

Seasonal Exemption – Hospitality Sector

Period covered by the exemption

- 1st March 2017 – 31st October 2017

Eligibility Criteria

- Employers must pre-register to use the exemption, indicating how many seasonal positions they are likely to require and to confirm they agree and understand the requirements of the exemption.
- The exemption only covers genuine seasonal vacancies and extensions to the exemption period will not be granted under any circumstances. Existing, continuing or subsequent employment must be covered by the granting of a permit. The exemption cannot be used in respect of employment which will continue after the expiry of the exemption period.
- The exemption only applies to workers with a minimum of 12 months' previous work experience in the Hospitality sector or related employment.
- The exemption only applies to bona fide employees employed under a contract of employment and it does not cover any zero hours contract workers, casual workers or agency workers.
- The exemption is only applicable to workers from the European Economic Area¹ (EEA) and employers must satisfy themselves that the workers are EEA nationals.
- The Control of Employment Act 2014 prohibits persons who have an unspent criminal conviction from using any exemption; and responsibility for vetting potential employees and conducting relevant background checks is the sole responsibility of the employer.

Conditions

- Employers must continue to make vacancies genuinely available to Isle of Man workers.
- The employer must notify the Department if any individual employed under the exemption, is charged with a criminal offence.
- Employers must comply with Isle of Man employment law in all respects (including the Minimum Wage Act 2001 and the Annual Leave Regulations 2007). Persons employed under this exemption shall not receive less favourable terms and conditions than any other staff of the employer who are performing similar duties.

Evidence / Record Keeping

- The employer must maintain records of those persons working under the exemption, (including evidence of identity verification, date of birth, national insurance number) and make the same available to the Department upon request.
- The employer must notify the Department if the employment ceases, if the employment concludes by other means, or if there is any other material change to the employment.

¹ The EEA states are the 28 member states of the European Union (Austria, Belgium, Bulgaria, Croatia, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Republic of Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom) and Norway, Liechtenstein and Iceland. Although Switzerland is not an EEA state, its nationals have the same rights to live and work in the Isle of Man as EEA nationals.

Approval Process

1. Employers will complete a registration form, providing:
 - a. Business details (Name, Address, Phone, E-mail etc.)
 - b. Responsible Officer details.
 - c. Expected numbers of persons to be covered by the exemption, categorised by job title and the period of employment to be covered.
 - d. Expected total number of employees to be employed during the season, including Isle of Man workers and those on existing work permits.
 - e. Statement outlining the reason for seeking the exemption, details of advertising undertaken and why the vacancies cannot be filled by Isle of Man workers
 - f. Completed declaration confirming acceptance of the exemption conditions.
2. The Department will review the registration form and, subject to approval, issue the relevant authorisation within 3 working days.
3. The authorisation will set out details of the exempted employments and the applicable conditions.
4. The employer must notify the Department, in advance, when they intend to employ an employee by way of the exemption, providing:
 - a. Full Name
 - b. Address
 - c. Date of Birth
 - d. National Insurance No.
 - e. Nationality
 - f. Job Title / Role Description
 - g. Dates of Employment
 - h. Confirmation of whether the individual was resident in the Island prior to commencing employment and, if not, whether any family members intend to join them upon commencing employment
 - i. Declaration that the worker complies with any conditions attached to the exemption (i.e. EEA national, no criminal convictions etc.)
5. The Department will make all forms available on-line.
6. Employers must maintain full and accurate records of all workers employed under the exemption, making the same available for inspection to the Department.
7. Employers must verify that any individual employed under the exemption is entitled to work in the Island.
8. The Department will conduct a minimum of 1 enforcement visit during the season to ensure compliance with the conditions of the exemption and other applicable employment legislation.
9. The employer must notify the Department if the employment of an exempted employee ceases, or if there is any other material change to their employment.