

Immigration guide –
Q&A on relocating
to Guernsey



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At Carey Olsen, we always look at the bigger picture. In the face of opportunities or challenges, our clients know that the advice and guidance they receive from us will be based on a complete understanding of their goals and objectives combined with outstanding client service, technical excellence and commercial insight.

BIGGER PICTURE

Carey Olsen has authored immigration guides for each of the five offshore law jurisdictions we advise on for the Mondaq Immigration comparison guides: Bermuda, the British Virgin Islands, the Cayman Islands, Guernsey and Jersey. These guides include commentary on the legal framework, business travel, work permits, settlement, dependents, intra-company transfers, new hires, sponsorship, trends and predictions and tips and traps.

Q&A on Guernsey

1. Legal framework

1.1 Which legislative and regulatory provisions govern corporate immigration in your jurisdiction?

In order to live and work in the Bailiwick of Guernsey (the islands of Guernsey, Alderney, Sark, Herm and Jethou) (the "Bailiwick") an individual needs to be entitled to reside in the Bailiwick for immigration purposes. The Immigration Acts 1971, 1988 and 1999 of the United Kingdom extend to the Bailiwick.

The Bailiwick of Guernsey is part of the Common Travel Area along with the United Kingdom, the Republic of Ireland, the Isle of Man and the Bailiwick of Jersey. There are no restrictions on travel for individuals travelling within the Common Travel Area.

Currently, the Committee for Home Affairs is empowered under Guernsey laws to make rules in respect of entry and stay in the Bailiwick, these are set out in the Immigration (Bailiwick of Guernsey) Rules, 2008 (the "Immigration Rules").

The Immigration Rules govern immigration in Guernsey and have provisions inter alia in respect of Business Visitors, persons intending to establish themselves in business and investors.

In addition to immigration status the Population Management (Guernsey) Law, 2016 (the "Population Law") requires everyone who lives or works in Guernsey to hold a Certificate or Permit which confirms that they are able to live or work in Guernsey and along with the Population Management (Employment Permit Applications) Regulations, 2017 (the "Regulations") sets out the requirements for the application of work permits by employers.

Guernsey has two separate housing markets; properties that may only be occupied by qualified local residents or a Permit issued under the Population Law (the "Local Market") and properties that can be freely occupied by anyone with the right of abode for immigration purposes (the "Open Market").

The Immigration Act 1971 (as extended to the Bailiwick of Guernsey) Work Permit Policy which came into force on 19 January 2021 provides further guidance on the requirements for work permits under the Sector Based Scheme in Guernsey.

Part VII of the Companies Law (Guernsey), Law 2008 outlines the process of migrations of companies in and out of Guernsey.

1.2 Do any special regimes apply in specific sectors?

See section 3 below.

1.3 Which government entities regulate immigration in your jurisdiction? What powers do they have?

The Committee for Home Affairs makes rules and advises the States of Deliberation (the "States") in respect of immigration and population management.

The Immigration and Nationality Division of the Guernsey Border Agency is responsible for managing and enforcing the immigration rules regulating the entry and stay of individuals and taking deportation action against individuals when required to do so.

The Population Management Office is the body that deals with permit applications. The Administrator of Population Management (the "Administrator") is appointed by the Committee for Home Affairs and deals with the day to day administration of the Population Law.

Applications of overseas companies who are migrating to Guernsey are dealt with by the Registrar of Companies in Guernsey and companies that would be regulated by the Guernsey Financial Services Commission ("Commission") (banks, investment funds or managers, insurance companies and fiduciary companies) on arrival need the consent of the Commission.

1.4 What is the government's general approach to immigration in your jurisdiction?

The States' approach to immigration is generally encouraging and facilitative. There is a government body, Locate Guernsey, charged with encouraging people to physically relocate or to relocate their businesses to Guernsey.

The States does however recognise that due its size, the Bailiwick needs to have the right number of people and the population needs to be made up of the right individuals and businesses, who can positively enhance the Bailiwick's economy, which is why it introduced the Populations Law in 2017.

One of the States' priorities for this political term is to review its population and immigration policies. It has recognised that there is a need to access off-island employees to address manpower shortages. However, in order to manage the pressure on the housing stock, the environment and on public services there may be a need to limit immigration and population growth. In this regard the States has set up a cross-Committee steering group to review the policies.

2. Business travel

2.1 Do Business Visitors need a visa to visit your jurisdiction? What restrictions and exemptions apply in this regard?

Anyone is able to be in Guernsey for up to 90 days within a 12 months period (starting from their first arrival into the Bailiwick) without needing a Certificate or Permit under the Population Law. This does not permit anyone to undertake employment in the Bailiwick.

