

**GC 2020/0002**



# **Business Migrant Endorsement Policy**

For applications for a Letter of Endorsement under  
Appendix X of the Immigration Rules

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1	February 2020	Endorsement Policy published	Andrew Stewart, Head of Policy & Strategy (DfE)
2	December 2020	No changes in policy. Minor typographical correction in paragraph 6.14 to clarify the correct reference to the Isle of Man Immigration Rules as 64A-SD	Andrew Stewart, Head of Policy & Strategy (DfE)

## **1. Introduction**

- 1.1. The Department for Enterprise ('the Department') is the first point of contact for Migrants seeking to apply to under Appendix X of the Isle of Man Immigration Rules as a Start-up or Innovator Business Migrant.
- 1.2. All Migrants must obtain a Letter of Endorsement from the Department before making an application for Entry Clearance, Leave to Remain or Indefinite Leave to Remain under Appendix X of the Immigration Rules.
- 1.3. An overview of the process is contained within this Policy and is subject to revision from time to time. A Revised Policy will be published on the Department's website.
- 1.4. Where this Policy refers to paragraphs of the Immigration Rules, those references relate to paragraphs of Appendix X of the Immigration Rules unless stated otherwise.
- 1.5. Definitions of terms and phrases used in this Policy are set out in Annex 1 of Appendix X to the Immigration Rules.

## **2. Available Categories**

- 2.1 This paragraph provides an overview of the title, purpose and main features of each Business Migrant sub-category contained in Appendix X of the Immigration Rules.

### **(a) Start Up**

This sub-category is for Migrants seeking to establish a business in the Isle of Man for the first time. Migrants will have an innovative, viable and scalable business idea as set out in paragraph 12.1. This category offers leave for 2 years and 4 months only. This category does not lead to indefinite leave to remain. Migrants may progress into the Innovator sub-category.

### **(b) Innovator**

This sub-category is for Migrants with business experience seeking to establish, join or take over one or more businesses in the Isle of Man. Unless progressing from the Start-Up sub category, Migrants will have the required funding to invest in the business. Migrants seeking to establish a new business under this sub-category will have an innovative, viable and scalable business idea. Migrants seeking to join, or take over an existing business or businesses, will be required to demonstrate how the investment will be made and the Migrants plans for the business. This category leads to indefinite leave to remain.

## **3 General requirements**

- 3.1 Any business venture(s) must benefit the Island as determined by the Minister for Enterprise, or someone duly authorised under delegated authority.
- 3.2 The source of funds and nature of the proposed business venture, must not be one which the Department deems will cause reputational harm to the Island.
- 3.3 An application must be submitted using the prescribed application form as published by the Department.

- 3.4 Migrants are encouraged to make as full a submission as possible, including all required information as requested on the application form and, where appropriate, additional evidence to support the application.
- 3.5 Applications will include a statement under which the Migrant consents to the Department carrying out necessary background and enhanced due diligence checks with those listed in paragraph 7.

## **4 Application process overview**

### Initial Application Stage

- 4.1 An application must be submitted on the relevant application form and all evidence required should be provided at the time of application.
- 4.2 An initial assessment of the application will be made to determine if it appears to meet the required criteria in terms of investment and / or business proposal.
- 4.3 The Department will give a Migrant further opportunity to expand their proposals, or provide additional information, when it is not initially clear if they are likely to be eligible.

### Formal Assessment

- 4.4 A Migrant who progresses through the Initial Application Stage will be subject to a formal assessment process. Due diligence will be undertaken on the Migrant and the source of funds together with a detailed assessment of business plans and / or investment proposals, taking into account the requirements of this Policy.
- 4.5 If the Department is satisfied as to the legitimacy of the application, business plans and / or investment proposals and they are assessed as suitable in accordance with the requirements set out in this Policy, a Letter of Endorsement will be issued to the Migrant.
- 4.6 Where the Department declines to provide a Letter of Endorsement, the Migrant will be given written details of the decision, together with information on how they can request a review of the decision.

