

### Falkland Islands Government

### Customs & Immigration Service

### Byron House

3 ‘H’ Jones Road Stanley

Falkland Islands

Tel: (+500) 27340

e-mail: reception@customs.gov.fk

GENERAL MIGRANTS POINTS BASED SYSTEM PERMANENT RESIDENCE PERMIT

GUIDANCE

(1st September 2021)

## This Guidance is intended for –

1. persons who wish to know more about making an application for a permanent residence permit; and
2. persons who are making an application for a permanent residence permit.

## This Guidance consists of –

General Guidance, including

Appendix A Glossary of terms and definitions

Appendix B Points System – Summary of criteria and points available as of

 1st September 2021

Annex 1 Table or rehabilitation and clear periods

Form 1A Guidance (Adult Principal Applicant and Adult Dependent Partner)

Form 1B Guidance (Self-Assessment - Points system)

Form 2 Guidance (Child Principal Applicant and Dependent Child)

Please ensure you read the General Guidance carefully and also the form specific guidance relevant to your application. You are also strongly advised to refer to the guidance while you are completing your application form/s.

Before starting to complete your application, you should make sure that you will meet the qualifying residency requirements set out in Part 4 of this guidance (‘Residency’) on or before your intended date of application (see definition of “**date of application**” in section 12.6 (‘The application’).

You should also check that you meet the other essential qualifying criteria outlined at Part 3. And, if you are an adult principal applicant (see definition of “**principal applicant**“ in Part 2), that you meet or exceed the points threshold in respect of the criteria set out in Appendix B, if it applies to you.

# General Guidance

**Permanent Residence Permit Points System**

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Appendix A Glossary of terms and definitions

Appendix B Summary of criteria and points available as of 01 September 2021

Annex 1 – Table of rehabilitation and clear periods

## System for grant of permanent residence permits

The system for the grant of permanent residence permits is intended to be consistent and transparent and is made up of:

1. essential criteria to be satisfied by each applicant, and;
2. a points system, and;
3. an exceptional basis on which the Principal Immigration Officer may refuse an application.

The detailed legal requirements are set out in the Immigration (Permanent Residence Permits) Regulations 2009.

[www.legislation.gov.fk](http://www.legislation.gov.fk)

This Guidance summarizes the legal requirements and provides guidance on how the requirements are applied.

## Who may apply for a permanent residence permit

### 2.1 Categories of applicant

Three categories of applicant may be included in one application:

1. Principal applicant: the person who is stated to be the principal applicant on the

 application form

1. Dependent partner: the partner of a principal applicant
2. Dependent child: the dependent child of a principal applicant

### 2.2 Who may apply as a principal applicant

The following persons may apply for a permanent residence permit as a principal applicant:

* 1. A person who is 18 or older and:
		1. ordinarily resident in the Falkland Islands on the date of application;
		2. has been ordinarily resident in the Falkland Islands for three years immediately before the date of application, and;
		3. EITHER is the partner of a person with Falkland Islands status or a person who has a permanent residence permit

OR has carried out an assessment against the points system and has achieved or exceeded the relevant points threshold.

* 1. A person who is under 18, is a child of a person who has Falkland Islands status, a permanent residence permit and:
		1. is ordinarily resident in the Falkland Islands on the date of application, and;
		2. has been ordinarily resident in the Falkland Islands for three years immediately before the date of application.

See paragraph 12.6 for an explanation of “**date of application**”.

### 2.3 Who may exceptionally apply as a child principal applicant

The Principal Immigration Officer may permit a person who is under 18 and does not meet the requirements of category (3) to apply for a permanent resident permit as a principal applicant in exceptional circumstances.

A child who has been granted exceptional permission to apply for a permanent residence permit as a principal applicant is not subject to the residency requirements outlined at (3) (b) of paragraph 2.2 and is not subject to the points system as described at Part 10.

### 2.4 Who may be included in the application of an adult principal applicant

The following may be included as a dependent in the application of an adult principal applicant:

1. a partner, and
2. a dependent child.

A dependent is subject to the same residency requirements as the principal applicant, except that in relation to a child under the age of 3 years, the child must have been born during a period when the principal applicant had leave to enter and remain in the Falkland Islands.

If the application of the principal applicant is approved, permanent residence permits will also be granted to any dependents included in the application.

If dependent(s) included in an application do not meet the requirements the application as a whole will be refused.

## Essential criteria to be satisfied in connection with an application for a permanent residence permit

The essential criteria are that:

1. the residency requirements are met;
2. on the basis of health assessments provided, all applicants are of good health;
3. a satisfactory assessment of educational needs for all applicants under 16;
4. on the basis of police certificates provided, all applicants who are 16 or older appear to be of good character;
5. in respect of an adult principal applicant or adult dependent, they have a sufficiently good command of English language to meet the ordinary needs of life;
6. that all applicants are satisfactorily accommodated.

## Residence

### 4.1 Meaning of ‘ordinarily resident’

‘Ordinarily resident’ is not defined in legislation, but the established meaning of the phrase is that a person is ordinarily resident if:

1. they normally live in the Falkland Islands, other than during temporary or occasional absences, and;
2. they live in the Falkland Islands voluntarily and for settled purposes, as part of the regular order of their life for the time being.

When deciding whether a person is ordinarily resident, all the circumstances will be considered.

