



DRAFT IMMIGRATION PROCESS PROPOSAL

Safety, Security and Home Affairs Portfolio
Immigration Department (Future Customs and Immigration Department)
St Helena Government
Jamestown

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Introduction

1 Background

1.1 Scope

This Immigration process applies to all persons seeking to enter, live or work on St Helena.

1.2 Legal Framework

This Immigration process directly relates to the Immigration Ordinance

2 Introduction

2.1 Intention

This document sets out the St Helena Government's (SHG's) operational processes with respect to Immigration.

The Immigration process establishes effective border controls ensuring that the island is a safe and secure place for residents and visitors.

The Immigration process seeks to strike a delicate balance between increasing immigration and protecting the local labour market.

The Immigration process sets out SHG's requirements for:

- Entry controls
- Employment controls
- St Helenian Status
- Appeals
- Enforcement
- Asylum

Nothing in this document detracts from the formal legal position set out in the Immigration Ordinance.

The Immigration process will take effect from [date to insert].

2.2 Objectives

The Objectives of the new Immigration processes are:

- Protecting Borders to ensure that the Island is safe and secure;
- Creating a robust immigration system that allows the flexibility required by St Helena's unique characteristics;
- Ensuring that all applications made under the Immigration Ordinance are processed fairly, consistently and transparently;
- Simplifying and clarifying existing processes in order to make them more user-friendly and
- Supporting and encouraging economic growth.
- Aid in increase the population of St Helena.

3 Entry to St Helena: The System for Entry Control

This section of the Immigration process covers an individual's entry to St Helena.

3.1 Minimum Entry Requirements

All immigrants travelling to St Helena must ensure prior to arrival that they can meet the following entry requirements:

- a) All persons travelling to St Helena must have a valid passport to enter St Helena. This is required as proof of identity and nationality.
- b) The passport should be valid for six months after the date on which a person is to leave St Helena at the end of their travel.
- c) There should be at least 2 blank pages in the passport.
- d) A person may also need a visa prior to travelling, depending on their country of Nationality. Possession of a valid visa is required in accordance with the Immigration Ordinance.
- e) All immigrants should have sufficient funds or adequate up-to-date medical insurance to cover the cost of medical evacuation from St Helena as prescribed by the current legislation in place at the time of entry. Should medical assistance or evacuation be required, the person travelling shall cover the full cost of this.
- f) All immigrants should have confirmed accommodation for the full duration of their stay on St Helena.
- g) Possession of a return flight ticket or evidence of other means of departure from the island, including any visas necessary for the return or onward journey where applicable.
- h) All immigrants must meet the requirements of the Immigration Ordinance, even if they are travelling as, for example, a family group, a tour group or a school party.
- i) Entry for all persons is subject to satisfactory security checks.
- j) All Visa Nationals as prescribed in section 9A of the Immigration Ordinance must be in possession of a genuine valid visa.
- k) All documents submitted with an application must be in English. If they are not in English, the applicant must provide the original and a certified translation.
- l) An applicant who has dependants wishing to travel with/accompany him will need to complete a separate application for each applicant. The application of a dependant will be assessed in line with the main applicant's application.
- m) Persons travelling with children may be asked at the border to prove the relationship between them and any children travelling with them, if they do not seem to be the parent, or if the child is travelling with only one parent. This must be proven with:
 - i. Original or certified copy of a birth or adoption certificate showing the relationship with the child, and
 - ii. Certified copy of divorce decree or marriage certificates in the case of a parent who has a different surname from the child, and
 - iii. If applicable, a letter from the child's parents giving permission for the child to travel with a person who is not the parent and providing contact details for the parents as well as certified copies of the parents' passports/proof of identity.

It should also be noted that:

- n) An Immigration Officer who has reasonable grounds to suspect that a person seeking entry to St Helena may be suffering from a serious mental health condition or infectious disease, may refer the person to undergo medical examination before granting that person entry into St Helena.
- o) An Immigration Officer who has reasonable grounds to suspect that a person seeking entry to St Helena is withholding material information in relation to their application or their circumstances, may refuse to grant entry to that person.

3.2 Persons seeking entry to St Helena will fall into the following categories:

- a) Those with automatic right of entry to St Helena (Saint Status/Permanent Residence Holder);
- b) Those exempted from entry controls;
- c) Those who are required to make application for or obtain a Visa. There are four categories of visa depending on the planned length of stay:
 - i. Landing Permission (for stays on-island of up to 48 hours)

- ii. Short Term Entry Visa (categories for stays on-island of up to 6 months)
- iii. Long Term Entry Visa (categories for stays on-island in excess of 6 months up to a maximum of 5 years).
- iv. Work Visa (Serves as an Entry Visa also)

3.3 Persons with Automatic Right of Entry to St Helena

A person is considered to have the automatic right of entry to St Helena if they can prove that they possesses St Helenian Status.

