****

**IMMIGRATION ORDINANCE 1999**

**IMMIGRATION (GENERAL) REGULATIONS 2021**

**Registered Employer Scheme (RES) Guidance**

Customs & Immigration Service

April 2022

# Contents

# About this guidance Page 4

# Why the change? 5

# What has changed? 5

# What has not changed? 6

# Is registration necessary? 7

# 

# Types of permits that allow work 9

# Work Permit 9

# Accompanying Dependent Permit 10

# Dependent Permit 11

# Volunteer Permit 11

# Visitor Permit – Short Term Work (STW) 11

# Advertising 13

# Places to advertise 13

# Advertising policy 2022 14

# Being a Registered Employer 15

# Key personnel 15

# Sponsorship/undertaking/notification forms 16

# RES duties 19

# When do these duties start and finish? 19

# Record keeping duties 19

# Reporting duties 20

# Complying with the law 20

# Consequences of employing migrants illegally 21

# Safe-guarding young people 21

# Fees 21

# Genuine vacancy 21

# 

# What happens to my sponsored migrants if my

# registration is revoked? 22

# C&I duties 22

# 

# About this guidance

This guidance is for employers who wish to employ or to continue employing migrant workers i.e. any person who does not have a permanent residence permit (“PRP”) or Falkland Islands status (“FI status”) on or after 1st September 2021.

You must register under the Registered Employers Scheme (RES), as required by section 38A of the Immigration (Amendment) Ordinance 2021.

The guidance tells you how and why the law relating to the employment of migrant workers has changed, what we expect of Registered Employers, the processes you must follow when employing migrant workers and how to meet the duties and responsibilities associated with being a Registered Employer.

The guidance may be subject to subsequent changes and you should check for updates online at the Falkland Islands Government (FIG), Customs & Immigration (C&I) website - www.fig.gov.fk/customs/

## Glossary

|  |  |
| --- | --- |
| **Phrase** | **Meaning** |
| We or us | FIG or C&I |
| You or your | The employing organisation or prospective employing organisation (whether the sponsoring organisation or not) including any:   * owner * director * authorised person * key contact * anyone involved in running day to day business |
| Settled worker  (also ‘right of abode’) | A person who:   * holds Falkland Islands status (FIS) * holds a Permanent Residence Permit (PRP) for the Falkland Islands |

# Why the change?

2.1 The Registered Employer Scheme (RES) is established under section 38A of the Immigration Ordinance 1999, as amended by the Immigration (Amendment) Ordinance 2021. The detailed framework for the scheme is set out in the Immigration (General) Regulations 2021 (“the Regulations”). These changes are part of a programme of changes to the immigration system which will ensure the Falkland Islands has an immigration system that:

* is administratively **efficient**
* is **effective** in responding to economic development ambitions and labour shortages
* is **robust** and sufficiently **flexible** to deal with any future decisions on immigration policy
* is **pragmatic** and **welcoming.**

2.2 It is hoped that the RES will, in particular, support the retention of skilled and general workers alike, foster a closer more effective working relationship between employers and C&I, and make it easier to address labour shortages in specific areas of the Falkland Islands’ economy, in particular:

* **Professional and technical**
* **Skilled trades**
* **Retail and sales**
* **Administration**
* **Tourism**
* **Camp**/**agricultural**
* **Seasonal labour**

## What has changed?

2.3 New **Registered Employer Scheme (RES)** has beencreated, enabling close

collaboration between employers and C&I, and enabling migrant labour to be

employed as required with the minimum level of bureaucracy.

* 1. New permit categories – Accompanying Dependent Permit, Dependent Permit, Volunteer Permit (Work Permit continues).

2.5 **No requirement for permit holders to have separate permits for each job**. A simplified permit requirement means one permit for one person. All current employment protections for those with PRP or FI status remain in place and are strengthened by the Regulations.

2.6New **Accompanying Dependent Permit** – for a dependent of a work permit holder – this allows dependents (16 years +) to work without the need for a separate work permit.

2.7New **Dependent Permit** –for a dependent of someone with PRP or of someone who holds FI status – this allows dependents (16 years +) the ability to work without the need for a separate work permit.

2.8New **Volunteer Permit** –this provides a framework for the employment of

volunteers, replacing the former practice of issuing work permits for this activity.