A person can be ordinarily resident in more than one country.

To be ordinarily resident, the person’s presence in the Falkland Islands must be lawful.

An applicant who is ordinary resident in the Falkland Islands does not have to be physically present in the Falkland Islands on the date of application. ”**Date of application**” has a special meaning and this is explained in paragraph 12.6.

### 4.2 Additional residence criteria

A person is not regarded as being ordinarily resident if the person has been absent from the Falkland Islands for more than 100 days in any of the 3 years before the date of application

### 4.3 Periods of absence not taken into account

A person’s absence from the Falkland Islands is not taken into account if the principal reason for the absence is–

1. to receive medical treatment;
2. to undertake a course of education or training;
3. to support a dependent or relative whose principal reason for being absent from the Falkland Islands is to receive medical treatment or to undertake a course of education or training;
4. to undertake work or to conduct business outside of the Falkland Islands in connection with their employment or business for which the person has been issued a work permit, or in the case of a dependent, to accompany the principal applicant for that purpose.

As mentioned under part 2,

* a child who has been granted exceptional approval to apply for a permanent resident permit as a principal applicant by the Principal Immigration Officer is not required to meet the ordinary residency requirements.
* a child dependent who is under 3 years can be included in an application if the child was born when the principal applicant had leave to enter and remain in the Falkland Islands.

## Health assessment

5.1 Health assessment

The principal applicant must submit a health assessment for themselves and for every dependent included in the application.

The health assessment includes medical and dental (for which separate appointments must be made), and must be undertaken or endorsed by the Chief Medical Officer or any doctor employed by the Falkland Islands Government or appointed by the Governor (“**a medical inspector**”).

The health assessment must include an assessment of whether, in the medical inspector or dental practitioner’s opinion, the applicant (whether a principal applicant or a dependent) is, or is likely to become, a substantial charge on public funds because of their healthcare needs. A “**substantial charge on public funds**” means a charge on public funds or any other impact on public resources that it is unreasonable, in all the circumstances, to expect the Government to bear. The judgement will be made bearing in mind the limited medical resources available in the Falkland Islands.

### 5.2 Medical and dental assessment forms

Medical and dental assessment forms may be obtained from the Customs & Immigration Service at [www.fig.gov.fk/customs](http://www.fig.gov.fk/customs) or by request to email address: reception@customs.gov.fk

### 5.3 Medical and dental examinations for applicants in the Falkland Islands

If you are in the Falkland Islands when you intend to make your application, you should contact the King Edward Memorial Hospital, Stanley, to arrange an appointment with a doctor and dentist to undergo a medical and dental examination.

When making your appointment you should advise the receptionist that the appointment is for a medical examination in connection with an application for a permanent residence permit (because a longer appointment time is needed). You may not be given an appointment immediately, so we recommend that you make arrangements for your appointment well in advance. You should also complete the form before attending for your appointment.

This also applies to any dependents included in your application, if they are in the Falkland Islands at the relevant time.

### 5.4 Medical and dental examinations for applicants in the United Kingdom

If you are in the United Kingdom when you intend to make your application and are registered with a National Health Service GP, that doctor (or another doctor in the same practice) and dentist should be asked to undertake the examinations as are required in connection with your application. If this is not possible then you may need to arrange for your medical and dental examinations to be done by private practitioners.

Once the medical and dental assessment forms have been completed by you and a doctor and dentist, it should be sent to the Chief Medical Officer at the King Edward Memorial Hospital, Stanley.

This also applies to any dependents included in your application, if they are in the United Kingdom at the relevant time.

### 5.5 Medical and dental examinations for applicants in other countries

If you are in a country other than the United Kingdom, you will need to check with the Chief Medical Officer at the King Edward Memorial Hospital, Stanley, whether the medical establishment/s where you intend to have the medical and dental examinations undertaken are acceptable. The Chief Medical Officer may nominate another medical and dental establishment/s.

Once the medical and dental assessment forms have been completed by you and the doctor and dentist, it should be sent to the Chief Medical Officer.

This also applies to any dependents included in your application who are in a country other than the United Kingdom at the relevant time.

### 5.6 Withdrawal of health assessment by a medical inspector

If, after an application for a permanent residence permit has been submitted, a medical inspector advises that a health assessment must be withdrawn, the application to which the assessment relates is no longer eligible for consideration and will be returned to the principal applicant. Where this occurs the application fee will be refunded.

### 5.7 Requirement for a principal applicant to notify the Customs & Immigration Service of significant change in health

The principal applicant must inform the Customs & Immigration Service of any significant change in their health or that of any dependents included in their application which may bring into question the health assessment submitted with their application. In such cases the Chief Medical Officer will be consulted and if she decides that the particular health assessment must be withdrawn, the application will no longer be eligible for consideration and will be returned to the principal applicant. Where this occurs the application fee will be refunded.

### 5.8 Charges

Any charges incurred in relation to obtaining a health assessment are the responsibility of the applicant.

## Educational assessment

6.1 Educational assessment

The application must include an educational assessment of a principal applicant, if that person is a child under 16 years of age or for every dependent child who is under 16 if the principal applicant is an adult.

An assessment of educational needs must be endorsed by the Falkland Islands Director of Education. The assessment of educational needs must include an assessment of whether the child is, or is likely to become, a substantial charge on public funds because of their educational needs if the application is approved. A “**substantial charge on public funds**” means a charge on public funds or any other impact on public resources that it is unreasonable, in all the circumstances, to expect the Government to bear. The judgement will be made bearing in mind the specific educational resources available in the Falkland Islands.

