

POPULATION MANAGEMENT (GUERNSEY) LAW 2016

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GUERNSEY

As a British Crown Dependency, Guernsey has a stable and reliable legal system. With a long history of political stability, a highly respected regulatory framework and its accessibility via an established infrastructure make it a desirable international offshore destination for businesses. Guernsey's agile and pro-business government, low tax regime and compliance with international standards of regulation and transparency provide a secure and competitive choice.

INTRODUCTION

The following provides general guidance on the Population Management (Guernsey) Law, 2016.

This publication was last updated in April 2017. It is routinely reviewed by Appleby and updated when changes to the law require it. It is for general guidance only and does not constitute definitive advice. Please contact one of our lawyers if you require more detailed information.

Further publications are available from applebyglobal.com

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BACKGROUND

Guernsey operates a two-tier immigration system, with restrictions on non-EEA workers as well as non-local workers. This guide only deals with the latter. For advice concerning visas and immigration please contact a member of the Guernsey Employment Team using the [contact information](#) provided at the end of this guide.

Historically, the ability to work in Guernsey was governed by a system known as “Right to Work” which required non-locals to hold a housing licence in order to work and live in Guernsey. The previous regime has now been repealed and replaced with the Population Management (Guernsey) Law 2016 (**Law**) which came into force on 3 April 2017, albeit there are extensive transitional provisions which deal with individuals who have accrued rights under the old system.

The Law dictates which individuals can reside in Guernsey, for what length of time and in what type of property and requires almost everybody who works in the Island to hold either a Certificate or Permit. The Law is supported by a number of policies set by the Committee for Home Affairs which provide guidance on a number of issues such as what employment contract attracts what type of employment permit, what happens if an individual's circumstances change as well as a number of important additional exemptions from the Law.

WHAT IS THE DIFFERENCE BETWEEN A CERTIFICATE AND A PERMIT?

A Certificate is issued to a person who is entitled to live and undertake any employment in the Island. Some Certificates will restrict the individual to reside in open market accommodation.

A Permit is issued to a person whose ability to live and/or work in Guernsey is conditional and the Permit will explain what those conditions are. These will likely be a condition to be employed in a specific job or reside with a specific person.

With the exception of a Permanent Resident Certificates all Certificates and Permits become invalid if the holder leaves the Island.

WHAT ARE THE MAIN TYPES OF EMPLOYMENT PERMIT?

The three main permits that are linked to employment are Long Term Employment Permits (**LTEP**), Medium Term Employment Permits (**MTEP**) and Short Term Employment Permits (**STEP**). The key features of these permits are summarised below:

PERMIT	DURATION	CONDITIONS	RULES FOR THE HOLDER
STEP	Up to 1 year Renewable up to a maximum of 5 years	Named full time job and named employer	Can live in Open or Local market Must live in shared

	aggregate residence		<p>accommodation</p> <p>Is not a householder</p> <p>Cannot accommodate others</p> <p>Non-recognised breaks in residence will count towards the 5 years aggregate</p> <p>Can never hold another STEP once the 5 years aggregate residence limit is reached</p>
MTEP	<p>Up to 5 years</p> <p>Non-renewable</p>	Named full time job and named employer	<p>Can live in Open or Local market</p> <p>Is a householder</p> <p>Can accommodate immediate family members</p> <p>Must take a recognised break in residence upon expiry</p>
LTEP	Up to 8 years	Named full time job and named employer	<p>Can live in Open or Local market</p> <p>Is a householder</p> <p>Can accommodate immediate family members</p> <p>Can expect to become an Established Resident after completing 8 years residence under this Permit</p>

WHO DOES NOT REQUIRE A SPECIFIC EMPLOYMENT PERMIT?

In practice the majority of workers in Guernsey do not require a specific permit linked to their employment, rather they are entitled to work under some other status. Whilst the main types of

Permits and Certificates are summarised in the guide, there are numerous different types so for full details of these please click [here](#).

Anyone who was born and raised in Guernsey will be categorised as a Permanent Resident and hold a **Permanent Resident Certificate**. They have no restrictions on their employment, and are also free to live in any accommodation with an absolute right to return to Guernsey, regardless of any periods of time they spend away from the Island.

If someone has been living in Guernsey continuously for a period of 8 years under an LTEP (or housing licence under the old system) they will then become an Established Resident and hold an **Established Resident Certificate**. Established Residents have broadly similar rights as Permanent Residents, save that they lose their rights should they ever leave the Island. However, once an Established Resident has accumulated a further 6 years residence taking them up to 14 years in total, they will then become a Permanent Resident giving them the same rights as someone who was born and raised on the Island. For the sake of completeness, there are a number of other criteria through which an individual may qualify as a Permanent Resident, but this is outside of the scope of this guide.

In addition to the above, anyone who lives in Part A Open Market Property, either as the householder or a member of their family, will be free to work without restriction either with an **Open Market Resident Certificate (Part A)** or a **Family Member Resident Permit**.

WHAT IS THE DIFFERENCE BETWEEN LOCAL AND OPEN MARKET HOUSING?

Guernsey has a two-tier housing system whereby all accommodation is either classified as Local Market or Open Market.

Local Market is reserved for individuals who are either Permanent or Established Residents or possess either a MTEP or LTEP, or a family member of such a person. It should be noted that under the Law the previous Local Market TRP restrictions have been removed.