3.4 Persons exempt from Entry Control

The following persons, and their dependants are exempt from Entry Controls and will not require Landing Permission or Entry Visa:

- a) A dependant of a person who has St Helenian Status
- b) Employees of the Crown who are either British Citizens or Non-Visa nationals
- c) Sovereigns, Heads of State or Persons travelling on Official or Diplomatic Passports, whether travelling officially or privately.
 - i. Members of their family, forming part of their household and their private servants are also exempt from immigration control.
 - ii. Members of their household include, but are not limited to, spouses, civil partners and children under the age of 18.
 - iii. All persons included in an official state visit for the purpose of attending to the Head of State will also be exempt from immigration control.
 - iv. All people named in the official party should be employees of the sending state.
 - v. A consular officer within the meaning of the Vienna Convention on Consular Relations 1963.

3.5 Persons not exempt from Entry Control

All other immigrants (excluding Employees of the Crown who are either British Citizens or Non-Visa nationals are exempt from holding an Entry Visa) travelling to St Helena will require Landing Permission or an Entry Visa. This includes but not limited to the following persons and their dependants:

- a) Seafarers who are visa nationals, travelling to St Helena for 6 months or less for the following reasons, require a visa:
 - i. Private visits;
 - ii. Travelling as passengers;
 - iii. Signing on ship's articles as supernumeraries at nominal rates of pay; or
 - iv. Visiting yachtsmen.
- b) Aircraft security guards, crew on training, loadmasters and others are not accepted as operating crew; they will need their passports and, where applicable, visas.
- c) Airport based operational ground staff (station managers, security managers and technical managers only) of overseas owned airlines do need prior entry permit. All other staff of overseas airlines who will be based on St Helena will need entry permit and a Long-Term Entry permit
- d) Journalists, businessmen or other people not employed by the sending state that are included in official parties are not exempt from immigration control and must meet the requirements of the Immigration Rules as business visitors
- e) Ex-Heads of State and their families are not exempt from immigration control. They should be treated as private persons

3.6 Visa National Travellers

Persons holding a passport from a country specified by the Governor in Council by order shall not be allowed to travel to St Helena without first having obtained a visa prior to embarking on their journey to St Helena. (Please refer to Appendix A for the list of Visa National Countries). If a visa is granted, the traveller may be issued a Short Term Entry Permit on arrival.

A visa national who arrives on St Helena without a genuine valid visa will be refused Entry.

A visa national is also required to apply for the relevant Long Term Entry Visa prior to travelling if seeking to remain in St Helena for longer than 6 months.

3.7 The Landing Permission: Entry to the Island for up to 48 Hours

The Landing Permission has been designed with passengers of cruise ships and other vessels in mind. It is intended for a specified number of passengers and crew of that vessel to enter St Helena for a short period not exceeding 48 hrs without obtaining an entry permit. The Landing Permit is non-renewable.

The Landing Permission is a 'blanket' pass that is issued to the Master of a Vessel. The Master of the Vessel should, on arrival at St Helena, provide the Immigration Officer with a list of names, dates of birth and nationalities of persons on board who are seeking entry to St Helena. The Immigration Officer will provide the Master of the Vessel with a Landing Permission referenced to this list which will give the persons listed the right of entry to St Helena for up to 48 hours.

Upon arrival at St Helena, should an individual not meet the minimum entry requirements, repatriation of that individual will be the responsibility of the Master of the Vessel through which the individual arrived at St Helena.

3.8 The Short Term Entry Visa: Entry to the Island for up to 6 months

The Immigration Officer has the authority to issue a visitor, and his dependants Short Term Entry Visa upon arrival at the island if the intended stay is up to a maximum of 6 months, subject to all requirements being met by the applicants. An individual may apply for multiple Short Term Entry Visas, provided they depart St Helena prior to each application for a new Short Term Entry Visa. Each application will be assessed on the merits and previously holding a Short Term Entry Visa does not guarantee issuance of future permits.

A refusal by an Immigration Officer of an application for a Short Term Entry Visa will attract a right to review by a Senior Immigration Officer

The applicant should not fall for refusal under the General Grounds for Refusal.

The following conditions will attach to Short-Term Entry Visa:

- i. The Permit holder may not remain on St Helena longer than 6 months unless an application for a Long Term Entry Permit is made and approval received before the Short Term Entry Permit expires
- ii. Any friends or relatives visited must be lawfully on St Helena
- iii. There will be no recourse to public funds

The following activities are permissible while on St Helena on a Short Term Entry Visa:

- i. Tourism/leisure
- ii. Visiting friends and/or relatives
- iii. Volunteering
- iv. Participating in a training or educational programme
- v. Research, if in possession of a research license approved by the St Helena Research Institute
- vi. Prospective entrepreneur or general business activities (i.e. attend meetings, conferences, seminars, interviews; deliver and/or receive work-related training, consultancies, remote work incidental to other trip purposes). Business activities will

normally be linked to the person's employment overseas and activities for business visitors are mostly incidental to their employment abroad.

- vii. Employment is permissible only under the conditions defined in Section 4.

3.9 The Long Term Entry Visa

This section of the policy sets out the circumstances under which a person applies to enter and remain on St Helena for longer than 6 months and up to maximum period of 5 years. Long Term Entry Visa holders must be able to demonstrate that they are able to support themselves for the duration of the permit, whether through sufficient financial holdings or as the partner or dependant of someone who can demonstrate they are able to support themselves.