### 6.2 Educational assessment forms

Educational assessment forms may be obtained from the Customs & Immigration Service at [www.fig.gov.fk/customs](http://www.fig.gov.fk/customs) or by request to email address: reception@customs.gov.fk

The educational assessment will be carried out by the Education Department.

## Good character

7.1 Requirements

To be issued with a permanent residence permit, the principal applicant and any dependents included in the application must be regarded as being of good character.

All applicants who are 16 or older must declare all offences (if any) of which they have been convicted, irrespective of how minor the offence might be or how long ago it was. This includes all convictions which may be considered “spent”. They must also declare all cautions and fixed penalty notices received.

### 7.2 Police certificates

A police or similar certificate, confirming convictions, or lack of convictions of each person who is 16 or older must be submitted with the application from each of the following countries:

1. the Falkland Islands;
2. for each person’s country of citizenship, if the person has lived in that country since age 16;
3. for each country that the applicant has, since age 16, lived in for more than 12 months during the 5 years before the date of the application;
4. for any other country in which the person has been convicted of a criminal offence.

### 7.3 Age of police certificates

Falkland Islands police certificates must not be more than three months old on the date of application (see paragraph 12.6), so the certificates should be requested as close as reasonably possible to the date of when you intend to submit your application.

All other police certificates must have been issued since the last occasion on which an applicant lived in the relevant country or not more than three months before ceasing to live in the country.

### 7.4 Difficulties in obtaining certificates from certain countries

An applicant will not be expected to provide a police certificate:

1. if the authorities of a particular country will not generally provide such certificates, or;
2. where an immigration officer considers that because of the difficulties in obtaining a certificate from a certain country it would be unreasonable to expect the applicant to obtain it and the officer is satisfied that the applicant’s good character can be established by other means.

In these instances an applicant will need to provide detailed information of their attempts to obtain the certificates in question.

### 7.5 Police certificates sent directly to the Customs & Immigration Service

Ordinarily, police certificates must be included in the application when it is submitted to the Customs & Immigration Service. However, police authorities in some countries will only send certificates direct to the Customs & Immigration Service. Where this is the case ask for the certificate well in advance and notify the Customs & Immigration Service to expect the certificate. In addition, you should provide a copy of the request for the certificate (as endorsed with any receipt of payment for the certificate) to enable Customs & Immigration to track the certificate.

Proof of application for a police certificate **is not sufficient** to meet the requirements without the certificate itself.

 Where a police certificate is electronic or online, ensure verification takes place by Customs

 & Immigration before the access time for the certificate expires.

### 7.6 Initial assessment of the character of an applicant

The initial assessment of the character of an applicant is based on the convictions and offences, cautions and fixed penalty notices (if any) declared by the applicant and the supporting police certificate(s) submitted with the application.

### 7.7 Rehabilitation of offenders – ‘spent’ convictions and ‘clear’ periods

Schedule 10 of the Criminal Procedure and Evidence Ordinance 2014 sets out the periods after which a person who has been convicted of an offence will, subject to some conditions, become rehabilitated i.e. the conviction will be spent. However, some offences never become ‘spent’.

Additionally, the Customs & Immigration good character policy as approved by Executive Council requires that ‘clear periods’ are met for sexual offences, cautions, court orders, and fixed penalty notices.

The length of the period will depend on the seriousness of the offence and the corresponding sentence.

**See Annex 1** - Table of Rehabilitation and Clear Periods.

Convictions relating to sexual offences require a minimum 5 years concurrent rehabilitation/clear period - relevant sexual offences are listed in Schedule 3 of the Crimes Ordinance 2014 or Schedule 4 of the Crimes Ordinance 2014.

A permanent residence permit application will not *normally* be approved until after the end of the relevant rehabilitation or clear period.

### 7.8 Impending prosecutions

If an applicant has been charged with an offence and the court proceedings are ongoing, the application is not eligible for consideration until after the proceedings are finished. If the proceedings are not finished within a year from the date of the application, the application will be deemed to have lapsed and will be returned to the principal applicant. The application fee will not be refunded.

### 7.9 Substantial grounds for believing that a person is not of good character

A permanent residence permit will be refused if the applicant cannot establish good character and the Principal Immigration Officer is of the opinion after taking advice from the Attorney General, that the character or conduct of an applicant gives rise to “**substantial grounds**” for believing that it would not be in the public interest to grant permanent residence to the applicant. Substantial grounds for refusal include, but are not limited to -

1. firm and convincing evidence that an applicant is a knowing and active participant in serious crime such as drug trafficking, prostitution, domestic violence, or child abuse;
2. the applicant has been involved or associated with war crimes, crimes against humanity, genocide or terrorism (information on which are provided below);
3. the applicant is an un-discharged bankrupt or has previously been, or is currently involved in tax evasion or in dishonestly obtaining public funds;
4. the applicant is notorious in terms of scale and persistence of behaviour such as drug or solvent abuse, or antisocial behaviour;
5. the applicant has been deceptive (other than in a minor way) in connection with immigration procedures, such as: has entered into a bogus marriage, deliberately concealed a criminal offence, has assisted others in the evasion of immigration processes.