## **5 Review of decision**

- 5.1 In cases where the Department declines to provide a Letter of Endorsement, the Migrant will be entitled to request a review of the decision.
- 5.2 A Migrant must make a request for a review in writing as soon as practical after the issuing of the decision, and in all cases no later than 28 working days from the date of decision.
- 5.3 A request for a review must be in writing and clearly set out where the Migrant feels the Department has erred in assessing the application against this Policy.
- 5.4 The Department will nominate a Senior Officer from within the Department, who has not previously been involved in the decision making process, to review the decision.
- 5.5 The review decision will be informed to the Migrant in writing and the outcome of this review is final.

## 6 Source of funds

- 6.1 A Migrant must demonstrate that they have the required funds, under their control and held in a regulated financial institution.
- 6.2 Funds in paragraph 6.1 must be disposable in the Isle of Man, and amount to the level of funds required by the sub-category under which the application is made.
- 6.3 Funds may be held overseas at the time of application, or may already be in the Isle of Man.
- 6.4 Funds will not be accepted if they are held in a financial institution as listed in Appendix P of the Immigration Rules.
- 6.5 A Migrant may rely on money that is owned either jointly with, or solely by their husband, wife, civil partner, unmarried or same-sex partner. A Migrant must have unrestricted right to transfer and dispose of the money and have permission from their husband, wife, civil partner, unmarried or same-sex partner to have control of this money in the Isle of Man. A Migrant must provide the evidence of their relationship and the permission to use the joint funds given in the section on supporting documents.
- 6.6 If the funds are not held in pounds sterling, the Migrant must convert its value into pounds sterling on the application form. The Department will check the conversion using the exchange rate shown on the Oanda website on the date on which the application was made.
- 6.7 A Migrant may use, as evidence of funds, investments made in the Isle of Man or UK within the 12 months immediately before the date of the application, provided they are held in an Isle of Man or UK regulated financial institution.
- 6.8 A Migrant may not use assets or possessions such as property as evidence of funds for investment.
- 6.9 In all cases the Migrant (or in the case of paragraph 6.5 above, a Migrant and/or their husband, wife, civil partner, or unmarried or same-sex partner) must be the beneficial owner of the funds and not holding the investments on behalf of anyone else.
- 6.10 The money must:
- (a) be held in a regulated financial institution;
  - (b) be disposable in the Isle of Man; and
  - (c) amount to the level required, or more, as specified under the route which the application is made.
- 6.11 A Migrant must provide at least one piece of evidence from the table below with their application. If the documents submitted with the application do not contain all the required information, a Letter of Endorsement will not be issued:

Where is the money?	How is it shown?	More detail
The Migrant has a portfolio of investments.	A portfolio report produced by an Isle of Man or UK regulated financial institution.	Whether or not the funds are currently in the Isle of Man or UK, the Migrant can use a letter or portfolio report from an Isle of Man or UK regulated financial institution.

The Migrant has a portfolio of investments.	<p>The Migrant:</p> <p>(a) manages their own investments; or</p> <p>(b) their portfolio manager does not operate in the Isle of Man, or UK, and is not regulated by the Isle of Man Financial Services Authority (FSA), the UK Financial Conduct Authority (FCA) or the UK Prudential Regulation Authority (PRA).</p>	The Migrant can use a letter or portfolio report but they must also supply documentary evidence of their holdings used in the application.
The Migrant has money in a bank.	Official documents from a regulated bank.	<p>If the money is already held in the Isle of Man or UK in a regulated financial institution, the Migrant may supply recent personal bank or building society statements, with the most recent statement being dated no earlier than 31 calendar days before the date of the application.</p> <p>If the money is held overseas, a letter from each financial institution holding the funds, issued by an authorised official of that institution. The letter must confirm the minimum balance available from the Migrant's own funds held in that institution on the date of the letter.</p>

