVIL PARTNER**

##### *Details of person concerned*

1. The title and full name of the person concerned and any previous name.
2. The title and full name of the spouse or civil partner of the person concerned.
3. Particulars of any current or previous work permit held by the person concerned.
4. Particulars of the work permit of the spouse or civil partner of the person concerned or if that person is exempt details as to the exemption.
5. The home address and last address outside the Island of the person concerned.
6. The email address and telephone number of the person concerned.
7. The National Insurance number of the person concerned.
8. The date and place of birth of the person concerned.
9. The nationality of the person concerned and whether or not he or she is an EEA national.
10. The date the person concerned arrived in the Island.
11. Particulars of any criminal convictions (in the Island or elsewhere) of the person concerned.
12. (Where known) the employer's full name and business address, telephone number, email address and place of residence in the Island.

13. (Where known) the occupation of the person concerned.
14. Any other relevant information.

## SCHEDULE 2

[regulation 5]

### MATTERS TO BE CONSIDERED IN DETERMINING APPLICATION FOR PERMIT ETC.

#### PART 1

##### MATTERS TO WHICH REGARD SHALL BE HAD

###### *Economic circumstances*

1. Whether there are any suitable Isle of Man workers available in the trade, occupation or profession in respect of which the application is made, having regard to –
  - (a) Any skills, qualifications, knowledge, or experience required for the position; and
  - (b) The importance of the position to the applicant's undertaking.
2. The level of unemployment in the Island in the trade, occupation or profession in respect of which the application is made.
3. Any likely economic or social consequences of granting or declining the application.

###### *The process*

4. Whether and how the availability of the employment has been publicised in the Island.
5. The process whereby the applicant has selected the person concerned.
6. The grounds on which the person concerned was selected.

###### *Personal circumstances of the person concerned*

7. Any conviction of the person concerned falling within section 10 of the Act.
8. Where the person concerned has, within a reasonable time before the making of the application, worked in the Island for a continuous period of 2 years or more

by virtue of a permit, his or her family circumstances (including whether his or her family are living in the Island).

9. Whether a refusal to grant or renew a permit would cause substantial hardship to the person concerned.

## PART 2

### MATTERS TO WHICH REGARD MAY BE HAD

#### *Economic circumstances*

1. In the case of a self-employed person, the number of individuals already engaged in the employment in question in the Island.

#### *Personal circumstances of the person concerned*

2. The employment history of the person concerned.

#### *Additional considerations regarding the employer*

3. The number of Isle of Man workers employed by the applicant as a percentage of the total number of persons employed by him or her.
4. Whether the wages and conditions offered are less favourable than those normally applying in the particular trade or occupation in the Isle of Man.
5. Any career development policy or rotation policy of the applicant.

#### *Additional considerations regarding the person concerned*

6. The status of the person concerned under the Immigration Act 1971 (an Act of Parliament), as it has effect in the Island.
7. If the person concerned engages or intends to engage in a construction trade, whether he or she is suitably qualified to do so and holds a relevant "Skills Card" issued by a recognised organisation.
8. The failure of the person concerned to pay his or her income tax or contributions under any statutory provision relating to social security.
9. Whether the person concerned is likely to a significant degree to require health services or social services at the public expense while residing in the Island.
10. The criminal record (if any) of the person concerned (except as provided by paragraph 7 of Part 1).
11. The ability of the person concerned to speak English.

*Considerations regarding relevant persons*

12. The employment history of a relevant person, being the spouse of civil partner of the person concerned.
13. Whether a relevant person is likely to a significant degree to require education at the public expense while residing in the Island.
14. Whether a relevant person is likely to a significant degree to require health services or social services at the public expense while residing in the Island.
15. Whether a relevant person is likely to a significant degree to receive non-contributory social security benefits while residing in the Island.
16. The criminal record (if any) of any relevant person.
17. The ability of any relevant person to speak English.

**SCHEDULE 3**

[regulation 7]

**CHANGE OF CIRCUMSTANCES JUSTIFYING REVOCATION OF PERMIT**

1. Without prejudice to section 11(2) of the Act, the fact that, since the grant of the permit, the holder or a relevant person has been convicted of a criminal offence.
2. The fact that the application for the permit includes a statement (whether relating to the holder, to his or her employer, to a relevant person or to any other person) which is false in a material particular, or omits to disclose a material particular, such that a true and complete statement would have caused the Department to refuse to grant or to renew the permit, as the case may be.
3. The failure of the holder or his or her employer to comply with any condition subject to which the permit was granted.
4. The failure of the holder to pay his or her income tax or contributions under any statutory provision relating to social security.
5. A significant number of complaints referred to in section 22(4) of the Act against the holder, tending to show that he or she is not a fit and proper person to undertake or be engaged in the employment in question.



*EXPLANATORY NOTE*

*(This note is not part of the Regulations)*

These Regulations replace the Control of Employment Regulations 1993, mainly to take account of the replacement of the Control of Employment Act 1975 by the Control of Employment Act 2014. The principal changes are as follows:

- (a) Separate provision has been made for an application by a spouse or civil partner of a permit holder;
- (b) The information to be included in an application has been amended;
- (c) The matters in respect of which regard shall or may be had in determining an application for a permit have been revised;
- (d) The circumstances justifying revocation of a permit have been revised.