There are no routine border immigration controls when travelling within the Common Travel Area. People who are lawfully in the United Kingdom, where most commercial transport links with the Bailiwick lie, may travel freely to the Bailiwick. Most short-term visitors to the island arrive from the United Kingdom without needing any additional formalities.

As from 1 October 2021 everyone travelling directly into the Bailiwick of Guernsey from outside of the Common Travel Area will need a valid passport (or for some EU, EEA or Swiss nationals their national identity card).

People who are not a British or Irish national or who have not been granted EU/EEA/Swiss Citizen Settled Status may need additional immigration clearance to visit Guernsey. Such people may seek leave to enter the Bailiwick as a Business Visitor. The requirements to enter as a Business Visitor are set out in paragraph 46G of the Immigration Rules.

Individuals must be over the age of 18 and genuinely seek entry as a Business Visitor. They cannot take employment or provide or sell goods or services within the Bailiwick. They must be able to maintain and accommodate themselves without recourse to public funds and must be able to meet the cost of the return journey. They cannot marry during their visit or receive private medical treatment during their visit.

2.2 Do the requirements vary depending on sector or purpose?

See 2.4 below.

2.3 What is the maximum stay allowed for Business Visitors?

Pursuant to paragraph 7 and 46G of the Rules, the maximum stay is 6 months for a Business Visitor.

2.4 What activities are Business Visitors allowed to conduct while visiting your jurisdiction?

Visitors who come to the island as "Business Visitors" seeking entry to leave in the Bailiwick, if they are not entitled to freely come and go, must demonstrate that they intend to one of the following during their visit:

1. attend meetings or conferences;
2. arrange deals, negotiating or signing trade agreements and contracts;
3. undertake fact finding missions, provided information is of benefit to a branch abroad only;
4. conducting site visits and promotional activities;

5. take part in a location shoot as a member of a film crew, meaning that they are either a film actor, producer, director or technician, paid or employed by an overseas company and are coming to Bailiwick for location sequences only;
6. represent overseas based news media as a journalist, correspondent, producer or cameraman but only if they are employed or paid by an overseas company and are gathering information for an overseas publication;
7. undertake preaching and pastoral work but only if their base is abroad and they are not taking up an office post or appointment in the Bailiwick;
8. undergo one-off training to be delivered by the Bailiwick branch of the same group of companies to which their employer belongs; and
9. act as an adviser, consultant or trainer to the Bailiwick branch of the same group of companies as their overseas company provided that they remain employed by their overseas company and that they do not take any work within the Bailiwick company's clients.

2.5 Is authorisation required for Business Visitors to provide or receive short-term training?

If a Business Visitor is seeking entry into the Bailiwick to provide short term training it must be one off training on the techniques and work practices used in the Bailiwick where the training is delivered by the Bailiwick's branch of their employer. Alternatively, the training must be conducted by a Bailiwick company who provides goods and services or is contracted to provide training facilities to the Business Visitor's overseas company.

3. Work permits

3.1 What are the main types of work permit in your jurisdiction? What restrictions and exemptions apply in this regard?

There are two schemes for obtaining employment in Guernsey – the General Scheme and the Sector Based Scheme.

Under the General Scheme, the main types of work permits are outlined in the Population Law. They include:

1. the Short Term Employment Permit (STEP);
2. the Medium Term Employment Permit (MTEP)
3. the Long Term Employment Permit (LTEP);
4. Seasonal Employment Permits;
5. the Open Market Employment Permits (Part A) (OMPE(A));
6. Open Market Employment Permits (Part B) (OMPE(B));and
7. Open Market Employment Permits (Part C) (OMPE(C)).

STEP

STEPs are conditional upon a particular full time job and a particular employer. However, the permit holder may work in more than one post and does not need a permit in respect of this additional post. The post must be full time i.e. for at least 35 hours per week.

The permit holder may be accommodated in a Local Market or Open Market dwelling but they cannot be the householder of a dwelling. They may also occupy a Part D Open Market dwelling (a house in multiple occupancy) without being accommodated by the householder.

MTEP and LTEP

MTEPs are also conditional upon a particular full time job with a particular employer.

The holders of MTEPs and LTEPs may occupy and be the householder of a Local Market or an Open Market dwelling. However, they can only accommodate immediate family members (or anyone else that has been granted permission) in Local Market dwellings. Like the holder of an STEP they may also be employed in more than one post and do not need a permit for the additional post.