- 6.12 The Migrant must have held the funds for a minimum period of 2 years prior to making an application for a Letter of Endorsement, unless the circumstances in paragraph 6.13 apply.
- 6.13 If the Migrant has not held the funds for a minimum period of 2 years, the Migrant must provide additional evidence as to the source of funds and where such funds are derived from. The following sources may be considered as permissible:
- (a) a gift;
  - (b) deeds of sale;
  - (c) a will;
  - (d) a divorce settlement.
- 6.14 If the Migrant is relying on funds in accordance with paragraph 6.13 they will be required to supply evidence as specified in paragraph 64A-SD of the Isle of Man Immigration Rules.
- 6.15 The Department must not have reasonable grounds to believe that:
- (a) notwithstanding the Migrant holds a visa issued under Appendix X of the Immigration Rules the Migrant is, or was, not in control of and at liberty to

freely invest the money specified in the Migrant's application for the purposes of meeting the requirements of Appendix X of the Immigration Rules; or

- (b) any of the money specified for the purposes of meeting the requirements of the Immigration Rules held by:
  - (i) the Migrant; or
  - (ii) where any of the specified money has been made available to the Migrant by another party, that party;

has been acquired by means of conduct which is unlawful in the Isle of Man, or would constitute unlawful conduct if it occurred in the Isle of Man, or has been transferred internationally by means which are unlawful in any of the countries involved.

## **7 Due diligence**

- 7.1 All Migrants will be subject to Department customer and enhanced due diligence checks during the formal assessment process.
- 7.2 The Department will use any relevant information provided by the Migrant to inform the enhanced due diligence checks and for the purposes of undertaking necessary background checks, such information may be shared with:
  - (a) The Department of Home Affairs;
  - (b) The Isle of Man Treasury;
  - (c) The Isle of Man Financial Intelligence Unit;
  - (d) The Isle of Man Financial Services Authority;
  - (e) The Isle of Man Passport Office;
  - (f) The Isle of Man Immigration Office;
  - (g) The Isle of Man Nationality Office; and
  - (h) WorldCheck or other similar background checking process.
- 7.3 If the Department is not satisfied in respect of information obtained as a result of the enhanced due diligence checks, a Letter of Endorsement will not be issued.

## **8 Monitoring**

- 8.1 Following the issue of the Letter of Endorsement, the Department will maintain regular contact with the Migrant at maximum checkpoints of 6 months from the date the Letter of Endorsement is issued, to ensure reasonable progress is being, and continues to be, made.
- 8.2 Failure by the Migrant to respond to requests for information by the Department, or provide clarification on the progress of the planned investment or business proposals will lead to the withdrawal of the Letter of Endorsement.
- 8.3 If it appears to the Department that the Migrant is no longer pursuing the original investment or business proposals for which the Letter of Endorsement was issued, the Migrant will be requested to demonstrate that they are pursuing new business ventures that meet the criteria set out in this Policy.
- 8.4 If the Department is not satisfied that the Migrant is genuinely pursuing new business ventures which meet the criteria set out in this Policy, the Letter of Endorsement will be withdrawn.

## **9 Letter of Endorsement**

- 9.1 Where a Migrant meets the criteria set out in this Policy and the Department is satisfied as to the suitability of the Migrant and legitimacy of the source of funds, where relevant, a Letter of Endorsement will be issued by the Department.
- 9.2 Where a Migrant fails to meet the criteria set out in this Policy, or the Department cannot be satisfied as to the suitability of the Migrant or the legitimacy of the source of funds, a Letter of Endorsement will not be issued.
- 9.3 If, following the issue of the Letter of Endorsement, the Department becomes aware of additional information which was not available at the time of application, or if the Department becomes aware that the Migrant provided false or misleading information in their application, then the Department reserves the right to withdraw the Letter of Endorsement.
- 9.4 The Department may withdraw the Letter of Endorsement in accordance with paragraph 10 of this Policy.