Immigrants intending to remain in St Helena for longer than 6 months are expected to apply for a Long Term Entry Visa before travelling to St Helena. However, holders of a valid Short Term Entry Visa may be eligible to apply for a Long Term Entry Visa while located on St Helena if their circumstances change before the expiry of the Short Term Entry Visa. Having previously entered St Helena on a Short Term Entry Visa will not be a disqualifying factor when applying for a Long Term Entry Visa. Likewise, holding a Short Term Entry Visa does not guarantee issuance of a Long Term Entry Visa.

An application to change from a Short Term to Long Term Entry Visa or to renew a Long Term Entry Visa may be submitted no earlier than 3 months prior to and no later than 28 days before the date of expiry of the applicant's current Entry Visa.

The applicant must not fall for refusal under the General Grounds for Refusal, and provided that there is a satisfactory outcome to immigration security checks.

- i. Visa holders are approved to do work of a temporary or casual nature. The main purpose of the visa is holiday and travel, so work for longer than 6 months with any one employer is not allowed.

3.9.1 Dependant – Spouse, Civil Partner or Life Partner of a St Helenian

- a. The couple must have met in person
- b. The marriage/civil partnership should not be a sham marriage
- c. The couple must be in a genuine and subsisting relationship
- d. Neither the applicant nor their partner must be married to, or in a civil partnership with another person at the date of application
- e. Each application will receive consideration of the family and individual circumstances, taking into account all matters raised on a case-by-case basis
- f. All marriages which take place on St Helena, to be recognised as valid, must be monogamous and must be carried out in accordance with the requirements of the applicable marriage legislation (Marriage Ordinance 2016)
- g. A marriage or civil partnership which has taken place abroad is recognised as legal if it was properly conducted to satisfy the requirements of the law of the country in which it was solemnised. A valid marriage certificate must be produced as evidence of a legally recognised marriage. If the Marriage certificate of a foreign document it needs to be apostilled or legalised with an official confirmation that a signature, seal or stamp on a document is genuine

3.10 Curtailment of an Immigration Visa

Where a permit has been granted, the Visa Holder, Sponsor, Employer or St Helenian dependant is required to, as soon as is reasonably practicable, inform the Immigration Service of any change in circumstances which may affect the initial decision of person's visa or permission to stay in St Helena.

The Immigration Officer will, upon assessment, determine whether a Long Term Entry Visa should be curtailed. The visa holder is not precluded from applying for permission to remain on St Helena under a different route.

4 Employment

Unless specifically exempted under Section 4.1 below, an immigrant seeking to engage in a profession, business, trade or vocation for gain or reward whilst on St Helena will be subject to the following system of employment controls. The St Helena Government recognises that attracting a larger population and expanding the workforce, particularly within areas of local skill shortages and development of new sectors, is essential to promoting economic growth. SHG has produced a Shortage Occupation List and associated guidance based on data gathered regarding employment needs on-Island. The Shortage Occupation List summarises the specific areas where there are labour shortages on St Helena. This will be updated based on data collected from surveys of local businesses and other information compiled by St Helena Government on workforce needs. Employers are expected to test the local labour market before applying for permission to hire an immigrant employee and to demonstrate that suitable local labour was not available at the time of recruitment. The Shortage Occupation List and associated guidance provides instructions for how employers can demonstrate that they have tested the labour market through advertisement of vacancies in local media. This guidance will be periodically reviewed and updated based on economic conditions.

The Immigration Service will employ inter-agency joint working to ensure implementation of employment controls are consistent with other strategic priorities.

4.1 Exemptions from Employment Control

An immigrant is exempt from employment control if they are the partner, dependant, parent or guardian of a person with St Helenian Status or a person holding Permanent Resident Status.

4.2 Work Visa

A work visa is required for any non-exempt immigrant seeking paid employment on St Helena. There are two paths by which an individual can apply for a work visa:

- Work Visa - Self-Submission
- Work Visa – Employer-Sponsored

Both of these when granted replace the need for an Entry Visa and serve as that Entry authority has been given.

4.2.1 Work Visa – Self-Submission

An individual can apply for a Work Visa that will allow them to take paid employment in a particular occupation as self-employed/self-sponsored, including providing their services to St Helena Government, or to work as a business owner, independent contractor or as the representative of a company operating outside of St Helena. This requirement applies to immigrants whose employment is based on St Helena. The Shortage Occupation List and associated guidance will provide guidelines for businesses wishing to employ an individual holding a Work Visa.

Employment based on St Helena will be defined in line with the provisions of the Income Tax Ordinance

A Work Visa will initially be granted for a period of two years with the presumption in favour of renewal for an additional three years. There is not a limit to the number of times an individual can apply to renew a work visa.