### 7.10 Fees

Any fees incurred in relation to an applicant obtaining police certificates or other relevant documents as evidence of meeting the good character requirements are the responsibility of the applicant.

## Command of English language

8.1 Level required

An adult principal applicant and an adult dependent included in an application must have a sufficiently good command of the English language to meet the ordinary needs of life.

### 8.2 Options for demonstrating sufficiently good command of the English language

You can demonstrate that you meet the English language requirement by one of the following means:

1. you are a citizen of an accepted English speaking country listed in paragraph 8.3.;
2. you hold a general certificate of secondary education in English language;
3. you have a national vocational qualification which was gained as a result of a course of study in which English language was the only medium of instruction;
4. you have passed an English language (verbal) test administered by or on behalf of the Director of Education of the Falkland Islands and been issued with a corresponding certificate.

### 8.3 Approved English speaking countries

Approved English countries are:

Antigua and Barbuda Ireland

Australia Jamaica

Bahamas New Zealand

Barbados St Kitts and Nevis

Belize St Lucia

Canada St Vincent and the Grenadines

Dominica Trinidad and Tobago

Grenada United Kingdom (including its overseas territories)

Guyana United States of America

### 8.4 General certificate of secondary education in the English language

A general certificate of secondary education means a qualification recognised by the United Kingdom Qualifications and Curriculum Development Agency.

Non-UK educational qualifications must be supported by a letter or certificate of comparability issued by the European Network of Information Centres (ENIC). Further information and advice on how to obtain a letter or certificate of comparability, can be found at: [www.enic.org.uk](http://www.enic.org.uk).

### 8.5 NVQ taught in English

A national vocational qualification is a qualification recognised by the United Kingdom Qualifications and Curriculum Development Agency. A certificate which has been issued by an awarding body in the United Kingdom will not ordinarily require further assessment provided that the English language was the only medium of instruction. You may need to obtain a letter from the relevant awarding body to certify that your course of study was in English.

Foreign vocational qualifications must be supported by a letter or certificate of comparability issued by the ENIC. See paragraph 8.4.

### 8.6 English language Test

For information about taking the English language test, at the Falkland Islands College contact: clerk@college.ac.fk

### 8.7 Fees

Any fees incurred in relation to an applicant obtaining evidence of meeting the command of English language requirement are the responsibility of the applicant.

## Accommodation

9.1 Satisfactory accommodation

Satisfactory long-term accommodation arrangements for you, and any dependent included in your application must be in place when you make your application.

Your arrangements can be on the basis of ownership of your own home or accommodation that is rented but in either case must be must be evidenced with relevant document/s (e.g. proof of ownership; tenancy agreement).

### 9.2 Criteria applied in determining that accommodation arrangements are satisfactory

In determining whether your current accommodation arrangements are satisfactory, the Immigration Officer handling your application will apply the following criteria:

1. the accommodation is available to the principal applicant and all dependents included in the application for at least six months from the date of application (see paragraph 12.6);
2. all members of the household have access to reasonable kitchen, toilet and washing facilities and (except in the case of bedsit type accommodation for a single applicant) a separate common living area;
3. there are sufficient sleeping rooms for the household and none of the rooms are overcrowded (which will be established by reference to the tables below).

### 9.3 Tables for determining if accommodation arrangements are satisfactory

 **Both table 1 and table 2 need to be considered when the suitability of the available**

 **accommodation is being assessed.**

Notes for Table 1 – maximum occupancy for number of rooms:

1. only rooms exceeding 50 square feet (4.6 square metres) will be taken into account;
2. only rooms which can be ordinarily considered as bedrooms (except bedsit type accommodation where the occupants’ living room and bedroom occupy the same space) will be taken into account;
3. children under 1 are not counted;
4. children who are 1 or older but under 10, count as half a person;
5. persons who are 10 or older each count as one person;
6. persons of opposite sexes who are 10 or older cannot sleep in the same room unless they are married, in a civil union or a cohabiting couple

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| --- |
| **Table 1 – Maximum occupancy by reference to age and relationship of persons sharing rooms** |
| **Number of Rooms** | **Number of persons permitted** | **Remarks** |
| **Persons****who are 10 or older** | **Children over 1****and under 10** |
| 1 | 2 | 2 | But the total number of persons must not exceed 3 |
| 2 | 4 | 5 | But the total number of persons must not exceed 6 |
| 3 | 6 | 8 | But the total number of persons must not exceed 9 |
| 4 | 8 | 11 | But the total number of persons must not exceed 12 |
| 5 | 10 | 14 | But the total number of persons must not exceed 15 |

Notes for Table 2 – maximum occupancy for size of rooms:

1. only rooms which can be ordinarily considered as bedrooms (except bedsit type accommodation where the occupants’ living room and bedroom occupy the same space) will be taken into account;
2. children under 1 are not counted;
3. children who are 1 or older but under 10, count as half a person;
4. persons who are 10 or older each count as one person;
5. for rooms exceeding 110 square feet (10.2 square metres) that are of a large dormitory style kind, higher numbers of occupants in proportion to the actual size of the room will be considered acceptable.

|  |
| --- |
| **Table 2 – Maximum occupancy by reference to size of rooms and number of persons** |
| **Floor area of room** | **Number of persons** |
| 50 – 69 sq feet (4.6 – 6.5 sq metres approx) | 1 person |
| 70 – 89 sq feet (6.5 – 8.4 sq metres approx) | 1.5 persons |
| 90 – 109 sq feet (8.4 – 10.2 sq metres approx) | 2.0 persons |
| 110 sq feet and over (10.2 sq metres approx and larger) | 2.5 persons |

## The points system

### 10.1 Objective of the points system

The points system has been devised as a method of identifying those people wishing to permanently reside in the Falkland Islands who have skills and qualities that are needed in the Islands. The system sets minimum points thresholds that an adult principal applicant (who is not the partner of a person with Falkland Islands status or holder of a permanent residence permit) is required to meet in order to qualify to apply for a permanent residence permit.