Seasonal Employment Permits

These permits were introduced in 2020. Permit holders may also be employed in more than one post and do not require a permit for the additional post. They cannot be a householder of a dwelling but may be accommodated in either a Local Market or Open Market dwelling and can occupy a multiple occupancy dwelling as a tenant without being accommodated by the householder.

Open Market Employment Permits (Part A) (OMPE(A))

Part A dwellings are private family homes. The owners of Open Market family homes can employ staff and an OMPE(A) is granted in this respect. The holder of the permit must be accommodated in the private family home and be employed as a full-time household staff member. Employment in more than one post is permitted. The permit holder cannot accommodate any others and no matter how long they live or work at the dwelling cannot build up rights to live in Local Market accommodation.

Open Market Employment Permits (Part B) (OMPE(B))

Part B dwellings are hotels.

The holder of the permit must be accommodated in the Part B dwelling and be a full-time property staff member.

Open Market Employment Permits (Part C) (OMPE(C))

Part C dwellings are nursing or residential homes.

The holder of the permit must be accommodated in the Part C dwelling and a full-time property staff member.

Sector Based scheme

Under this scheme permits will only be granted in the eligible sectors (see below) for full time positions i.e. equivalent to 7 hours a day, 5 days a week, 46 weeks a year (pro-rata where employment has been for less than a year).

Before applying for a permit or submitting an application under this scheme, employers must advertise the job to reach suitably qualified permit-free workers. They must wait 3 weeks from the date the advertisement first appeared or the recruitment process started before submitting the application for a work permit. Evidence of recruitment efforts as well as details of any responses the employer has received and full reasons as to why permit workers were not suitable for the post needs to accompany the application.

3.2 What is the maximum stay allowed under each type of work permit? Can this be extended?

STEPs are valid for a maximum of one year at a time. They are renewable until the holder of the permit completes a combined period of 5 years of residence after which they cannot hold any other STEP. Non-Recognised Breaks in Residence ("RBR") count towards the combined period of 5 years residence. A RBR is a period of time during which a person is not resident in the Bailiwick and this duration must be an equal duration to their last period of residence.

The MTEP is valid for a maximum of five years but the holder must take a RBR. Non-RBRs count towards the combined five years of residence.

The LTEP is valid for a maximum of 8 years. After the 8 years the holder becomes an Established Resident.

The OMPE(A) is renewable as long as full time employment continues.

The OMPE(B) and OMPE(C) are granted for a period of up to five years.

Seasonal Employment Permits may be granted for a period of up to 9 months.

Under the Sector Based Scheme the permit will be valid for the period specified in the permit and up to a maximum of 5 years.

3.3 What criteria must be satisfied to obtain each kind of permit?

Please see above.

3.4 Do any language requirements apply for each kind of permit?

Individuals from outside of the EU who are applying for STEP, MTEPs and LTEPs must provide evidence that they have passed an English language test. If a permit holder wants to be granted indefinite leave to remain (having been in the Bailiwick for a continuous period of five years) then they will need to demonstrate that they have sufficient knowledge of the English language and life in the United Kingdom and the Bailiwick.

In the case of the Sector Based Scheme the permit holder must have an adequate command of the English language. This requirement is met where the permit holder is:

1. a national of a majority English speaking country; or
2. they have passed a English language test approved by the Home Office or the Guernsey Border Agency; or
3. they have obtained an academic qualification which meets the standard of a Bachelor's/Master's/PhD in the UK from an approved list of countries; or
4. they have obtained an academic qualification taught in English which is deemed by UK NARIC to meet the recognised standards of a Bachelor's/Master's/PhD.

3.5 Are any work permits subject to quotas?

No.

3.6 Do any specific rules apply with regard to the following:

(a) Work in specific sectors?

There are three eligible sectors for work permits under the Sector Based Scheme:

1. Sector A comprises of:
 - a. Finance (i.e. banks, investment businesses, insurance businesses, fiduciary businesses and professions supporting the foregoing, principally Accountants, Actuaries and Advocates (Commercial Lawyers)); and
 - b. Industry (i.e. companies who manufacture goods for export outside the Bailiwick or who provide services to the Finance Sector in the fields of financial technology, information and communications technology and digital technology).
2. Sector B comprises of:
 - a. Health;
 - b. Education;
 - c. Government; and
 - d. Veterinary Surgeon.
3. Sector C comprises of Hospitality.

(b) Shortage occupations?

STEPs are issued to cover manpower shortages in Guernsey.

MTEPs are issued for jobs where there are skills shortages in Guernsey locally but where there are not shortages elsewhere for these jobs.

LTEPs are issued where skills and qualifications do not exist locally and there is a shortage of those skills internationally.

(c) Highly skilled workers?

Addressed above.

(d) Investors and high-net worth individuals?