2.9 **Permit** **validity increased to a maximum of four years**, this enshrines current

policy (in place since February 2018) into law with the exception of a Volunteer

Permit which is a maximum twelve months in twenty four months.

2.10 **Workforce Shortage List (WSL)** – as the name suggests, this is a list of the

areas where there is a shortage of available workers – as demonstrated by (amongst other things) numbers of work permits issued in these areas. The WSL is based on the Skills Shortage Survey undertaken in 2017 and published in 2018. It is reviewed annually by the Skills Assessment Council and updated to make sure it remains relevant to the local economy. It is approved by Executive Council before publication.

2.11 The **Skills Assessment Council (SAC)** is a committee appointed by the Governor on the advice of Executive Council which meets twice a year. Members include representatives of FIG, BFSAI, Islands employers (Camp and Stanley), and the local community.

## What has *not* changed?

2.12A migrant *must have a sponsor* before they can apply to come to, or remain in,

the Falkland Islands for work.Sponsorship is based on two principles:

* those who benefit most directly from migration – employers should play their part in ensuring the system is not abused
* making sure the system is as straightforward as it can be while ensuring prospective workers are eligible and that the offer of work is genuine.

2.13 Sponsorship plays two main roles in a migrant’s application for permission:

* it provides evidence that the migrant will fill a genuine vacancy that cannot be filled with a suitably qualified or skilled settled worker
* it involves a pledge from the sponsor that accepts all of the duties expected when sponsoring the migrant.

2.14 When an employer sponsors a migrant, significant trust is placed in them. With this trust comes a responsibility to act in accordance with the immigration rules.

2.15 **Resident Labour Market Test (RLMT) –** **advertising requirements**. All jobs must continue to be advertised to ensure full access for those with PRP or FI status; this is designed to protect opportunities for the resident labour market. However, there is one change that will affect migrant workers who have been employed in the same role for less than four years. In these cases, a work permit issued for less than the maximum of four years can be extended for up to four years, enabling that migrant worker’s contract of employment to be extended without the need for the role to be advertised. This limited change will enable employers and employees enjoy a further degree of stability. Any *substantial change* to the permit holder’s duties, including a promotion, would however require a new work permit and the role would need to be advertised.

2.16 The RLMT is there to protect those who have PRP or FI status and means that

after advertising a role, you can only recruit a migrant worker if you can show

that no *suitable settled worker* is available to fill the role - this means any settled

worker who has applied for the job and who has the skills and experience you

are seeking. If you find that you have more than one candidate with all the

necessary skills and experience, where one is a settled worker and the other is a

migrant, you should offer the job to the settled worker. You may be asked to satisfy

the Principal Immigration Officer that it is necessary to appoint a migrant worker.

## Is registration necessary?

2.17 Registration with the RES is compulsory for all employers who wish to employ

anyone who doesn’t have PRP or FI status. As is currently the case, all migrants

who wish to work in the Falkland Islands, via a work permit, must be sponsored

by an organisation or individual. Moving forward, this sponsoring organisation or individual must be a member of the RES. **FORM 4a – RES1 Employer Registration** must be completed and submitted to become a member of the RES.

2.18 Registration enables us to improve the communication of relevant information

that affects the employment of migrant workers.

2.19 When dealing with matters relating to personnel it is important this information is

channelled correctly to the employer. Therefore, when registering you will be

asked to provide details of the person who is authorisedby you to give

undertakings on behalf of your business in relation to repatriation costs, and is

responsible for providing the information required by C&I about migrant workers

and otherwise complying with the requirements of the RES.

2.20 As a registered employer you must comply with certain legal duties such as telling us when you employ migrant workers, if their employment circumstances change, or if they leave your employment. You must keep records of all the migrants you employ, including up to date contact and accommodation details. These records must be kept for at least three years after you cease to employ them. You must allow C&I to inspect the records and provide copies to us on request.

2 .21 Full details of employer responsibilities can be found in Immigration (General) Regulations 2021 Part 5, Employment of Migrant Workers.

You can be removed from the register if you breach your legal duties, and it is a criminal offence to employ a migrant worker if you are not a member of the RES, or to give C&I false or misleading information.

# Types of permits which allow work

3.1 There are five types of permit which allow employment in certain circumstances. As a registered employer you should familiarise yourself with all five. However, the Work Permit will remain the main entry point for migrant workers wishing to live and work in the Falkland Islands (any accompanying family will each require an Accompanying Dependent Permit).