In order to be granted a Work Visa, the applicant should demonstrate together with the requirement set out in section 17 of the Immigration Ordinance evidence of one or more of the following:

- i. They have specialised skills in an occupation identified on the Shortage Occupation List and Accompanying Guidance;
- ii. They will provide a good(s) or service not currently available or not available in sufficient quantity to serve the local market;
- iii. Their work directly supports an import substitution or export sector which supports the goals of the Sustainable Economic Development Plan;
- iv. Their work will lead to employment of St Helenian workers;
- v. They work in a role primarily serving off shore clients;

- vi. Their investment has been endorsed by the Investment Enabling Group or has achieved Approved Investor Status from the Approved Investment Committee as defined by SHG's Investment Strategy or
- vii. Any other factors that demonstrate that issuance of a Work Visa will result in a benefit for St Helena such as (but not limited to);
 - a. Charity Workers
 - b. Creative Workers - A creative worker is someone who works in the creative industries, for example an actor, dancer, musician or film crew member
 - c. Religious Workers
 - d. Seasonal Workers - for example, picking fruit and vegetables or flowers

The Work Visa issued will include the name of the individual granted permission to work and the activities for which they can be granted initial employment. It should be noted that the proposed process would allow someone with a Work Visa to apply for other roles on St Helena if their original role ceased etc. They would though have to apply for any new role through open and transparent recruitment processes. It does not mean they can automatically gain a new job, but as they have already gone through all the vetting procedures, it could assist businesses in gaining skilled staff without having to go through all the vetting again (which is time consuming and costly).

4.2.2 Work Visa - Employer-Sponsored

Any Employer or legal entity on St Helena, may sponsor one or more immigrants who do not already hold a Work Visa, provided they meet certain criteria. A Work Visa – Employer-Sponsored will be linked to a specific position or positions and an application can be made after a candidate for the position in question is identified. However, a candidate cannot begin employment until the Work Visa has been issued.

The Work Visa will initially be issued for a period of up to two years, with presumption in favour of renewal for an additional three years. There is not a limit to the number of times an employer can apply to renew.

In the application, the applicant and the employer should together with the requirements set out in section 17 of the Immigration Ordinance, demonstrate the following:

- i. The condition of the local labour market that necessitates recruitment of an immigrant employee. The Shortage Occupation List and associated guidance provide guidelines that employers should follow regarding how long a vacancy should be advertised in local media based on the level of skill or qualification required. This guidance will be periodically reviewed and updated based on economic conditions.
- ii. Any specialised qualifications, skills or experience that the post requires.
- iii. If the application is made before a specific candidate is identified, the employer will be required to advise the Immigration Service of the particulars of the individual to be employed when a candidate is selected. All sponsored employees will require a valid Work Visa to reside on St Helena.
- iv. On completion of, resignation from, or termination of a contract of sponsored employment, an individual who wishes to continue to work in St Helena may continue to do so if their Work Visa remains valid. If not they may apply for a new Work Visa- Self-Employment/Self-Sponsorship in his/her own right or for an Employer-Sponsored by another employer.

5 Special Leave

No immigrant may enter or remain in St Helena unless they are authorised to do so by either:

- a) an entry or work visa;
- b) a landing permit; or
- c) special leave

An Immigration Officer may, in certain circumstances, give permission (to be known as a “special leave”) for an immigrant to enter (or remain in) St Helena though not authorised to do so by either an entry visa or a landing permit.

The grant of special leave does not confer any rights to gainful employment in St Helena and may be revoked by the Chief Immigration Officer.

The Chief Immigration Officer or a person acting under his or her authority may grant special leave to an immigrant to enter or remain in St Helena if the immigrant:

- a) does not immediately meet the requirements of the Immigration Ordinance or regulations, but for a compelling reason should be allowed to enter St Helena temporarily either to make provision to meet the requirements of the Immigration Ordinance or regulations or to make arrangements for onward passage to another destination;
- b) requires temporary admittance for medical assessment or treatment;
- c) unknowingly allows his or her permit or other permission to stay on St Helena to lapse and alerts an Immigration Officer at the earliest practicable opportunity;
- d) has submitted an application for an extension of his or her permit or other permission to stay in St Helena, but the decision of the Immigration Officer has not been made by the date of expiry of the permit or other permission;
- e) following a decision by the Immigration Officer to deny an application for an extension, is left without a valid entry permit or other permission to stay in St Helena, in which case any special leave is valid only—
 - (i) Pending further representations to the Senior Immigration Officer;
 - (ii) Pending an appeal to the Magistrates Court;
 - (iii) Pending departure on the next available vessel;
 - (iv) Despite not strictly complying with the definition of a consular officer, nor being directly in the service of the Crown, is serving in or supporting Her Majesty's forces or those of any other United Nations member nation.

Special Leave must be indicated by way of endorsement in the immigrant's passport and applies for a specified period not exceeding 1 month which does not count as time spent on St Helena for purposes of continuous lawful residence.

