

GUERNSEY STATUTORY INSTRUMENT

2004 No. 15

GREFFE
ROYAL COURT
29 APR 2004
GUERNSEY

THE IMMIGRATION (GUERNSEY) (ACCESSION STATE WORKERS)
RULES 2004

Made: 29th April, 2004

Laid before the States:

Coming into operation: 1st May 2004

THE STATES BOARD OF ADMINISTRATION, in exercise of the powers conferred upon it by subsection (2) of section three of the Immigration Act 1971 as extended to the Bailiwick of Guernsey by the Immigration (Guernsey) Order 1993 hereby makes the following rules relating to nationals of relevant accession States:-

Interpretation.

1. (1) In these Rules -
- (a) "**Immigration Act 1971**" and "**Immigration Act 1988**" shall mean those Acts as extended to the Bailiwick of Guernsey by the Immigration (Guernsey) Order 1993, and any reference to any provision of those Acts is (unless the context requires otherwise) a reference thereto as so extended;
 - (b) "**accession period**" means the period beginning on 1st May 2004 and ending on 30th April 2009;
 - (c) "**accession State worker**" shall be interpreted in accordance with rule 2;
 - (d) "**EEA State**" means a Member State (other than the United Kingdom), Norway, Iceland or Liechtenstein, and "**EEA national**" means a national of an EEA State;
 - (e) "**family member**" means a person's spouse and his children who are under 21 or dependent on him;
 - (f) "**Guernsey**" includes Herm and Jethou;
 - (g) "**public funds**" means any benefit paid by the States of Guernsey or any committee thereof to any person who has not paid any contribution towards the receipt of such benefit;

- (h) **"qualified person"** means a person who, by virtue of section 7(1) of the Immigration Act 1988 does not require leave to enter or remain in the Bailiwick;
 - (i) **"relevant accession State"** means the Czech Republic, the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Poland, the Republic of Slovenia and the Slovak Republic;
 - (j) **"Sark"** includes the dependencies of Sark;
 - (k) **"self-sufficient person"** means a person who -
 - (i) has sufficient resources to avoid his becoming a charge on public funds; and
 - (ii) is covered by sickness insurance in respect of all risks in the Bailiwick of Guernsey; and
 - (l) **"worker"** means a worker within the meaning of Article 39 of the Treaty establishing the European Community and **"work"** and **"working"** shall be construed accordingly.
- (2) In these Rules unless the context otherwise requires -
- (a) words importing the masculine gender include the feminine;
 - (b) a reference to a numbered or lettered rule, paragraph or sub-paragraph is a reference to the rule, paragraph or sub-paragraph of these Rules which is so numbered or lettered; and
 - (c) a reference to any enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

"Accession State worker".

2. (1) Subject to the following paragraphs of this rule, an **"accession State worker"** means a national of a relevant accession State working in the Bailiwick of Guernsey during the accession period.

(2) A national of a relevant accession State is not an accession State worker during any period in which he is also a national of -

- (a) the United Kingdom;
- (b) another EEA State, other than a relevant accession State; or
- (c) Switzerland.

(3) A national of a relevant accession State is not an accession State worker during any period in which he is a family member of a Swiss or EEA national who is in the Bailiwick of Guernsey under the provisions of section 7(1) of the Immigration Act 1988.

Right to work and reside of an accession State worker.

3. An accession State worker may work and reside in the Bailiwick of Guernsey only if -

- (a) he is a qualified person;
- (b) he complies with the provisions of any legislation regulating employment in force in relation to that part of the Bailiwick within which he is working and in particular (without derogating from the generality of that requirement) -
 - (i) in Guernsey, he holds an appropriate right to work document under the provisions of the Right to Work (Limitation and Proof) (Guernsey) Law, 1990; and
 - (ii) in Alderney he complies with the provisions of the Employment Permits (Alderney) Law, 1975; and
- (c) he complies with the provisions of any legislation controlling the occupation of housing in force in relation to that part of the Bailiwick within which he is residing and in particular (without derogating from the generality of that requirement) -
 - (i) in Guernsey, he complies with the provisions of the Housing (Control of Occupation) Law, 1994; and
 - (ii) in Sark, he complies with the provisions of the Housing (Temporary Provisions) (Sark) Law, 1976.

Right of residence of work seekers from relevant accession States during the accession period.

4. A national of a relevant accession State shall not be entitled to reside in the Bailiwick of Guernsey for the purpose of seeking work during the accession period unless -

- (a) he is a qualified person;
- (b) he is a self-sufficient person whilst seeking work in the Bailiwick of Guernsey; and

- (c) he complies with the provisions of any legislation controlling the occupation of housing in force in relation to that part of the Bailiwick within which he is residing and in particular (without derogating from the generality of that requirement -
- (i) in Guernsey, he complies with the provisions of the Housing (Control of Occupation) (Guernsey) Law, 1994; and
 - (ii) in Sark, he complies with the provisions of the Housing (Temporary Provisions) (Sark) Law, 1976.

Transitional provisions applying to nationals of the accession States and their family members.

5. Where before 1st May 2004 an accession State worker or the family member of an accession State worker has been given leave to enter or remain in the Bailiwick of Guernsey under the Immigration Act 1971 subject to conditions, those conditions shall cease to have effect on and after that date.

Commencement.

6. These Rules shall come into force on 1st May 2004.



Deputy R.C. Berry
President of the Board of Administration
For and on behalf of the Board

29th April 2004

EXPLANATORY NOTE

(This note is not part of the Rules)

These rules make provision for workers from eight of the States that are acceding to the European Union on 1st May 2004

Rules 1 and 2 contain general provisions and contain definitions of expressions applicable to the Rules. Under Rule 3 workers from the relevant accession States who are "accession State workers" will generally only be able to work in the Bailiwick of Guernsey if they are "qualified persons" (that is to say, persons who under immigration legislation do not require leave to enter or remain within the Bailiwick) and they comply with the provisions of employment or control of occupation of housing legislation in force in the part of the Bailiwick within which they may be working. . Under Rule 4, work seekers who are nationals of the new accession States may only reside in the Bailiwick of Guernsey if they are qualified persons, self sufficient whilst seeking work and comply with the provisions of control of occupation of housing legislation in force in the part of the Bailiwick within which they may be residing.

Rule 5 makes transitional provision to take account of the fact that on 1st May 2004 nationals from the accession States and their family members will fall to be treated under section 7(1) of the Immigration Act 1988. Paragraph 6 brings the Rules into force upon 1st May 2004.