* Work Permit (WP)
* Accompanying Dependents Permit (ADP)
* Dependent Permit (DP)
* Volunteer Permit (Vol P)
* Visitor Permit (VP) – short-term work permission

## Work Permit (WP)

3.2 Holders of Work Permits will have been sponsored by an employer to undertake specific employment in the Falkland Islands that has been appropriately advertised and cannot be filled by a settled worker. As a sponsoring employer you will be required to complete a sponsorship form – **FORM 4b – RES2 Work Permit Sponsorship** and an undertaking form – **FORM 4c – RES3 Employer Undertaking**.

* 1. A Work Permit allows the individual to work for the primary employer named on

the permit in their confirmed role.

* 1. A Work Permit allows (during the unexpired period of the permit) the holder

to take on another job for the same employer, or work for any other

registered employer in the Falkland Islands if that work is included in the

Workforce Shortage List (WSL). The employer in question must notify C&I

when the work permit holder starts the new job, even if it is someone

already employed by them who is taking up an additional job. The employer

must use **FORM 5a – RES4 Employment Notification**. C&I will acknowledge

receipt of this by sending the employer an official acknowledgment.

3.5 If the holder of the Work Permit wants to take on an additional role that is ***not***

***on the WSL*** then the **individual** (*not the employer*) must seek permission from

C&I using **FORM 5c – RES6 Employment Permission Request** .

C&I will make an assessment on the steps the employer has undertaken to

advertise the role locally and any interest from the Falklands’ resident labour

market. C&I’s decision will then be officially conveyed to the individual.

3.6 If permission is approved the individual must evidence this to you, and you must

then submit **FORM 5a – RES4 Employment Notification** to C&I when taking

the employee on. C&I will acknowledge receipt by sending you an official

acknowledgment.

3.7 **It is the Employer’s responsibility to first satisfy themselves that the individual has a valid Work Permit and the appropriate permission (if needed) before engaging them in employment.**

**Regardless of any subsequent employment the original sponsoring employer retains the responsibility of sponsorship of the individual.**

3.8 Self-employed permit holders do not have a sponsor who can provide an

undertaking, so they may be required to provide a bond or other security to

cover potential repatriation costs for themselves and any dependents

(regulation 16(9)). If they wish to employ migrant labour themselves they will

need to register on the RES.

* 1. A medical self-declaration may be accepted in relation to an application for a

work permit for no more than nine months instead of a full medical assessment.

In this case, the permit holder must also hold medical insurance. Note: the work permit cannot be extended past nine months in a twelve month period; **permits will not be issued for accompanying dependents and permission will only be given for work on the WSL in these circumstances.**

**Accompanying Dependent Permit (ADP)**

3.10 Accompanying Dependent Permits are issued to dependents of Work Permit

holders (“accompanying dependents”). Accompanying dependents can work

for any employer who is registered with the RES and can do any work that is

included in the WSL. The employer must notify C&I when employing an ADP holder using **FORM 5a – RES4 Employment Notification**. C&I will acknowledge receipt by sending you an official acknowledgment.

3.11 If the employment is ***not on the WSL*** then the accompanying dependent

must seek permission from C&I before starting the work using **FORM 5c –**

**RES6 Employment Permission Request**. C&I will assess the application,

including the steps the employer has undertaken to advertise and any

response to the advertising from the Falklands’ resident labour market. C&I

will then respond to the individual either giving permission to take up the job or

refusing it; the decision will be officially conveyed to the individual.

3.12If permission is approved the individual must evidence this to you, and you must

then submit **FORM 5a – RES4 Employment Notification** to C&I when taking

the employee on. C&I will acknowledge receipt by sending you an official

acknowledgment.

3.13 **It is the employer’s responsibility to first satisfy themselves that the**

**individual has a valid Accompanying Dependent Permit and the appropriate**

**permission (if needed) before engaging them in employment.**

### **Dependent Permit (DP)**

3.14 Holders of these permits are family members of those who have PRP or FI

status. Dependent Permit holders (16 years old +) can do any work for

any employer who is registered with the RES, whether or not the work is

included in the WSL. The employer must notify C&I when employing a

Dependent Permit holder using **FORM 5a – RES4 Employment Notification**.

C&I will acknowledge receipt by sending the employer an official

acknowledgment.