6 General Grounds for Refusal

The following are general grounds on which an immigration application may be refused:

- a) Failure by a person arriving on St Helena to furnish the Immigration Officer, upon request, with such information as may be required for the purpose of deciding whether to grant leave to enter and, if so, whether and on what terms leave should be given;
- b) Where the person seeking leave is outside St Helena, failure by them to supply within a reasonable time following request by the Immigration Officer, any information, documents, copy documents or medical insurance/equivalent;
- c) Failure by a person seeking leave to enter as a returning resident to satisfy the Immigration Officer that they continue to meet the requirements of the Immigration Ordinance, or that he seeks leave to enter for the same purpose as that for which his earlier leave was granted;
- d) Production by the person seeking leave to enter St Helena of a national passport or travel document issued by a territorial entity or authority which is not recognised by St Helena Government as a State or is not dealt with as a government by them, or which does not accept valid St Helena (BOTC) passports for the purpose of its own immigration control; or a passport or travel document which does not comply with international passport practice;
- e) Where the applicant has previously contrived in a significant way to frustrate the intentions of the Immigration Ordinance by overstaying; or breaching a condition attached to his leave; or being an illegal entrant; or using deception in an application for entry Visa, leave to enter or remain or in order to obtain documents from a third party required in support of the application (whether successful or not);

- f) Where false representations have been made or false documents or information have been submitted (whether or not material to the application, and whether or not to the applicant's knowledge), or material facts have not been disclosed, in relation to the application or in order to obtain documents from a third party required in support of the application;
- g) Where the applicant has previously breached the UK's immigration laws (and was 18 or over at the time of his most recent breach) by:
 - i. Overstaying;
 - ii. Breaching a condition attached to his leave;
 - iii. Being an Illegal Entrant;
 - iv. Employing misrepresentation in an application for leave to enter or remain, or in order to obtain documents from a third party required in support of the application (whether successful or not);
- h) Where there are other aggravating circumstances such as, but not limited to (the list is not exhaustive):
 - i. Absconding;
 - ii. Not meeting special leave restrictions;
 - iii. Using an assumed identity or multiple identities without reasonable explanation ;
 - iv. Switching nationality;
 - v. Making frivolous applications;
 - vi. Not complying with the re-documentation process.;
- i) Failure, except by a person eligible for admission to St Helena for settlement, to satisfy the Immigration Officer that he will be admitted to another country after a stay on St Helena;
- j) Where the person seeking leave is outside St Helena; failure by him to supply any information, documents, copy documents or medical report requested by an Immigration Officer;
- k) Refusal by a sponsor of a person seeking leave to enter St Helena to give, if requested to do so, an undertaking in writing to be responsible for that person's maintenance and accommodation for the period of any leave granted together with the assurance that the person will not seek employment or public funds;
- l) Failure, in the case of a child under the age of 18 years seeking leave to enter St Helena otherwise than in conjunction with an application made by his parent(s) or legal guardian to provide the Immigration Officer, when required to do so, with written consent to the application from his parent(s) or legal guardian; save that the requirement as to written consent does not apply in the case of a child seeking admission to St Helena as an asylum seeker;
- m) Save in relation to a person settled on St Helena, refusal to undergo a medical examination when required to do so by the Immigration Officer;
- n) The person has been convicted of an offence for which they have been sentenced to a period of imprisonment of at least 4 years; or has been convicted of an offence for which they have been sentenced to a period of imprisonment of at least 12 months but less than 4 years, unless a period of 10 years has passed since the end of the sentence; or has been convicted of an offence for which they have been sentenced to a period of imprisonment of less than 12 months, unless a period of 5 years has passed since the end of the sentence
- o) The Immigration Officer deems the exclusion of the person from St Helena to be conducive to the public good. For example, because the person's conduct (including criminal convictions), character, associations, or other reasons, make it undesirable to grant them leave to enter;
- p) If a person has an adverse immigration history in St. Helena or the United Kingdom, any British Overseas Territory or any other country;
- q) Such person is unable to show that he has financial means to adequately maintain and accommodate himself (including medical emergencies) and any dependants for the duration of their intended stay in St Helena and to pay for their repatriation

- r) If a person is believed to be a terrorist or has been convicted of terror-related activities, has links to terrorist organisations, supports or encourages terrorist activity or has ever expressed views that justify or glorify terrorist activity;
- s) If a person has been involved in or associated with war crimes, crimes against humanity or genocide;
- t) The Immigration Officer must be satisfied that the applicant is genuinely seeking entry for the specific purpose applied for

7 Post Entry Assurance and Enforcement

To avoid being very 'Entry' centric Immigration Officers will also be looking to conduct 'Post Entry' compliance visits. The rationale behind this is about providing the populace, Ministers and Governor's Office with appropriate assurance around the management of migration and assessment of potential offenders. As the strategic drive is to support migration and the eventual removal of quarantine this is demonstration of a proactive approach alongside the need to be reactive where necessary.

So utilising the following sections of the Immigration Ordinance we can look to co-ordinate compliance activity and conduct this collaboratively with the Police Force (certainly as criminality may be identified):

- Section 15 (1) (a-d) – Revocation of Entry Visa
- Section 15 (2) – Notice to Applicant
- Section 16 (2) – Work permission as part of entry
- Section 16 (5) (a) Employee – Offence and Penalty - £2500 – 3 months imprisonment or both
- Section 16 (5) (b) Employer – Offence and Penalty - £10000 – 12 months imprisonment or both
- Section 17 (3) & (4) (a-b) – Work Visa revocation based invoking sections above

8 St Helenian Status

This section of the Immigration Policy covers the system for obtaining St Helenian Status, whether acquired automatically by birth, descent, or Honorary Grant by the Governor in council.