Individuals eligible to live in Guernsey for immigration purposes who relocate to Guernsey and are the owners of Open Market dwellings on Part A, B, C and D of the Housing Register (i.e. private family homes, hotels, residential homes and multiple occupancy) are granted Open Market Resident Certificates which can be renewed indefinitely.

Where individuals wish to live in Guernsey but their nationality is not British or Irish and they do not have EU/EAA/Swiss Settled Status they may be eligible for the Bailiwick Investor or Entrepreneur Visa.

Investor Immigration may be available to individuals who have at least £1 million in their name in a bank account and they must be prepared to invest no less than £750,000 in a way that is of benefit to the Bailiwick. This may be by deposit in a Guernsey bank, the purchase of an investment property (in addition to the property in which the applicant will live) or an investment into another Guernsey opportunity of the applicant's choosing that is considered appropriate by the States of Guernsey.

The Entrepreneur Visa is available to those who wish to relocate to Guernsey and to take an active role in the running of a business in Guernsey. The applicant must be able to show that they have at least £200,000 in their name in a bank account and must identify the business or opportunity that they will invest in and run.

3.7 What are the formal and documentary requirements for obtaining each kind of permit?

The documents required for STEP, MTEP and LTEP are a valid entry clearance, the employee's photo ID (i.e. passport or driving licence), if the proposed permit-holders previously lived in the Bailiwick then details of this address and the address of where they are going to be living in the Bailiwick. Individuals outside the EU must also provide evidence that they have passed an English language test.

STEP applicants must also provide their latest travel document which show their departure from and arrival to Guernsey and MTEP and LTEP applicants must provide a copy of their current CV.

For Sectors A and B schedules of professional qualifications with confirmation from employer that the qualifications and references have been verified must be sent as supporting documentation with the application. For Sector C original references showing at least 3 years of recent experience in a similar establishment must be submitted with the application.

Applications for Investor or Entrepreneur Visas must be made in the applicant's country of residency and further information is available from Locate Guernsey.

3.8 What fees are payable to obtain each kind of permit?

The Population Management (Employment Permit Applications) Regulations, 2017 outline the fees payable for the permits as set out below:

Application	Fee payable
LTEP (initial application)	£1,200
LTEP (initial application and special case)	£1,400
LTEP	£700
LTEP (special case)	£900
MTEP (initial application)	£900
MTEP (initial application and special case)	£1,100
MTEP	£400
MTEP (special case)	£600
STEP (initial application – full assessment)	£220
STEP (initial application and special case)	£270
STEP (initial application – full assessment and special case)	£670
STEP	£120
STEP (special case)	£170
Reconversion of LTEP or MTEP approval	£50
Reconversion of STEP approval	£30
Open Market Employment Permit (Part A)	£65
Open Market Employment Permit (Part B)	£65
Open Market Employment Permit (Part C)	£65
Replacement Permit	£10

Initial application means the first application made by the employer for the permit or where the employer does not have assessed status.

Full assessment means to an application for a STEP made by the employer who also wants to be assessed by the Administrator on the making of the application.

Special case means an application for the specified category of permit that is outside the standard published policies.

Reconversion means where the permit holder has ceased employment and the employer wants to apply for the same category of permit in respect of the same post of employment.

3.9 What is the process for obtaining a permit? How long does this typically take?

The application for a work permit for an individual can only be made by their employer through the Population Portal, an online system through which applications for permits are made. If they are self-employed, then they can make the application themselves.

The permits are then issued in either paper or electronic form.

The applications for permits should be made before the person who will hold the permit moves to Guernsey.

3.10 Once a work permit has been obtained, what are the rights and obligations of the permit holder? What are the penalties in case of breach?

See above for the rights and obligations of the permit holder.

The penalties depend on the type of breach that has occurred. Permits may be revoked where a permit holder has committed serious, is not working in the role that the permit was granted for or is not working full time.

Employers can be penalised for employing persons without valid Permits or Certificates.

4. Settlement

4.1 What are the criteria for obtaining settlement in your jurisdiction? What restrictions apply in this regard?

The regime of Permits and Certificates to occupy residential accommodation applies to all persons at all times.

From an immigration perspective British, Irish and EU/EAA/Swiss citizens with Settled Status may relocate to Guernsey at will. Other nationals will generally require visas until they obtain Indefinite Leave to Remain (“ILR”). ILR may be granted to persons who have been lawfully resident for a continuous period of 5 years in the Bailiwick.

When such persons hold work visas their employers must certify that they are still required for work. They must demonstrate that they have sufficient knowledge of the English language and life in the UK and Bailiwick. They must not be in the Bailiwick in breach of any immigration laws.