The system is also intended to be flexible, enabling applicants without formal qualifications to meet the points threshold by gaining points for other criteria, such as experience relevant to their employment, community engagement, and close family connections.

### 10.2 Self-assessment against the points criteria

Prospective applicants are expected to undertake a self-assessment against the points criteria. If the total points are equal to or exceed the threshold and provided the other essential criteria are satisfied, you can reasonably anticipate your application will be approved.

### 10.3 Workforce Shortage List

The system awards points for employment included in the Workforce Shortage List. The list is reviewed annually by the Skills Assessment Council and approved by Executive Council. The occupations included in the current Workforce Shortage List can be seen by checking the list which is available at: [www.fig.gov.fk/customs/for-employers](http://www.fig.gov.fk/customs/for-employers)

### 10.4 Points earning criteria

The points earning criteria and the points that may be earned are set out in the table at Appendix B. to this Guidance. More detailed information regarding points earning criteria can be found in the Form 1B Guidance.

### 10.5 The points threshold

An adult principal applicant who is not the partner of a person with Falkland Island status or a person who already has a permanent residence permit must meet or exceed the “**points threshold**”. Currently the threshold is 50 points, whether the application includes dependents or not.

## Quota for grant of permits

The current annual quota for the grant of permanent residence permits is 90 granted to principal applicants and dependents between 1 September and 31 August each year.

Applications are considered on a monthly basis. Applications are queued in order of the date of application (see paragraph 12.6).

The annual quota cannot be exceeded. If there is no annual quota left available, an application cannot be considered in that quota year and will not be accepted.

## The application

12.1 Application form

An application is made by completing the forms that are appropriate for your circumstances:

### Form 1A: Adult Principal Applicant and Adult Dependent Partner

This form must be completed by a person who is 18 or older and is applying for a permanent residence permit as:

1. an adult principal applicant, or;
2. a dependent partner included in the application of an adult principal applicant.

### Form 1B: Self-Assessment

In addition to Form 1A, an adult principal applicant must also complete the self-assessment in relation to the points system in Form 1B, unless they are the partner of a person with Falkland Islands status or who is the holder of a permanent residence permit.

### Form 2: Child Applicant and Dependent Child:

This form must be completed by a child who is—

* 1. applying as a principal applicant on the basis that they are the child of a person with Falkland Islands status or of a person who holds a permanent resident permit;
	2. is 16 or older and is included as a dependent in the application of a principal applicant; or
	3. applying as a principal applicant with the written approval of the Principal Immigration Officer.

### 12.2 Who must sign an application Form 1A

An application Form 1A must be signed by:

1. the adult principal applicant; and
2. a dependent partner included in the application of a principal applicant (as they must complete a Form 1A on their own account).

### 12.3 Who must sign an application Form 1B

Application Form 1B must be signed by an adult principal applicant who is subject to the points system.

### 12.4 Who must sign application an application Form 2

An application Form 2 must be signed by:

* 1. a child principal applicant who is 16 or older,
	2. a child included in the application of an adult principal applicant who is

 16 or older, or

* 1. the parent or guardian of a child principal applicant who is under 16.

### 12.5 Date of signing

When a person signs the application, they must also give the date of signing the application. This is not the date of application - see paragraph 12.6.

### 12.6 Date of application

The ”**date of application**” is the date on which:

* + 1. an application is received by an immigration officer, and;
		2. the application is a complete application (regulation 12(b) of the Immigration (Permanent Residence Permits) Regulations 2009).

A “**complete application**” is one that has been correctly completed and for which all documents and information that is required in support have been included in the application.

### 12.7 Significance of the ‘date of application’

The date of the application will be later than the date on which the application was signed and submitted to the Customs & Immigration Service if —

(a) the application is sent by post - the date of application is the date the application is actually received by the Customs & Immigration Service and for which all documents and information that is required in support have been included in the application. The date of application may be significantly later than the date of signing if the application is mailed from overseas;

(b) the Customs & Immigration Service consider that an application is incomplete in a minor, but easily corrected, manner. They may be willing to hold it for a short period while the missing information is provided. In this case, the date of application is the date on which the missing information is received by the Service.

The Immigration Officer handling your application will, if necessary, make adjustments to your application to reflect the difference between the date you signed the form and the date of application. You will be notified in writing if this results in a significant change to your application, for example because it means that you do not meet the points threshold.