St Helenian status is a status that is recognised by Saint Helena Government. St Helenian status can be achieved via birth, descent or grant as per the conditions set out in the detailed policy provisions.

To facilitate St Helenians returning to the Island, the partner of a St Helenian would be eligible to apply for grant of Permanent Status after three years residency on-Island under this Immigration Policy.

An application for St Helenian Status may be submitted as soon as the applicant becomes eligible to apply for it and no later than 28 days before the expiry of the applicant's current leave to remain on St Helena. If a decision is not made by the date of expiry of the applicant's leave to remain, the applicant will be allowed to remain on St Helena until a decision is made on the application.

8.1 Right to St Helenian status by Birth

In the main the requirements for St Helenian Status, whether by right of birth, descent or grant remain unchanged from those presented in the Immigration Ordinance.

A person has St Helenian Status by right of birth if:

- a) they are an islander; or
- b) they were born on St Helena on or after 18 October 1999 and, at the time of his birth, his father or mother was an islander or had St Helenian Status.
- c) they were born on St Helena on or after **[commencement date of the New Ordinance]** and, at the time of his birth, his father or mother was settled in St Helena and had Permanent Residence Status.

8.2 Right to St Helenian status by Descent

A person has St Helenian Status by right of Descent if he was born outside St Helena after 18 October 1999, if at the time of his birth his mother or father:

- a) had St Helenian Status by right of birth; or
- b) had St Helenian Status by right of descent and was ordinarily resident in St Helena; or
- c) had St Helenian Status by right of descent acquired through having at least one parent who had St Helenian Status by right of birth.

A person who has St Helenian Status by right of descent may only pass this Status on to their children.

8.3 Requests for Dispensation

In exceptional circumstances, an individual who does not meet the requirements detailed above (whichever is applicable to that individual's circumstances) may apply to the Governor in Council for a grant a dispensation from these requirements.

The Governor in Council will consider such an application and determine whether the applicant demonstrates:

- a) A substantial economic, social or historical connection with St Helena;
- b) That they have established a significant connection with St Helena; and
- c) That it would not be against the public interest to grant the dispensation.

The Governor in Council will consider the extent to which the general requirements for grant of St Helenian Status (see above) are met.

8.4 Deprivation and loss of status

Subject to this section, an Immigration Officer may, if it is satisfied that a declaration of St Helenian status was obtained by means of fraud, false representation or the concealment of any material fact of a nature which, had the true facts been made known to the Immigration Officer at the time of application, would, in the opinion of the Immigration Officer have justified refusal of such a declaration, revoke the declaration.

Prior to revocation of the Certificate of St Helenian Status, the Immigration Officer shall provide the individual with notice in writing of the grounds of the revocation. The notice shall provide the individual with a period (not less than 14 days) in which to make any representations, that they wish, to the Immigration Department.

9 Application for Permanent Residence Status

The requirements for the grant of Permanent Residence Status cases are that the applicant:

- a) Is of good character;
- b) Is sufficiently proficient in the English language;
- c) Is able to demonstrate that his principal home is on St Helena;
- d) Was in St Helena at the beginning of a period of five years ending with the date of application;
- e) The total number of days on which the applicant was absent from St Helena during that period cumulatively does not exceed 500 days;
- f) The number of days on which the applicant was absent from St Helena during the twelve months prior to application does not exceed 100 days;
- g) The applicant was not during either of those periods undergoing a sentence of imprisonment nor in breach of any of the laws relating to Immigration;
- h) The applicant must not fall for refusal under general grounds for refusal;

- i) The Governor in Council has granted (under paragraph 4 of Schedule II of the Immigration Ordinance) a dispensation from the requirements of sub-paragraphs (i) and (ii) (or either of them) of this paragraph.

9.1 Fast Track – Skills Shortage Process

There are a number of roles and skills which are in short supply across the Island. The Treasury, Infrastructure and Sustainable Development Portfolio (TISD) maintain an updated list of the skills shortage occupations. It is proposed that immigrants (and dependents of Saint Helenians) which have specific skills and meet any of the roles within the skills shortage list be processed via a Fast Track Skills Shortage Process.

The Skills shortage list would be managed by the TISD Portfolio and regularly updated on a quarterly basis to ensure Immigration have the latest information to base their assessment.

Fees for applying through this process will be reimbursed to the applicant on successful employment on the Island. That means the Applicant/Immigrant will be in full-time employment and be on the Island in a skills shortage role to receive their reimbursement. The reimbursement should be sent to the applicant by SHG within three months of being on island and in a skills shortage position.

This would allow those immigrants/dependents of Saint Helenians that meet the specific criteria and can directly benefit the Islands infrastructure to have an incentive for applying (at no cost), and should gain Permanent Residence Status after 1 year of Island Service. As a result they would therefore be exempt from Entry and Employment Controls.