3.15 **It is the employer’s responsibility to first satisfy themselves that the individual has a valid Dependent Permit before the permit holder starts work.**

### **Volunteer Permit (Vol P)**

3.16 Holders of these permits will have been sponsored by an organisation to undertake voluntary work (without pay) in the Falkland Islands, that cannot be filled by a settled worker, for up to 12 months in any 24 month period. A medical self-declaration and medical insurance are required. No dependents can be included with the application. The employer must be registered with the RES and will be required to ensure that arrangements are in place to meet the living expenses and accommodation needs of the volunteer. A Volunteer Permit cannot take paid employment or provide services for payment, however they can volunteer for other registered charities. A Volunteer Permit cannot switch to another type of permit that allows work.

3.17 As the sponsoring organisation you will be required to complete **FORM 10 – Guarantor - Sponsor.**

**Visitor Permit (VP) - short-term work permission**

3.18 For those who hold a Visitor Permit, permission to exceptionally undertake short-term work is possible (formerly known as temporary work permission), section 17D of the Immigration Ordinance 1999 (as amended) sets out the legal framework for permission to undertake short-term work.

Visitors can be allowed to undertake short-term work for a maximum of three months if the employment applied for is included in the WSL. Permission to do short-term work *cannot in any circumstances* be extended beyond the three months.

3.19 Permission must first be sought by the holder of the Visitor Permit from the

Principal Immigration Officer, in this case the individual should contact C&I.

C&I will assess the application, including the steps the employer has

undertaken to advertise and any response to the advertising from the

Falklands’ resident labour market, before passing the case to the Principal

Immigration Officer for a decision.

3.20 C&I will then respond to the individual either approving permission to take up

short-term work or refusing it. If approved and subsequently evidenced to the

employer then the individual will be able to commence short-term work.

**The employer must be sure that permission to work has been given to the visitor.**

3.21 A Work Permit can only be applied for from outside of the Islands so it is not possible to “convert” permission to do short-term work into a Work Permit. You should check that permission has been given before a visitor starts working for you.

3.22 Short-term work permission will not be granted unless the individual is

adequately insured. Short-term work permission for visitors is generally an

exception and is not ordinarily approved by the Principal Immigration Officer.

**A work permit cannot be applied for from within the Falklands.**

**Forms 4b, 4c, 5a, and 5b – the sponsorship, undertaking, notification, and permission forms – and the required process for employers and employees is detailed again in section 5 of this guidance.**

**Forms 4b, 4c, 5a and 5b are available on the C&I website -**

**www.falklands.gov.fk/customs/for-employers**

# Advertising

4.1 Vacancies must be advertised locally. Suitably qualified and available local

candidates must be considered for the role ahead of applicants who are not

permanently settled.

4.2 As discussed in section 2.15 the one change to the way advertising is mandated

is that for those holding permits of less than four years (for example a two year

Work Permit) their permit can be extended up to four years without the legal

requirement for advertising – this aligns with the new (since 2018) maximum

validity for work permits of four years.

4.3 Job advertisements must be in English and it is *recommended* they include all of

the following:

* the job title
* the main duties and responsibilities of the job (job description)
* the location of the job
* an indication of the salary package (including allowances) or a salary range
* skills, qualifications and experience needed
* the closing date for applications, unless it is part of a rolling recruitment program – if it is a rolling recruitment programme, the advertisement should show the period of the recruitment programme.

4.4 You cannot refuse to employ a permanently settled worker if they lack qualifications,

experience or skills, including language skills, that were not asked for in the job

advertisement.

4.5 The salary rate in your advertisement must be a true reflection of what you are

prepared to pay and the rate you ultimately pay must be in line with the rate that

was advertised.

4.6 When deciding the salary range to put in a job advertisement, you should

consider if you are willing to offer a higher salary to a more experienced worker.

This is important to make sure job opportunities are made available to the settled

workforce.

4.7 Part 5 – Employment of Migrant Workers – sections 23 and 24 of the Immigration

Regulations 2021 contains the employer responsibilities relating to advertising.

**Places to advertise**

4.8 National newspaper – Penguin News – **compulsory**

4.9 Professional journals

4.10 Internet – company website, job sites (including the currently being developed

Falkland Islands Chamber of Commerce job site), and Falkland Islands social

media groups.