### 12.8 Planning and preparing for your application

Because of the potential difference between the date when your application is delivered to the Customs & Immigration Service and the formal date of the application as outlined above, it is strongly recommended you carefully plan the completion of your application:

1. Check you are eligible to apply and, if applicable, that you meet, or exceed, the points threshold.
2. Set a target date of when you intend your application to be received by the Customs & Immigration Service.
3. Plan the collection of supporting documents and information so that they relate to a date which is as close as is practically possible to your target date.
4. Complete the application form only after you have gathered together all relevant documents and information that you intend to include in the application.
5. Send or deliver the completed application and supporting documents together with the application fee to the Customs & Immigration Service as soon as your application is complete.

### 12.9 Completing your application

You must complete the application forms which apply in your particular case. Check you have the most up to date version of the forms. The forms must be submitted in paper copy but you can complete the form in English either electronically and print it off, or in blue or black ink. Applications that are made on an out-of-date form, difficult to read, or are not completed in English will be rejected. The form must be signed by hand – an electronic signature will not be accepted.

Make sure the information you provide is correct before you submit your application. It is a criminal offence punishable by a fine of up to £10,000 or a sentence of imprisonment of up to 12 months to knowingly or recklessly give false or untrue information (section 32 Immigration Ordinance 1999).

### 12.10 How to submit your application

Your application must be sent or delivered to —

The Principal Immigration Officer:

The Falkland Islands Government Customs & Immigration Service

Byron House

3 ‘H’ Jones Road Stanley

Falkland Islands FIZZ 1QQ.

If you choose to deliver your application in person and at the same time, wish to consult an Immigration Officer regarding any aspect of your application, contact the Customs & Immigration Service first to arrange an appointment.

Contact details:

Telephone (+500) 27340 e-mail: reception@customs.gov.fk

**You will not be seen without an appointment.**

If you simply wish to hand in your application, you may do so at the reception counter during normal office hours.

### 12.11 Items to accompany your application

You must include with your application:

1. the fee, currently £100.00 whether or not any dependents are included in the application;
2. any document or other information required to show that you and any dependents included in the application satisfy the requirements that are relevant in your particular case;
3. a health assessment in respect of each applicant;
4. An educational assessment for each applicant who is under 16 years old ;
5. police or similar certificates for each applicant who is 16 years old or older;
6. an English language certificate (or other evidence of meeting the English language requirement) for the adult principal applicant and any dependent partner;
7. evidence that each applicant is satisfactorily accommodated;
8. any other document or information that you consider is necessary to show that each applicant meets the requirements for the issue of a permanent residence permit.

### 12.12 Incomplete application

An incomplete application will usually be returned to the principal applicant.

However, if an incomplete application can be easily corrected, the immigration officer may inform the principal applicant that the application has not been accepted for consideration and will be held for a specified period of time to allow the principal applicant to provide the outstanding documents or information.

If the outstanding documents or information are not provided within the time specified, the application will be returned and the fee will be refunded.

## Documents

13.1 Documents required

You must include with your application either original documents or copies of the originals. If you provide copies, the immigration officer may require you to provide the original.

A copy document will only be accepted if it has been certified as a true copy by either a solicitor, justice of the peace, notary public or similar person or by the authority which issued the document.

An Immigration Officer considering an application is not obliged to seek any further documents or information and may consider the application on the basis of the documents and information provided. The officer may also obtain further documents or information from other sources before considering the application.

### 13.2 Translations of documents that are not in English

If you provide any document in support of your application which is not in English, it must be accompanied by an English translation that is certified as an accurate translation by a person who has sufficient knowledge of both languages to provide a translation.

If an Immigration Officer is not satisfied with the translation, they may request a full translation by a different translator within a specified time.

Where a further translation is requested by an Immigration Officer, this will delay the date of your application.

The principal applicant is responsible for the cost of providing translations of documents, including translations requested by an Immigration Officer.

## Change in circumstances

14.1 Material change in circumstances

A principal applicant must, as soon as reasonably possible, inform the Principal Immigration Officer in writing of any material change in circumstances that occur after the date of application, if the change in circumstances may affect the decision to grant a permanent residence permit.

Failure to notify a material change in circumstances is a criminal offence punishable by a fine of up to £10,000 or a sentence of imprisonment of up to 12 months (section 32 Immigration Ordinance 1999) .

### 14.2 Change in family circumstances

1. If a person is included in the application as a dependent child but before the application is considered, the person reaches 18 years of age, the application will remain eligible for consideration.
2. If a person is included in the application as the dependent partner but before the application is considered, the person ceases to be the principal applicant’s partner, the application will no longer be eligible for consideration and will be returned to the principal applicant.
3. If a person is included in the application as a dependent child of a dependent partner but before the application is considered, the relationship between the principal applicant and the dependent partner breaks down, the application will no longer be eligible for consideration and the application will be returned to the principal applicant.

If the application form is returned in circumstances falling within paragraph (b) or (c), the application fee will not be refunded.

## Action before consideration of applications

Before an application is decided, an Immigration Officer may require:

* + an applicant to attend an interview with an Immigration Officer;
	+ an applicant to undergo a further medical examination;
	+ the principal applicant to produce any other document or information which the Immigration Officer believes is necessary in helping to determine the application.