9.2 Fast Track – High Net Worth Individuals

St Helena faces a significant multi-£million deficit with few options to boost revenue streams. A Fast Track Process will be implemented. For those wishing to invest or donate into Saint Helena, they can gain immediate Permanent Residence Status. The investment or donation would be direct financial commitment or investment, and not property purchases or asset speculation. Any and all individuals would be subject to stringent due diligence (security and financial) checks by SHG. In line with the Skills Shortage Process – those who gain immediate Permanent Residence status would therefore be exempt from Entry and Employment Controls.

The financial commitment would be placed directly into SHG accounts. A proof of funds with Bank of St Helena would be required if the fast track permanent residency option is through either a donation to an SHG Infrastructure fund, or in a situation where the permanent residency option is through actual Investment set-up e.g. creating a new business venture. The actual amount for investment would be determined by the Approved Investment Committee (AIC), with clear annual accountability and transparency to the community. The AIC would set out (annually) how any of the funds had been utilised to support St Helena infrastructure, or how the investment is impacting the economy.

10 Immigration Control Board

The duties of the Immigration Control Board will be subsumed into the role of all warranted Immigration Officers with authority escalating through Senior Immigration Officer(s), Deputy Head(s) of Function and Chief Immigration Officer. The Appeal process will remain extant.

11 Immigration Powers

The Customs and Immigration Transformation Programme now brings both Departments under one Senior Manager as a result Immigration Officer powers will be updated and no longer have the rights, powers, privileges and immunities of a Police Officer and a Police Officer is no longer deemed to be an Immigration Officer.

The Immigration Ordinance will be amended in section 4 by repealing subsection (2) and (3). This allows clear and distinct responsibilities between both Services and assists the transformation programme for Customs and Immigration.

12 Immigrant Landholding Controls

Immigrant Landholding Controls will now fall under the remit of the Estates Strategy Panel.

The Estates Strategy Panel may from time to time, approach the Immigration Service for advice on the immigration status of specific Immigrant applicants

13 Appeals

This section sets out the appeals process for decisions taken under the Immigration Policy.

13.1 Appeals against decisions made by the Immigration Officers

Any person aggrieved by or dissatisfied with a decision of an Immigration Officer may appeal to the Magistrates Court within 14 days of being notified of such decision, with the option of further appeal to the Supreme Court.

13.2 Appeals against decisions on St Helenian Status

Any person aggrieved by or dissatisfied with a decision of the Immigration Service may appeal to the Magistrates Court within 14 days of being notified of such decision, with the option of further appeal to the Supreme Court or to lodge a request for Judicial Review.

Appendix A Visa National Countries

List of countries for which visas are required prior to travel to St Helena

Afghanistan	Ghana	Occupied Palestinian Territory
Albania	Guinea	Peru
Algeria	Guinea Bissau	Philippines
Angola	Guyana	Qatar
Armenia	Haiti	Russia
Azerbaijan	India	Rwanda
Bahrain	Indonesia	Sao Tome e Principe
Bangladesh	Iran	Saudi Arabia
Belarus	Iraq	Senegal
Benin	Ivory Coast	Serbia
Bhutan	Jamaica	Sierra Leone
Bolivia	Jordan	Somalia
Bosnia Herzegovina	Kazakhstan	South Sudan
Burkina Faso	Kenya	Sri Lanka
Burma	Korea (North)	Sudan
Burundi	Kosovo	Surinam
Cambodia	Kuwait	Swaziland
Cameroon	Kyrgyzstan	Syria
Cape Verde	Laos	Taiwan
Central African Republic	Lebanon	Tajikistan
Chad	Lesotho	Tanzania
People's Republic of China	Liberia	Thailand
Colombia	Libya	Togo
Comoros	Macedonia	Tunisia
Congo	Madagascar	Turkey
Cuba	Malawi	Turkmenistan
Democratic Republic of the Congo	Mali	Uganda
Djibouti	Mauritania	Ukraine
Dominican Republic	Moldova	United Arab Emirates
Ecuador	Mongolia	Uzbekistan
Egypt	Montenegro	Venezuela
Equatorial Guinea	Morocco	Vietnam
Eritrea	Mozambique	Yemen
Ethiopia	Nepal	Zambia
Fiji	Niger	Zimbabwe
Gabon	Nigeria	The territories formerly comprising the socialist Federal Republic of Yugoslavia
Gambia	Oman	
Georgia	Pakistan	

Appendix B Definitions

3 Months

This is formally defined as 90 calendar days.

6 Months

This is formally defined as 183 days.

Charity

A body of persons, or the trustees of a trust, registered under the Charities Ordinance, 2005.