## **10 Withdrawal of Endorsement**

- 10.1 The Department will stay in contact with the Migrant at checkpoints of maximum intervals of 6 months from the date the Letter of Endorsement is issued.
- 10.2 The Department will inform the Immigration Service if both of the following apply:
- (a) the Migrant has not made reasonable progress with their original business venture; and
  - (b) the Migrant is not pursuing a new business venture that meets the endorsement criteria set out in this Policy.
- 10.3 The Department will inform the Immigration Service if a Migrant misses any checkpoints without the Department's authorisation.
- 10.4 The Department will withdraw its endorsement if either paragraph 10.2 or 10.3 applies, unless it is made aware in writing by the Migrant of exceptional and compelling reasons not to withdraw its endorsement, that the Department will consider on a case by case basis, and must inform the Immigration Service of those reasons.
- 10.5 If a Letter of Endorsement is withdrawn, the Department will immediately notify the Migrant and the Isle of Man Immigration Service in writing.
- 10.6 If, following the issuing of a Letter of Endorsement, the Migrant fails to meet the criteria set out in this Policy or fails to comply with any condition contained within the Letter of Endorsement, then the Department reserves the right to withdraw the Letter of Endorsement.
- 10.7 If a letter of Endorsement has been issued in the Innovator sub-category the Department will inform the Immigration Service in writing if it has reason to believe that a Migrant is working outside of their own business venture(s) in breach of the Migrant's visa conditions.



**11 Reasonable Progress**

- 11.1 The Department will consider reasonable progress to not have been made where at least one of the following apply:
- (a) the Migrant fails to invest funds in accordance with the proposals for which the Letter of Endorsement was issued;
  - (b) the Migrant fails to establish the business, or businesses, as outlined in their application for a Letter of Endorsement;
  - (c) the Migrant fails to respond within the timeframe specified in the request, to requests for information, to invitations to meetings, to provide clarification on the progress of the planned investment and / or establishment of business, or businesses;
  - (d) the Migrant fails to adequately demonstrate that they are playing an active role in the day to day management of any businesses established in the Isle of Man, where the Letter of Endorsement has been issued under the Business Migrant Start Up or Innovator routes.

**12 Requirements for the Issue of a Letter of Endorsement - Business Migrant (Start-up)**

Endorsement Criteria

- 12.1 A full business plan will be required demonstrating innovation, viability and scalability of the proposed business:

Innovation	Viability	Scalability
The Migrant has a genuine, original business plan that meets new or existing market needs and/or creates a competitive advantage.	The Migrant has, or is actively developing, the necessary skills, knowledge, experience and market awareness to successfully run the business.	There is evidence of structured planning and of potential for job creation and growth into new or existing markets.

- 12.2 If the Migrant’s last grant of leave was in the Tier 1 (Graduate Entrepreneur) category this requirement does not apply. The Migrant must demonstrate that the business venture is genuine and credible.
- 12.3 The Migrant must confirm they have not previously established a business in the UK or Isle of Man (unless the Migrant’s last grant of leave was under the Start-up or Tier 1 (Graduate Entrepreneur) category in the UK or Isle of Man.
- 12.4 The business plan must include:
- (a) full details of the business idea, demonstrating an innovative business proposition which will complement existing market needs;
  - (b) business model, together with short and long term objectives, key customers, confirmed orders or customer interest etc.;
  - (c) employment structure including expected numbers of employees, types of jobs, wage rates etc.;
  - (d) details of expected premises, including whether the intention is to rent or purchase commercial premises;
  - (e) marketing plan including whether customers are off-Island or on-Island;

(f) analysis of why the business is suitable to be established and developed in the Isle of Man.