Open Market falls into four main categories known as Parts A, B, C and D. Part A is private houses and apartments and an example would be a family home; Part B is hotels where an Open Market property is operating as a hotel and has a boarding permit; Part C is nursing and residential homes, however not all nursing and residential homes are Open Market; and Part D is a lodging house where people are living individually in the property and each renting space within it. With the exception of certain children, generally anyone residing in Open Market accommodation is not building up any right to qualify as either a Permanent or Established Resident.

HOW WILL AN EMPLOYER KNOW WHICH EMPLOYMENT PERMIT IS APPLICABLE?

In order to assist employers with determining which employment permit is applicable for the role they are trying to fill, the Committee for Home Affairs has published its Employment Permit Policy.

This covers almost 240 jobs which it terms as 'In Policy' roles across a range of sectors including finance and professional services, tourism and hospitality, construction / infrastructure and utilities, public sector, service industries and retail and the e-industry and explains what Permit each role will attract.

This brings greater clarity to employers as they will now be able to determine in advance what type of Permit will be granted and also provides reassurance to the individual moving to the Island, that they will not simply be told to leave after the end of their 5 years should they only be issued with an MTEP. A few examples from the finance and professional services sector which are listed in the Employment Permit Policy are as follows:

Sector	Job Title	Qualifications needed	Experience	Permit
Accountancy	Partner / Director / Senior Manager	Degree; relevant professional qualification e.g. ACA, ACCA etc.	5+ years'	LTEP
Accountancy	Manager / Associate / Assistant	Degree; relevant professional qualification or is training towards qualification	N/A	MTEP
Banking	Director / Assistant Director / Senior Manager	Degree; relevant professional qualification e.g. IFA	5+ years'	LTEP
Banking	Director / Assistant Director / Senior Manager	Degree; relevant professional qualification or is training towards qualification	3+ years'	MTEP
Fiduciary Services	Director / Assistant Director	Degree; relevant professional qualification e.g. STEP, ICSA etc.	5+ years'	LTEP
Fiduciary Services	Manager / Associate / Officer / Assistant	Degree; relevant professional qualification or is training towards qualification	3+ years'	MTEP
Fund Services	Director / Assistant Director / Senior	Degree; relevant professional qualification e.g.	5+ years'	LTEP

	Manager	ICSA		
Fund Services	Associate / Assistant	Degree; relevant professional qualification or is training towards qualification	3+ years'	MTEP
Compliance / Risk	AML / Compliance – Head / Director / Assistant Director	Degree; relevant professional qualification e.g. ICSA, AML etc.	5+ years'	LTEP
Compliance / Risk	AML / Compliance – Officer / Assistant	Degree; relevant professional qualification or is training towards qualification	N/A	MTEP

To access the full Employment Permit Policy please click [here](#).

HOW TO MAKE AN APPLICATION FOR AN EMPLOYMENT PERMIT?

An application for an Employment Permit has to be made by the employer (unless the individual is self-employed) and should be made prior to the individual who will hold the Permit moving to Guernsey. Since this may not always be possible, a policy has been enacted which allows for applications to be made on or before the 3rd day of employment whilst still being deemed 'on time'. Applications made after the 3rd day of employment will incur additional charges.

Applications for Employment Permits are made on-line via the Employer Portal through the States of Guernsey website. When making an application for an Employment Permit for the first time, an employer will be requested to complete the Employer Assessment questions as well as information about the job for which they want a Permit. The employer will have to go through the assessment process once every 3 years. For full details of how Employer Assessment works, please click [here](#).

WHAT ARE THE FEES FOR EACH EMPLOYMENT PERMIT?

As at the publication of this guide the fees for STEPs, MTEPs and LTEPs are as follows:

STEP	
'In Policy' employment role	£120
'Out of Policy' employment role	£170
MTEP	

'In Policy' employment role	£400
'Out of Policy' employment role	£600
LTEP	
'In Policy' employment role	£700
'Out of Policy' employment role	£900

For full details of the fees for all Employment Permits please see [here](#).

WHAT HAPPENS FOR THOSE INDIVIDUALS WHO HOLD A RIGHT TO WORK UNDER THE 'OLD SYSTEM'?

Any Right to Work documents for current employees will remain valid until the expiry date provided that any conditions attached to it continue to be met. Some guidance is available on the States of Guernsey website on the transitional provisions on the website by clicking [here](#). For anyone unclear as to what their status will be under the Law, they are able to contact the Administrator who will be able to provide guidance as to what their position will be under the Law.

WHAT RESTRICTIONS ARE INTRODUCED BY THE LAW IN RELATION TO RESIDING IN OPEN MARKET PROPERTIES?

The Law introduced new rules restricting the length of time certain people can live in Open Market housing in Guernsey. These new rules will not be applied to some people who are living in the Island when the Law comes into force on 3 April 2017. Such individuals are known as 'Transitional People' and different rules and policies will apply. The Rules set out in the Law relating to Transitional People are sometimes known as 'Grandfather Rights' and these rights may allow an individual to continue residing in the specific type of Open Market accommodation.

The Administrator of Population Management has policies about Transitional People. An individual can usually expect that the policy will be applied to them if their situation exactly fits the policy description, however it is at the discretion of the Administrator whether to apply the policy or not. It is therefore advisable for an individual to make an application for a Permit under the policy instead of simply relying on their own assessment that they fit the description.

It is worth noting that Grandfather Rights are often lost should an individual move from their property. Full details regarding Transitional People and Grandfather Rights can be found [here](#).

For more specific advice on population management in Guernsey, we invite you to contact:



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Guernsey

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For the convenience of clients in other time zones, a list of contacts available in each of our jurisdictions may be found [here](#).