4.11 Radio – Falkland Islands Radio Service, BFBS Falkland Islands

4.12 TV – FITV

**Advertising policy**

4.13 Official C&I advertising policy states that;

**All vacancies must be advertised at least once in a national newspaper and allow a minimum of 7 calendar days from the date of publication to receive applications. Employers are also required to advertise locally through at least one other platform/medium. The Principal Immigration Officer may in exceptional circumstances vary or waive these requirements**

4.14 Exceptional circumstances where the advertising requirement may be

considered to be waived include such factors as –

‘unforeseen circumstances’, ‘immediate necessity, public or national interest’,

‘inability to fulfil a contractual obligation’, ‘timescales which don’t allow for 7

days to advertise’

The above list is not exhaustive.

4.15 The C&I advertising policy – the mediums, frequency, and timescales required

of advertisements - is the *minimum requirement* and beyond this employers are

free to advertise using any medium, frequency or timescales they wish.

# Being a Registered Employer

* 1. To become a registered employer and be able to employ migrant workers, either as a sponsoring employer or a non-sponsoring employer you must apply to join the RES using **FORM 4a – RES1 Employer Registration**.

5.2 If approved you will remain on the register unless you ask to be removed or your registration is revoked. **You may be removed from the register if you fail to comply with any legal requirements, give false or misleading information, are in breach of your duties as a registered employer, or in breach of an undertaking to pay repatriation costs, or become bankrupt.** As a last resort, you may be prosecuted for breach of the Regulations.

5.3 When processing your registration we will establish certain things:

* you are a genuine organisation operating lawfully in the Falkland Islands

and complying with minimum wage legislation

* you have given us your full business details, including details of an

authorised person in the Falkland Islands if your business is based

elsewhere in the world

* you are capable of carrying out your sponsor duties and, in particular,

you have the resources to meet any of the financial obligations of

sponsorship.

5.4 In certain circumstances, details may be passed to other government departments and agencies, such as the Taxation Office or Royal Falkland Islands Police (RFIP). These departments may also provide us with information about you and your employees.

## Key personnel

5.5 The registration application requires you to give certain responsibilities to members of your staff. We call these people ‘key personnel’ and there are two roles:

* **authorised person –** one or more staff members authorised to give undertakings relating to repatriation costs on your behalf and who is responsible for ensuring that employment of migrant workers in your business complies with the Regulations. They must be a paid member of staff or engaged by you as an office holder (board member etc.)
* **key contact** **–** usually the person who acts as the main contact between C&I and you, they might be a staff member or representative. We will contact them if we have any queries about work permit applications, the documents sent, or any payments. We may also contact your authorised person if necessary.

*The authorised person and key contact can be the same person.*

5.6 Where you are appointing a representative who is not employed by you to the key contact role, the address must be the representative’s main business address in the Falkland Islands.

* 1. You are responsible for anything done by your authorised person or appointed representative. You must tell us of any changes to your business details within twenty eight days, these changes are:
* change of business address
* change of trading name
* change of email address
* [change of existing key contact or authorising officer details](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/420110/SMS_guide_2_-__Managing_your_licence.pdf)
* amendment of organisation details, such as telling us of takeovers and mergers
* if you have sold all or part of your business
* if the business ceases to trade, is declared bankrupt, or has a winding up order made in respect of it
* any other changes to your circumstances, such as adding or removing a representative.

## Sponsorship/Undertaking/Notification/Permission Forms

* 1. These forms are available on the C&I website - [www.falklands.gov.fk/customs/for-employers](http://www.falklands.gov.fk/customs/for-employers)
  2. There are the four types of forms depending on whether your business is the sponsoring employer or not:
     + **FORM 4b – RES2 Work Permit Sponsorship**
     + **FORM 4c – RES Employer Undertaking**
     + **FORM 5a – RES4 Employment Notification**
     + **FORM 5b – RES5 Employment Permission Request**
  3. Each application for a Work Permit from a prospective worker must include **FORM 4b – RES2 Work Permit Sponsorship** and **FORM 4c – RES Employer Undertaking** completed by the proposed sponsor.

For non-sponsored employment (permit holders already in the Falklands or

secondary work for a sponsor) to undertake work included on the Workforce

Shortage List the registered employer is required to complete **FORM 5a –**

**RES4 Employment Notification**. C&I will acknowledge receipt by sending

the employer an official acknowledgment.