- 12.5 The Migrant should include a Curriculum Vitae/résumé, demonstrating their skills, knowledge and experience relevant to the application for a Letter of Endorsement.
- 12.6 The Migrant must confirm they will become resident in the Isle of Man for the purposes of Income Tax and will spend the majority of their day to day working time managing and developing their business ventures conducted from premises in the Island.
- 12.7 Migrants must be at least 18 years old.
- 12.8 The Department reserves the right to request further information as it may deem relevant.

### **13 Requirements for the Issue of a Letter of Endorsement – Business Migrant (Innovator)**

#### New Business or same business – definitions

- 13.1 A Migrant may be endorsed under the “new business” endorsement criteria if either of the following apply:
- (a) the application is an initial application; or
  - (b) the application is an extension application, and the Migrant is pursuing a different business venture from the one that was assessed in the endorsement which led to the Migrant’s previous grant of leave.
- 13.2 A Migrant may be endorsed under the “same business” endorsement criteria if both of the following apply:
- (a) the Migrant’s last grant of leave was in the Tier 1 (graduate Entrepreneur), Start-up or Innovator category; and
  - (b) the Migrant is pursuing the same business venture that was assessed in the endorsement which led to that grant of leave.
- 13.3 A Migrant may be endorsed under the “new business” or “same business” criteria if both of the following apply:
- (a) the Migrant’s last grant of leave was in the Tier 1 (Graduate Entrepreneur) or Start-up category; and
  - (b) the Migrant is pursuing the same business venture that was assessed in the endorsement which led to that grant of leave.

#### New Business

- 13.4 A Migrant applying for an Innovator new business Letter of Endorsement must demonstrate compliance with each of paragraphs 13.5 to 13.18.
- 13.5 The Migrant’s intention to register the proposed business, or businesses, to be established, in the Isle of Man. The nature of the business must create economic benefit and not be one which in the opinion of the Department will cause reputational harm or other detriment to the Isle of Man.

- 13.6 At least £50,000 funds must be available to the Migrant which is free to invest in the business or businesses. This may include funds which have already been invested in the business.
- 13.7 The Department will require evidence in respect of the identity and source of funds as set out in paragraph 6 of this Policy and will carry out relevant due diligence checks in accordance with paragraph 7.
- 13.8 The £50,000 investment can be used for seed capital for the business or businesses, to provide financial support towards business set up costs, purchase of equipment, ongoing regular expenditure (i.e. marketing, research and development etc.) and salaries of employees, subject to paragraph 13.10.
- 13.9 If the business venture has one or more Migrant team members who are applying for, or have been granted, leave in the Business Migrant (Innovator) sub-category they cannot share the same investment funds. There must be at least £50,000 investment funds available for each Innovator Migrant team member. These additional funds are not needed for team members who are resident workers or who have leave under another category of the Immigration Rules, which allows them to engage in business.
- 13.10 The £50,000 investment cannot be used for the payment of salaries to the Migrant, or anyone directly connected to the Migrant by way of family, social or other connection.
- 13.11 Migrants seeking to establish a business in the Isle of Man will be required to provide a full business plan demonstrating innovation, viability and scalability of the proposed business:

Innovation	Viability	Scalability
The Migrant has a genuine, original business plan that meets new or existing market needs and/or creates a competitive advantage.	The Migrant has, or is actively developing, the necessary skills, knowledge, experience and market awareness to successfully run the business.	There is evidence of structured planning and of potential for job creation and growth into new or existing markets.