## Grant of permanent residence permits

The Principal Immigration Officer will grant a permanent residence permit to a principal applicant and all dependents included in the application if:

1. a health assessment has been submitted in respect of each applicant showing no substantial charge on public funds;
2. an educational assessment has been submitted in respect of each relevant applicant showing no substantial charge on public funds;
3. each applicant appears to be of good character;
4. the adult principal applicant and any adult dependent meet the command of English language requirement;
5. The principal applicant and all dependents included in an application are satisfactorily accommodated for a minimum of six months from the date of application;
6. where applicable, the application meets or exceeds the relevant points threshold;
7. the grant of the permit would not exceed any applicable quota;
8. there are no substantial grounds on which the Principal Immigration Officer would exceptionally refuse the application.

## Refusal of application

17.1 Requirements

If a principal applicant or any dependent included in their application does not satisfy any requirement that applies to them, the Principal Immigration Officer will refuse the application of the principal applicant and all dependents included in the application. The application fee will not be refunded.

### 17.2 Substantial grounds on which the Principal Immigration Officer may refuse an application

The Principal Immigration Officer may refuse an application, after taking advice from the Attorney General if the character or conduct of the principal applicant or any dependent included in the application gives rise to substantial grounds for believing that it would not be in the public interest to grant a permanent residence permit. Examples of the grounds on which an application might be refused are given at paragraph 7.9.

### 17.3 Right of appeal against the refusal to grant a permanent resident permit

A person who is aggrieved by the Principal Immigration Officer’s decision to refuse a permanent residence permit may appeal the decision by making representations in writing to the Governor in Council within 28 days of receiving notice of the decision.

If the appeal is allowed, the Principal Immigration Officer will be required to grant a permanent residence permit (section 28, Immigration Ordinance 1999 and regulation 4, Immigration (Permanent Residence Permit Appeals) Regulations 2021).

# Appendix A

**Glossary of terms and definitions**

applicant: includes the principal applicant and a dependent included in an application

application: means an application for the grant of a permanent residence

 permit

date of application: is the date on which:

1. an application is received by an immigration officer,

 and;

1. the application is a complete application.

 (regulation 12 of the Immigration (Permanent

 Residence Permits) Regulations 2009)

Camp: means any place in the Falkland Islands that is not part of the town of Stanley or part of Mount Pleasant Complex

dependent: means a partner (whether or not a financially dependent partner), or a dependent child, of a person

dependent child: means a child, or legally adopted child, of a person or of the person’s partner, if the child is:

1. under 18, and;
2. not a partner; and
3. totally or substantially reliant on the person or the

 person’s partner for financial support

 medical inspector: means a medical inspector appointed by the Falkland

 Islands Government

 Falkland Islands Gazette: means the official publication of the Falkland Islands

 Government

partner: means one of a married couple, one of an unmarried couple, or one of a civil partnership, who is living with the other party in the relationship

principal applicant: means the person who is stated to be the principal

 applicant in an application form for a permanent residence

 permit

unmarried couple: means two persons who habitually live together in a

 relationship with some or all of the characteristics of a

 marriage or of a civil partnership, the relationship having

 existed for at least three years

year: means a consecutive period of 12 months

# Appendix B

**Points System –criteria and points available as applicable on 01 September 2021**

|  |  |
| --- | --- |
| **Criteria** | **Points** |

## Principal applicant

|  |
| --- |
| **Earned Income** |
| £12,000 or more, but less than £25,000 per annum (gross) | **10** |
| £25,000 or more per annum (gross) | **15** |
| Earned income is calculated by taking the average gross income over the two most recent full calendar years before the date of application. It may include as applicable, salaries, business income, income on investments, value of employment benefits in kind. |
| **Employment**  |
| Contract(s) of employment of at least 6 months or more duration that will provide a gross income of at least £12,000 per annum.In addition, for employment in Camp.Employment in Camp means any place outside Stanley (excluding Mount Pleasant Camp) or any agricultural enterprise located within Stanley where livestock farming is the primary activity. | **10****5** |
|  Self-employment must be evidenced with business accounts for the nearest full financial year before the date of application. |
| **Employment in Workforce Shortage List** |
| Principal applicant’s primary employment is included in the Workforce Shortage List.The Workforce Shortage List as detailed at Part 9 above is reviewed annually and the current list can be found at [www.fig.gov.fk/customs/for-employers](http://www.fig.gov.fk/customs/for-employers) |  **5** |
| **Work Experience Relevant to Principal Employment**  |
| Up to 5 years | **5** |
| More than 5 years | **10** |
| If a person has more than one type of employment, points may only be claimed in relation to work experience relevant to the person’s principal employment. |
| **Educational or Professional Qualification** |
| Educational or professional qualifications that are relevant to the primary employment of the principal applicant. |  **5** |
| Points will only be awarded for a qualification that is relevant to the individual’s primary employment |
| **Community Engagement** |
|  Community engagement is a substantial and sustained contribution to  the local community |  **5** |
|  For example actively participating as a member of the Falkland Islands Defence Force or the retained Fire  Service, representing the Falkland Islands overseas in sporting competitions, or a trustee of a charity. |
| **Property Assets (Jointly with partner if applicable)** |
| Property in the Falkland Islands valued at more than £25,000 but less than £50,000Property in the Falkland Islands valued at more than £50,000Property overseas valued at more than £25,000 but less than £50,000Property overseas valued at more than £50,000 |  **10** **20** **5** **10** |
| Property means land and buildings, and does not include moveable assets, such as furnishings.Net value means the value of the property after deducting any outstanding mortgage or charge on the property.If the property is jointly owned with another person other than the applicant’s partner, only the net value of the applicant’s share of the property may be taken into account. |
| **Unencumbered Cash Assets - (Jointly with partner if included)** |
| £5,000 or more, but less than £15,000 held in the Falkland Islands | **5** |
| £15,000 or more, whether held in the Falkland Islands or elsewhere | **10** |
| Unencumbered cash assets include bank deposits and company shares, but must not include anyborrowings. |
| **Age**  |
| 18 – 34 | **15** |
| 35 – 44 | **10** |
| 45 – 54 | **5** |
| 55 or over | **0** |
| Age means the applicant’s age on the date of making an application. |
| **Length of time resident in the Falkland Islands** |
| 36 months or more, but less than 72 months | **10** |
| 72 months or more | **5** |
| An applicant must have been resident in the Falkland Islands for a continuous period, excepting temporaryabsences. |
| **Pension Plan - Principal Applicant** |
| If aged 55 years or more and is a member of a pension plan for at least 2 years immediately before date of application | **5** |
| Payments under a statutory retirement pension scheme do not count for earning points. |
| **Close Family Permanently Resident** |
| Adult sister or brother, adult child, or parent of the principal applicant or of the principal applicant’s partner if included in the application,who is permanently resident in the Falklands Islands. | **5** |
| Permanently resident means that the family member has Falkland Islands status or a permanent residence permit and is ordinarily resident in the Falkland Islands on the date of application. |
| **South Atlantic Medal – Principal Applicant**  |
| If the principal applicant is the holder of a South Atlantic Medal | **5** |