Continuous residence means that individuals have not been outside the Bailiwick, UK, or the Islands for more than 180 days in any 12 month period of the 5 years. There are exceptions for absences as a result of serious illnesses, pregnancy, vocational training or overseas postings for work. However, the absence may not be longer than 12 months otherwise the continuous residence is broken. Continuous residence is also broken by periods of imprisonment.

Before an application for ILR is submitted, individuals aged between 18–64 must take and pass the Citizenship Test to demonstrate that they have sufficient knowledge of the English language and life in the UK and the Bailiwick. The Citizenship test is a 45 minute written test consisting of 24 questions based on the information within the official handbook for the Life in the UK.

Spouses and unmarried partners (which includes partners of the same sex) who arrived before 1 June 2015 may also apply for indefinite leave where they have completed 2 years as the spouse of a person present and settled in the Bailiwick.

4.2 Do any specific rules apply to foreign citizens with ancestral connections?

ILR may be granted to individuals on the grounds of UK ancestry where the individual can demonstrate that they meet all of the following requirements:

1. they are a Commonwealth citizen;
2. they are aged 17 or over;
3. they have proof that one of their grandparents was born in the UK or the Islands. The grandparent must either be a blood grandparent or a grandparent by reason of adoption;
4. they are able to work and intend to take or seek employment in the Bailiwick;
5. they will be able to accommodate themselves and any dependents without recourse to public funds;
6. they hold a valid entry clearance;
7. they have spent a continuous period of 5 years in the Bailiwick;
8. that they have knowledge of the English language and life in the UK/ the Bailiwick (unless they are under 18 or over 65);
9. they do not fall under one of the general grounds of refusal; and
10. that they are not in the Bailiwick in breach of any immigration laws.

4.3 What are the formal and documentary requirements for obtaining settlement?

The applicant must provide:

1. their current passport and if applicable any other previous passports that they entered the UK or Islands on;
2. the birth certificates and the current and previous passports for any dependents applying for an extension of stay with them;
3. documents showing that their partner is present and settled in the Bailiwick;
4. evidence that they have the funds to maintain and accommodate themselves and any dependents without recourse to public funds for example bank statements from the last three months or wage slips;
5. evidence that they have suitable accommodation that they either own or occupy exclusively i.e. tenancy agreements or deeds to property; and

6. evidence that they have passed the Citizenship Test.

If applying as a spouse then the marriage certificate needs to be provided.

If applying as an unmarried partner then documents showing that they have been in a relationship akin to marriage for at least two years need to be provided i.e. documents such as bank statements showing joint commitments to finances.

4.4 What fees are payable to obtain settlement?

There is a statutory fee of £2,389. If one or more dependents are applying then the fee increases by £2,389 per dependent.

4.5 What is the process for obtaining settlement? How long does this typically take?

The process is the completion of the application form for ILR to remain in Guernsey which can be found on the States of Guernsey website; www.gov.gg/immigration. The fee is payable at the time of submitting the application.

It can take up to 6 weeks to process the application.

4.6 Is the settlement process the same for EU citizens?

Following the UK's departure from the EU on 31 December 2020, individuals from the EU, EEA and Switzerland were required to apply under the EU/EEA/SWISS Settlement Scheme. The Scheme was established in order to protect the rights of citizens of the European Union, European Economic Action area and Switzerland and their families, provided they arrived on the island before 31 December 2020. The closing date for applications was 30 June 2021 although late applications may be considered where there are compelling reasons for the delay. The application is completed in person at the Immigration and Nationality Office, individuals will need to provide a valid passport, the month and year they arrived, and declare any criminal convictions. They must demonstrate that they have been in the Bailiwick for a continuous period of 5 years. If an individual has been in the Bailiwick for less than five years they may qualify for pre-settled status.

5. Dependents

5.1 What are the criteria to qualify as a dependant? What restrictions apply in this regard?

The spouse of a person who is present and settled in the Bailiwick of Guernsey who is not entitled in their own right to live in the Bailiwick for immigration purposes can qualify to join their spouse. Present and settled means that the person is a resident in Guernsey without being subject to restrictions and is physically present in the Bailiwick. Individuals can qualify to join their spouse if they are both over the age of 18 and if it can be shown that they are legally married and have been for at least 2 years. They must also demonstrate that they intend to live together permanently as spouses. Both spouses must demonstrate that they can support themselves and any

dependents without recourse to public funds. They must have suitable accommodation which is owned or lived in only by them and their household. The applicant must hold valid entry clearance.