- 13.12 The business plan must include:
- (a) full details of the business idea, demonstrating unique or innovative business proposition which will complement existing market needs;
  - (b) a business model, together with short and long term objectives, key customers, confirmed orders or customer interest etc;
  - (c) the employment structure including expected numbers of employees, types of jobs, wage rates etc.;
  - (d) details of expected premises, including whether the intention is to rent or purchase commercial premises;
  - (e) a marketing plan including whether customers are off-Island or on-Island; and
  - (f) an analysis of why the business is suitable to be established and developed in the Isle of Man.
- 13.13 Migrants seeking to join, or take over, an existing business or businesses in the Isle of Man will be required to provide a business plan, demonstrating how the investment will be made and the Migrant's plans for the business. The business plan must include all of the following:
- (a) full details of the existing business, including the business name, trading name, company registration information and details of all other directors, shareholders or other persons with beneficial ownership of the business;

- (b) a description of business activities, existing customer base, current turnover and corporate profits;
- (c) the employment structure including current number of employees, types of jobs, wage rates etc.;
- (d) details of existing premises, including whether such premises are owned or rented;
- (e) full details of the level of investment to be made by the Migrant and how that investment will be made;
- (f) full details of the Migrant's plans for the business or businesses, including any plans for expansion and further job creation.

13.14 The Migrant's business plan must forecast the employment of a minimum of 1 full-time equivalent, permanent employee in the Isle of Man, in addition to the employment of the Migrant, to work from premises in the Island within the first 12 months of the period for which the letter of endorsement is sought.

13.15 The Migrant's business plan must forecast the employment of a minimum of 3 full-time equivalent, which includes the 1 full time equivalent permanent employee in paragraph 13.14, in addition to the employment of the Migrant, to work from premises in the Island within the first 36 months of the period for which the letter of endorsement is sought.

13.16 In all cases, employees of the business or businesses must be classed as resident in the Isle of Man for the purposes of Isle of Man Income Tax.

13.17 Migrants must be at least 18 years old.

13.18 The Migrant must confirm they will become resident in the Isle of Man for the purposes of Income Tax and will spend the majority of their day to day working time managing and developing their business ventures conducted from premises in the Island.

13.19 The Department reserves the right to request further information as it may deem relevant.

### **Same Business**

13.20 In order to be issued a Letter of Endorsement under the "same business" criteria, Migrants must demonstrate all the following criteria are met:

- (a) the Migrant has fully established their business or businesses judged against the business plan assessed in their previous endorsement;
- (b) the Migrant's business or businesses are based in the Island and actively trading, holding all necessary registrations, approvals and permissions as required;
- (c) the Migrant's business or businesses are compliant with all obligations to the Isle of Man Government in respect of Income Tax, National Insurance and Value Added Tax, if applicable;
- (d) the Migrant is resident in the Isle of Man for the purposes of Income Tax;
- (e) the Migrant's business or businesses employ the number of employees as required by the sub category under which the Migrant was originally endorsed;
- (f) all employees of the Migrant's business or businesses, including the Migrant, are resident in the Isle of Man for the purposes of Isle of Man Income Tax; and
- (g) the Migrant's business or businesses have a realistic prospect of continuing success against the business plan(s) submitted for the Initial Letter of Endorsement. The Department will require evidence to support this by way of copies of management accounts, corporate bank statements and any other relevant information requested by the Department.

**Letter of endorsement to support a visa application for Leave to Remain**

13.21 An application for a Letter of Endorsement to support an application for a Leave to Remain visa must demonstrate:

- (a) the Migrant's business or businesses continue to be genuinely based in the Isle of Man and actively trading, holding all necessary registrations, approvals and permissions as required;
- (b) the Migrant's business or businesses are compliant with all obligations to the Isle of Man Government in respect of Income Tax, National Insurance and Value Added Tax, if applicable;
- (c) the Migrant's business or businesses employ a minimum of 3 full-time, permanent employees in the Isle of Man, in addition to the Migrant, at the time of applying for the Settlement Letter of Endorsement;
- (d) all employees of the Migrant's business or businesses, including the Migrant, are resident in the Isle of Man for the purposes of Income Tax; and
- (e) the Migrant intends to continue to operate the business or businesses in the Isle of Man.

13.22 Migrants who do not satisfy the conditions in this section will not be issued an Innovator Letter of Endorsement to support any visa application for Leave to Remain.