* 1. For non-sponsored employment (permit holders already in the Falklands) to

undertake work **not** included on the Workforce Shortage List the **individual**

(*not the employer*) is required to complete **FORM 5b – RES5 Employment**

**Permission Request**. C&I will make an assessment on the steps the

employer has undertaken to advertise the role locally and any interest from

the Falklands’ resident labour market. C&I’s decision will then be officially

conveyed to the individual.

* 1. If permission is approved, the employee will demonstrate this to you the

employer, and you will then need to submit **FORM 5a – RES4 Employment Notification**. C&I will acknowledge receipt by sending the employer an official acknowledgment.

**All of the above mentioned forms required from the employer must**

**be completed by an authorised person from your organisation.**

* 1. **FORM 4b – RES2 Work Permit Sponsorship** is confirmation from you as a registered employer that:
* you wish to sponsor a migrant
* you have met all the rules set out in this guidance in respect of advertising the vacancy and have been unable to fill the vacancy with a suitable settled worker
* the migrant has/will submit a completed application for a Work Permit to C&I
* that you will make necessary accommodation arrangements for the migrant if required
* that you will enter into an undertaking to pay the Falkland Islands Government the costs of transport for the migrant and any accompanying dependents, that you are sponsoring, to return to the country from which they were recruited if required – **FORM 4c – RES Employer Undertaking**.
  1. **FORM 5a – RES4 Employment Notification** is confirmation from you as a registered employer that you have made the necessary checks to confirm an individual’s status in the Falkland Islands; specifically what permit they hold, that you are aware of any relevant conditions attached to the permit, and are satisfied that the person has permission to do the work in question.
  2. The Principal Immigration Officer makes the final decision on who is allowed to enter or remain in the Falkland Islands, based on the requirements of the Immigration Ordinance 1999 (as amended) and Immigration Regulations 2021.

**Accepting a Sponsorship/Undertaking Form for a Work Permit application**

**does not guarantee that the Work Permit itself will be issued, nor entry to**

**the Falkland Islands will be permitted.**

# 6. RES duties

## 

6.1 As a registered employer you will benefit directly from the new flexibility in the immigration system and you are required to actively participate in ensuring that the system is not abused.

The objectives of these duties are to:

* prevent abuse of the work permit system and migrant workers
* help us to address possible weaknesses in the processes.

## When do these duties start and finish?

6.2 Your responsibilities as a registered employer start on the day you register your details with us and end when you tell C&I you no longer intend to employ migrants, or we revoke your registration.

6.3 Your sponsorship responsibility for each migrant starts on the day they arrive in the Falkland Islands or begin employment with you.

6.4 Your sponsorship responsibility for each migrant ends when the Principal

Immigration Officer relieves you of the obligation, which will occur:

* when it is confirmed that the sponsorship of the migrant has been passed to another employer or individual or;
* when the migrant and their dependents leave the Falkland Islands and their permit expires, is revoked or cancelled, or;
* if they are granted ‘right of abode'.

## Record keeping duties

6.5 You must keep the documents specified in the Regulations and make them available to us on request, including:

* a copy of each migrant’s permit and relevant permission to do the work in question
* each migrant worker’s contact details, to include an up to date residential address in the Falkland Islands, email address and telephone number.

6 .6 You must give us, when asked, any documents relating to your employees who are migrant workers or your organisation that are relevant to assessing your compliance with your duties as an employer.

## Reporting duties

6.7 You must report within **two working days** if a sponsored migrant does not turn up for their first day of work, without sufficient excuse.

6 .8 You must report the following within **five working days**:

* if you become aware of any significant changes in a migrant worker’s personal circumstances that are relevant to their permit, for example if they resign or are dismissed (you must include the name and address of any new employer that the migrant has moved to)
* if you become aware of any significant changes in the sponsored migrant’s circumstances, for example they are no longer accommodated as detailed on the sponsorship form or the composition of the household in which they are living changes
* if you make any significant changes to the migrant worker’s duties e.g. by promoting them or moving the worker to a different role
* any information which suggests that a migrant worker is breaching the conditions (‘rules’) of their permit, or if you are in breach of any conditions that apply to you as the employer.

6.9 You must also report within **five working days** if a migrant who is not sponsored by you starts working for you (via Notification Form 5a).