The spouse will need to prove knowledge of the English language by taking an approved English language test unless they are from a recognised list of countries or have a degree or academic qualification that was taught in English.

Children of individuals who currently live and are lawfully settled in the Bailiwick can come and live with their parent or someone with parental responsibility if the parent can show that they have adequate accommodation where they can all live without help from public funds. The child must be under 18 and it must demonstrate that they are not leading an independent life, are not married and have not formed an independent family unit.

5.2 What rights do dependants enjoy once admitted as such?

Spouses will be allowed to stay and work in the Bailiwick for a period not exceeding 33 months. If at the end of that period they are still married and living with their spouse they can apply for a further 30 month extension. If after 60 months they are still married and living with their spouse then they will be able to stay in the Bailiwick permanently.

If children come with one parent then they will be able to stay in the Bailiwick for the same length as their parent. If the parent is allowed to stay permanently then the child will be able to stay here permanently too. If both parents are settled in the Bailiwick or a parent that is settled has sole parental responsibility then the child can stay permanently from the day they arrive.

5.3 How are civil/unmarried partners and same-sex partners treated in this regard?

Unmarried or same sex partners can join their partners in the Bailiwick if they are both over 18 and as long as their partners are currently living and settled in the Bailiwick or they are coming to live there permanently.

Both partners need to show that any previous marriage or similar relationship has permanently broken down. They must also show that they have been living together in a relationship similar to marriage for two years or more and that they intend to live together permanently. They must also demonstrate that they have suitable accommodation which is owned and lived only by them and their household where they and their dependents can live without help from public funds. They must meet the English language requirements.

Unmarried and same sex partners must get a visa or entry clearance before they travel to the Bailiwick. The Entry Clearance Officer will need to see evidence of a two year relationship and this will include documents showing joint commitments i.e. bank accounts investments, rent agreements or mortgages, letters linking them to same address and records of their address.

Unmarried and same sex partners will be allowed to stay and work in the Bailiwick for a period not exceeding 33 months. If at the end of that period they are still living with their partners they can apply for a further 30 month extension. If after 60 months they are still living with their partner then they will be able to stay in the Bailiwick permanently.

6. Intra-company transfers

6.1 Is there a specific regime for the transfer of employees from an overseas branch of a multinational to your jurisdiction?

In addition to the usual rules regarding Immigration status there are three categories of work permits available for employees being transferred from an overseas branch of a company to the Bailiwick branch of the company:

1. Category A permits;
2. Category B Permits – Trainees; and
3. Category C permits – Key Workers.

6.2 What is the maximum stay allowed under this regime? Can this be extended?

A Category A work permit is valid for up to 3 years.

A Category B work permit is valid for 1 year.

A Category C work permit is valid for up to 5 years.

6.3 What criteria must the employer satisfy to obtain a permit under this regime?

The criteria for Category A work permits are:

1. that the overseas company branch from which the employee (the "Transferee") is being transferred from and the company in the Bailiwick must have common ownership or control;
2. the Transferee must have been in the employ of the company for a period of 12 months and the employment must be for a particular project or for career development purposes;
3. at the end of the transfer period the Transferee will resume employment for the same company overseas; and
4. permission will not be granted if the Transferee has been in work permit employment in the UK or the Bailiwick within the previous 12 months or if they would qualify for settlement in the Bailiwick as a result of the work permit being issued.

The criteria for Category B work permits are:

1. as above the overseas company and the company in the Bailiwick must be linked by common ownership or control;
2. the Transferee must have been employed by the company for a period of at least three months with that period ending the date of the work permit application;
3. the transfer to the company in the Bailiwick must be for training purposes only;

4. the company in the Bailiwick must provide a written undertaking that the trainee placement will not be used to fill a long term post;
5. at the end of the transfer period the intention must be that the Transferee will resume employment for the same company overseas; and
6. permission will not be granted if the Transferee has been in work permit employment in the UK or the Bailiwick within the previous 12 months or if they would qualify for settlement in the Bailiwick as a result of the work permit being issued.

The criteria for Category C work permits are:

1. the company in the Bailiwick and the overseas company must be linked by common ownership or control;
2. the company must confirm the job, annual salary and at least a 12 month employment period for the company (this requirement will be waived if the annual pay exceeds £85,500); and
3. the employment must relate to the work of the employing company.

6.4 What are the formal and documentary requirements to obtain a permit under this regime?

Only an employer based in the Bailiwick can apply for a work permit by completing the Work Permit Application Form. Intracompany transfer work permits do not need to meet the English requirement or the advertising requirements.

A copy of the biodata (photo page of the passport) of the prospective employee must be enclosed with the application form. If they are in the UK or the Bailiwick of Jersey or Isle of Man then a copy of each page of their passport must be provided and that of any dependent.