Continuous Lawful Residence

“Continuous lawful Residence” means lawful residence on St Helena for an unbroken period, and for these purposes a period shall not be considered to have been broken where an applicant is absent from St Helena for a period of 6 months out of each year, provided that the applicant in question has existing limited leave to enter or remain upon their departure and return, but shall be considered to have been broken if the applicant:

- i. has been removed, deported or has left St Helena having been refused leave to enter or remain on the Island; or
- ii. has left St Helena and, on doing so, evidenced a clear intention not to return; or
- iii. left St Helena in circumstances in which he could have had no reasonable expectation at the time of leaving that he would lawfully be able to return; or
- iv. has been convicted of an offence and was sentenced to a period of imprisonment or was directed to be detained in an institution other than a prison (including, in particular, a hospital or an institution for young offenders), provided that the sentence in question was not a suspended sentence; or
- v. has spent a total of more than 183 days in a single year absent from St Helena during the period

Couple to have met in Person

‘To have met’ means ‘to have physically met and spend time together as a couple’. A mutual sighting or mere coming face-to-face followed by telephone, social media or written contact would not suffice.

Crew

All persons actually employed on a vessel including the Master/Captain.

Dependent

The term ‘dependent’ in relation to a person means:

- I. the spouse or life partner of that person; and
- II. a biological child, step-child or adopted child of that person, who is under the age of 18 years or who is over that age and—
 - (i) in full time education; and
 - (ii) under the age of 25 years; or
- III. Other adult dependant relative who is wholly or substantially reliant upon that person or for whom that person has legal responsibility.

Employment

As set out in section 23 (1) of the amended Immigration Ordinance, 2011

Genuine and Subsisting Relationship

The couple are in a current, long-term relationship and provide satisfactory evidence of this, such as:

- i. The couple have been or are co-habiting for at least twelve months and provide satisfactory evidence of this, or
- ii. The couple have children together (biological, adopted or step-children) and shared responsibility for them

- iii. The couple share financial responsibilities, for example a joint mortgage or tenancy agreement, a joint bank account, savings, utility bills in both their names;
- iv. Other evidence that would reflect that the relationship is genuine and subsisting

Immigrant

As defined in the amended Immigration Ordinance, 2011.

Immigration Officer

For the purpose of this policy 'Immigration Officer' means the Chief Immigration Officer or an Immigration Officer who is appointed under Section 4 of the amended Immigration Ordinance, 2011.

Marriage Abroad

Marriage or Civil Partnership which was properly conducted to satisfy the requirements of the law of the country in which it took place.

Master of a Vessel

In relation to:

- i. A water-borne vessel means any person (other than a pilot or Harbour Master) having charge, control or command of such vessel, or
- ii. An aircraft includes the person in command or in charge of it.

Overstay

Means the applicant has stayed on St Helena beyond the latest of:

- i. The time limit attached to the last period of leave granted, or
- ii. Beyond the period that his leave was extended under the Immigration Ordinance 2011

Parent

Includes:

- i. Natural parents
- ii. Adoptive Parents (pursuant to an adoption in accordance with a decision taken by a competent administrative authority or Court on St Helena or in a country whose adoption orders are recognised by St Helena)
- iii. the stepfather of a child which includes a relationship arising through civil partnership;
- iv. the stepmother of a child which includes a relationship arising through civil partnership
- v. the mother as well as the father where he is proved to be the father of an illegitimate child;

Life Partner

'Life Partner' is defined as one of the following:

- i. A person who has been in a relationship with the applicant akin to a marriage or civil partnership for at least 1 year prior to the date of application (which is expected to be evidenced by documents)
- ii.

Passport

An official document issued by a government, certifying the holder's identity and nationality and entitling them to travel under its protection to and from foreign countries.

Principal Residence

A principal residence is the primary location that a person inhabits, also referred to as primary residence or main residence. It is where an individual, couple, or family household lives most of the time.

Sham Marriage

A marriage/civil partnership in which there is no genuine relationship between the Parties and either or both of the Parties enter into the marriage/civil partnership for the purpose of circumventing immigration controls.

Shortage Occupations List (SOL)

The Shortage Occupation List is a document published by St Helena Government and updated periodically to reflect occupations that are difficult to recruit and which have an impact on operations of businesses or organisations on St Helena.

Statutory Body

A body established pursuant to an Ordinance.

St Helenian Status

- i. A status recognised by the St Helena Government, and
- ii. Gained through birth, descent or grant

Transit

A transit visitor is a person who seeks to travel via St Helena en-route to another destination within a period of 48 hrs.

Vessel

Includes every description of vessel used in navigation, including any and all craft and aircraft.

Visa

Permission for Visa Nationals to travel to St Helena within a limited period of time.

Visa National

A person seeking to travel to St Helena using a passport issued by a country for which a visa is required for travel to St Helena as specified by the Governor by order, and specified in Appendix A.

Voluntary Organisation

An organisation which is established only for benevolent, philanthropic, or similar purposes, but which is not a charity.

Volunteer

A person undertaking work for the benefit of a charity, voluntary organisation or statutory body for which the individuals undertaking the work is not entitled to any monetary payments or benefits other than those defined in Section 6(1)(b)(i)-(ii) of the Employment Rights Ordinance.

Wholly or Substantially

A person is wholly or substantially reliant on a relative if they rely upon that relative for financial support to meet their basic needs of food, shelter and clothing; or wholly or substantially reliant on their family member for financial support due to being incapacitated for work because of the total or partial loss of bodily or mental functions.