6.10 If there are any significant changes in your own circumstances, for example, if you sell all or part of your business, stop trading, go into administration, substantially change the nature of your business, are involved in a merger or are taken over, then you must report this within **twenty eight working days**.

## Complying with the law

6 .11 To make sure you are complying with our immigration laws, you must:

* only employ migrants who are appropriately qualified, registered or experienced to do the job
* keep a copy of any registration document, certificate or reference that confirms they meet the requirements of the specific job, and give this to us on request – we may request further information or evidence from you or the migrant to confirm this requirement
* not employ migrants where they don’t have the experience or permission to do the job in question, and stop employing any migrants who for any reason are no longer entitled to do the job
* not sponsor a migrant where there is no [genuine vacancy (see 6.16)](#_bookmark93)
* comply with Falkland Islands employment law
* hold suitable planning permission or Local Planning Authority consent to run your type/class of business at your trading address (where this is a requirement)
* only employ a migrant who has had a [**Disclosure and Barring Service (DBS)**](https://www.gov.uk/disclosure-barring-service-check/overview)[**check**](https://www.gov.uk/disclosure-barring-service-check/overview)(or other enhanced check), where this is a requirement for the role.

## Consequences of employing migrants illegally

6.12 Employers have a duty to check that their employees have the right to work in

the Falkland Islands.

6.13 C&I can refer cases of illegal working for prosecution and you could be

removed from the RES.

## Safeguarding young people

6.14 The Falkland Islands have regard to the need to safeguard young people and

to promote their welfare when exercising immigration functions. It is unlikely

that a Work Permit will be granted to a person who is under the age of 18 who

is not already present in the Falklands as an accompanying dependent or

dependent. If you wish to employ a person who is under 18 from outside of

the Falkland Islands, C&I requires you to have suitable arrangements in place

to safeguard the young person’s welfare. These include arrangements for their:

* travel
* reception when they arrive in the Falkland Islands
* arrangements for their accommodation and maintenance while in the Falkland Islands, as well as parental consent to these arrangements.

## Fees

6.15 There is currently no fee to register on the RES, however FIG reserves the right to introduce a fee at a future date should it be felt necessary. The payment of permit fees (for Work Permits / Accompanying Dependent Permits etc.) as set out under the Immigration Fees Regulations are a matter for the employer and applicant to agree on. However, where invoices for fees are sent to your business address, payment is required within twenty eight days of the date of the invoice.

## Genuine vacancy

6.16 A genuine vacancy is one which requires the jobholder to perform the specific

duties and responsibilities for the job advertised. We may request additional

information and/or evidence from you or the migrant to establish this

requirement, and may refuse the migrant’s application if this is not provided

within the time frame requested.

Examples of vacancies that are not considered to be genuine include but are

notlimited to:

* a job or role that does not exist in order to enable a migrant to come to, or stay in, the Falkland Islands
* advertisements with requirements that are inappropriate for the job on offer, and have been tailored to exclude settled workers from being recruited.

## 

## What happens to my sponsored migrants if my registration is revoked?

6.17 As already detailed (in section 5.2) certain circumstances can lead to your

registration being revoked.

6.18 If your registration is revoked, C&I will:

* give you **twenty eight days written notice** which will include the proposed grounds for removal from the Register. You will then have **fourteen days** from the receipt of this notice to make written representations to the Principal Immigration Officer of the reasons why you should not be removed from the Register. The Principal Immigration Officer then has the remainder of the twenty eight days to confirm or withdraw the notice of removal in writing to you. If the removal is confirmed you may request a review, within **five working days,** by the Governor of the decision (request for review forms can be requested from C&I);
* inform any migrant worker known to be working for you that you have been removed from register, and that they are no longer allowed to work for you. If you are the migrant worker’s sponsor then the migrant worker’s permit may be cancelled – in these cases the **cancellation will become effective after twenty eight days** (see regulation 20 of the Regulations).

**C&I duties**

6.19 C&I plan in the future to provide regular reports to you giving details of the primary Work Permits sponsored by you, and other migrant workers working for you, including permit validity dates and upcoming expiration dates.

6.20 We will aim to process *complete* Work Permit applications and extensions within eight working days of the date of receipt. Complete applications are those applications that are ready to be processed and require no further information in order to make an assessment on them.

# 6.21 The Workforce Shortage List will be updated on a regular agreed basis and

# published accordingly.