Work permit holders also require a valid entry clearance for entry. The application to obtain the entry clearance must be made to the British Consular representative. Any accompanying dependents must also hold a valid entry clearance.

Form CR1 (a criminal declaration form) must accompany the application form and the prospective employee will need to have a tuberculosis test if they are coming to the Bailiwick for more than 6 months and if coming from the countries listed on the UK Home Office website.

6.5 What fees are payable to obtain a permit under this regime?

The fees for Category A and C is £500 and the fees for Category B is £300.

6.6 What is the process for obtaining a permit? How long does this typically take?

The process involves submitting the application form with the accompany documents listed above to the Immigration and Nationality Division of the Guernsey Border Agency. The Border Agency will provide an estimate on how long it will take to obtain a permit once the application has been submitted.

7. New hires

7.1 Are employers in your jurisdiction bound by labour market testing requirements before hiring from overseas? Do any exemptions apply in this regard?

Yes. Where employers are applying for work permits under the Sector Based Scheme (see 3.1 above) they must advertise the job using the most appropriate medium to reach permit free workers.

The advertising requirements do not apply to permits granted under the General Employment Scheme or intra-company transfers.

7.2 If labour market testing requirements apply, how are these satisfied and what best practices should employers follow in this regard?

Employers must advertise the job in the most appropriate medium that provides the optimum chances to reach suitably qualified permit free workers.

The employer may advertise the job by registering with the local job centre or recruitment agency or advertising on the internet, local newspapers and professional or trade journals. Any advertisements must include the job title, the main duties of the job and the qualification and experience needed.

Employers cannot submit an application for a work permit under the Sector Based Scheme until three weeks from when they first advertised the job has lapsed. They must submit evidence of their recruitment efforts along with their application for the work permit, this can be demonstrated through submitting the responses to the advertising the employer has received, the total number of people who responded, any individuals who were short listed for an interview and full reasons as to why permit-free workers did not make the cut.

7.3 Which work permits are primarily used for new hires? What is the process for obtaining them and what fees are applicable, for both employer and employee?

See section 3 above.

7.4 Is labour market testing required if the new hire is to extend his or her residence?

N/A

7.5 Can new hires apply for permanent residence?

OME(P) and (C) are granted for a period of up to five years.

Individuals under the STEP must leave the island once they have reached their aggregate 5 year period.

Once LTEPs have lived in Local Market for 8 consecutive years they can become an Established Resident, they can remain in Local Market accommodation indefinitely and can be employed in any job. If they stay in the local market for a further 6 years they can become a permanent resident.

8. Sponsorship

8.1 Are any licences or authorisations required to sponsor foreign nationals? What other criteria apply in this regard?

N/A

8.2 What obligations do sponsoring employers have to ensure continued immigration compliance?

N/A

8.3 Are sponsoring employers subject to any local training requirements?

N/A

8.4 How is compliance with the sponsorship regime monitored? What are the penalties for non-compliance?

N/A

9. Trends and predictions

9.1 How would you describe the current immigration landscape and prevailing trends in your jurisdiction? Are any new developments anticipated in the next 12 months, including any proposed legislative reforms?

In the aftermath of Brexit, there have been labour shortages in some sectors in Guernsey, most notably in the hospitality and retail sectors. which has been further compounded by the Covid-19 pandemic. Whereas when the UK was part of the EU many workers came from Europe employers are now looking further afield to recruit staff.

Guernsey, like many other places, also has a growing ageing population so a cross-Committee steering group has been set up to review Guernsey's immigration and population policy. The objectives of the review are to analyse what skills are needed to support economic recovery and growth and what the size of Guernsey's economically active working population will need to be to maintain sustainable economic growth. The review will also look at the impact of Brexit and membership of the Common Travel Area on immigration and the availability of Local and Open Market housing stock. The results of the review are pending.

10. Tips and traps

10.1 What are your top tips for businesses seeking to recruit talent from abroad and what potential sticking points would you highlight?

Employers seeking to recruit talent from abroad need to ensure that all applications for work permits are submitted on time as well as the correct fee to avoid late penalty fees and make the transition for their employees as seamless as possible.

The correct documents must be provided with the applications to avoid delays with the application process.

When recruiting for roles within the Sector Based Schemes employers will need to ensure that they have advertised the role appropriately to reach permit free workers and submit any evidence in relation to this with the application for the work permit.

About Carey Olsen

Carey Olsen is a leading offshore law firm advising on the laws of Bermuda, the British Virgin Islands, the Cayman Islands, Guernsey and Jersey from a network of nine international offices.