1. **Dependent Partner (if included in the application of the principal applicant) / plus Dependent Child – for Age criteria**

|  |  |
| --- | --- |
| **Age** |  |
| Dependent partner under age 45 years | **5** |
| Dependent child or children ordinarily resident in the Falkland IslandsFor 3 years or more | **5** |
| **Employment included on the Workforce Shortage List** |
| Dependent partner’s primary employment is included in the Workforce Shortage List | **5** |
| **Community engagement** |
| Dependent partner – community engagement - a substantial and sustained contribution to the local community  |  **5** |
| **South Atlantic Medal**  |
| If the dependent partner is the holder of a South Atlantic Medal | **5** |

**Annex 1**

# TABLE OF REHABILITATION AND CLEAR PERIODS –

The table in below provides examples of sentences and rehabilitation periods. In calculating the rehabilitation period, it is the sentence that counts, not the time served and a suspended sentence counts as if it were a prison sentence.

 **A custodial sentence of more than 48 months**

End of rehabilitation period ADULT – NEVER SPENT

End of rehabilitation period YOUTH – NEVER SPENT

 **A custodial sentence of more than 30 months up to 48 months**

End of rehabilitation period ADULT – 7 years after completion of the sentence, including any license period

End of rehabilitation period YOUTH – 42 months after completion of the sentence, including any license period

 **A custodial sentence of 6 months up to 30 months**

End of rehabilitation period ADULT – 48 months after completion of the sentence, including any license period

End of rehabilitation period YOUTH – 24 months after completion of the sentence, including any license period

 **A custodial sentence of 6 months or less**

End of rehabilitation period ADULT – 24 months after completion of the sentence, including any license period

End of rehabilitation period YOUTH – 18 months after completion of the sentence, including any license period

 **A fine**

 End of rehabilitation period ADULT – 12 months after completion of the sentence, including

 any license period

 End of rehabilitation period YOUTH – 6 months after completion of the sentence, including

 any license period

 **A compensation order**

End of rehabilitation period ADULT – when payment is made in full

End of rehabilitation period YOUTH – when payment is made in full

 **A community or youth rehabilitation order \***

End of rehabilitation period ADULT – when the order ceases to have effect\*

End of rehabilitation period YOUTH – when the order ceases to have effect\*

 **A conditional discharge or binding over**

End of rehabilitation period ADULT – when the order ceases to have effect

End of rehabilitation period YOUTH – when the order ceases to have effect

 **An absolute discharge**

End of rehabilitation period ADULT – no rehabilitation period

End of rehabilitation period YOUTH – no rehabilitation period

 **A Caution**

End of rehabilitation period ADULT – no rehabilitation period, but 12 months CLEAR period

End of rehabilitation period YOUTH – no rehabilitation period, but 12 months CLEAR period

 **A court order (i.e. driving disqualification)**

End of rehabilitation period ADULT – no rehabilitation period, CLEAR period until order ceases to have effect

End of rehabilitation period YOUTH – no rehabilitation period, CLEAR period until order ceases to have effect

 **Fixed Penalty Notice (FPN), criminal recordable offences only – not traffic related**

End of rehabilitation period ADULT – no rehabilitation period, but 6 months CLEAR period

End of rehabilitation period YOUTH – no rehabilitation period, but 6 months CLEAR period

 **Any other sentence not provided for in this table**

End of rehabilitation period ADULT – no rehabilitation period

End of rehabilitation period YOUTH – no rehabilitation period

\*If no provision is made by or under a community or youth rehabilitation order or a relevant order for the last day on which the order is to have effect, the rehabilitation period ends 24 months after the date of conviction.

Convictions relating to sexual offences require a minimum 5 years concurrent rehabilitation/clear period - relevant sexual offences are listed in Schedule 3 of the Crimes Ordinance 2014 or Schedule 4 of the Crimes Ordinance 2014.