We provide legal services in relation to all aspects of corporate and finance, trusts and private wealth, investment funds, insolvency, restructuring and dispute resolution.

Our clients include global financial institutions, investment funds, private equity and real estate houses, multinational corporations, public organisations, sovereign wealth funds, high net worth individuals, family offices, directors, trustees and private clients.

We work with leading onshore legal advisers on international transactions and cases involving our jurisdictions.

In the face of opportunities and challenges, our clients know that the advice and guidance they receive from us will be based on a complete understanding of their goals and objectives combined with consistently high levels of client service, technical excellence and commercial insight.

Guernsey immigration services

We can advise you on the relocation process for you and your family, your assets, investments and your business interests offshore. We have the local knowledge and transactional experience to assist you with all aspects of your relocation, including advice on immigration and residency options; assistance in compiling information and documentation required by local authorities; advice on the relocation of assets and investments, estate and succession planning; as well as assistance with property purchases and leasing arrangements.

In addition to our comprehensive guidance on the immigration process our lawyers can also introduce you to key contacts in the relocation and private wealth sectors. Our services include:

- / Relocation and immigration
- / Residential and commercial property
- / Manager relocation
- / Trusts and estate planning
- / Wills and inheritance
- / Corporate law
- / Regulatory
- / Family office
- / Foundations and philanthropy
- / Employment and pensions
- / Intellectual property

 **Authors****Russell Clark**

Partner – Head of Trusts and Private Wealth

D +44 (0)1481 732049

E russell.clark@careyolsen.com**Patricia Montgomery**

Counsel – Trusts and Private Wealth

D +44 (0)1481 732093

E patricia.montgomery@careyolsen.com**Shumona Neswar**

Associate – Private Client and Trusts

Admitted in England & Wales

D +44 (0)1481 732063

E shumona.neswar@careyolsen.com

The Mondaq Comparative Guides are part of a series of publications that provide an overview of some of the key points of law and practice on multiple topics and allow readers to compare regulatory environments and laws across multiple jurisdictions. Carey Olsen has provided the Immigration guides for Bermuda, the British Virgin Islands, Cayman Islands, Guernsey and Jersey.

**PLEASE NOTE**

This briefing is only intended to provide a very general overview of the matters to which it relates. It is not intended as legal advice and should not be relied on as such. © Carey Olsen (Guernsey) LLP 2022.

**WINNER**

Our offices

Jurisdictions

Bermuda

Carey Olsen Bermuda Limited
Rosebank Centre 5th Floor
11 Bermudiana Road
Pembroke HM 08
Bermuda

T +1 441 542 4500
E bermuda@careyolsen.com

British Virgin Islands

Carey Olsen (BVI) L.P.
Rodus Building
PO Box 3093
Road Town
Tortola VG1110
British Virgin Islands

T +1 284 394 4030
E bvi@careyolsen.com

Cayman Islands

Carey Olsen
PO Box 10008
Willow House
Cricket Square
Grand Cayman KY1-1001
Cayman Islands

T +1 345 749 2000
E cayman@careyolsen.com

Guernsey

Carey Olsen (Guernsey) LLP
PO Box 98
Carey House
Les Banques
St Peter Port
Guernsey GY1 4BZ
Channel Islands

T +44 (0)1481 727272
E guernsey@careyolsen.com

Jersey

Carey Olsen Jersey LLP
47 Esplanade
St Helier
Jersey JE1 0BD
Channel Islands

T +44 (0)1534 888900
E jerseyco@careyolsen.com

International offices

Cape Town

Carey Olsen
Protea Place
40 Dreyer Street
Claremont
Cape Town 7708
South Africa

T +27 21 286 0026
E capetown@careyolsen.com

Hong Kong SAR

Carey Olsen Hong Kong LLP
Suites 3610-13
Jardine House
1 Connaught Place
Central
Hong Kong SAR

T +852 3628 9000
E hongkong@careyolsen.com

London

Carey Olsen LLP
Forum St Paul's
33 Gutter Lane
London EC2V 8AS
United Kingdom

T +44 (0)20 7614 5610
E londonco@careyolsen.com

Singapore

Carey Olsen Singapore LLP
10 Collyer Quay #29-10
Ocean Financial Centre
Singapore 049315

T +65 6911 8310
E singapore@careyolsen.com

OFFSHORE LAW SPECIALISTS

BERMUDA BRITISH VIRGIN ISLANDS CAYMAN ISLANDS GUERNSEY JERSEY
CAPE TOWN HONG KONG SAR LONDON SINGAPORE

[careyolsen.com](https://www.careyolsen.com)