

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE and COMMITTEE *FOR* HOME AFFAIRS

NATIONALITY AND BORDERS ACT 2022 AND ARTICLE 72A OF THE REFORM (GUERNSEY)
LAW 1948: ELECTRONIC TRAVEL AUTHORISATION, VISA PENALTIES & CARRIERS'
LIABILITY

The States are asked to decide: -

Whether, after consideration of the Policy Letter entitled 'Nationality and Borders Act 2022 and Article 72A of the Reform (Guernsey) Law 1948: Electronic Travel Authorisation, Visa Penalties & Carriers' Liability' dated 21st March 2025, they are of the opinion:-

1. To agree that an Order in Council be made to extend sections 70, 75 and 76 of the Nationality and Borders Act 2022 to the Bailiwick, with such modifications as appear to His Majesty in Council to be appropriate following consultation with the Committee *for* Home Affairs.
2. To signify their agreement to the substance of the proposed Order in Council entitled "The Immigration (Guernsey) Order 2025" in Appendix 2 to this Policy Letter, for the purposes of Article 72A of the Reform (Guernsey) Law, 1948, as amended.

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The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

21st March, 2025

Dear Sir

1 Executive Summary

- 1.1 This Policy Letter considers a recent Act of Parliament relating to nationality and immigration measures and the extension to Guernsey of certain of its provisions. Article 72A of the Reform (Guernsey) Law, 1948 (as amended)¹ ('Article 72A') (at Appendix 1) is engaged for provisions in UK Bills or Acts which will apply directly to Guernsey or when such provisions are extended to Guernsey by means of an Order in Council made under a Permissive Extent Clause ('PEC') contained within a UK Act of Parliament. The extension of immigration provisions in UK Acts of Parliament is a long-standing part of the relationship between the Bailiwick and the UK, in particular in connection with creation and maintenance of the Common Travel Area ('CTA') and in itself is not controversial.
- 1.2 The Nationality and Borders Act 2022² ('NABA') contains immigration provisions which have relevance due to the Bailiwick's constitutional relationship with the UK, through the Crown, and its participation in the CTA. This Policy Letter seeks the agreement of the States of Deliberation to the extension of certain immigration measures contained within NABA to the Bailiwick, with appropriate modifications, by the end of quarter 4 2025.

¹ [Reform \(Guernsey\) Law, 1948.](#)

² [Nationality and Borders Act 2022](#)

2 Background

Mandate

- 2.1 This Policy Letter is brought to the States jointly by the Committee *for* Home Affairs and the Policy & Resources Committee because they each have relevant mandates and responsibilities. The mandate of the Committee *for* Home Affairs includes responsibilities to advise the States and develop and implement policies, including the immigration regime. The Policy & Resources Committee's mandate includes responsibilities for external relations and international and constitutional affairs, including relations with the United Kingdom and other jurisdictions. The Policy & Resources Committee's mandate also includes exercising powers and performing duties conferred on it by extant legislation, in this case, those in Article 72A of the Reform (Guernsey) Law, 1948, as amended.

Immigration

- 2.2 The Guernsey Immigration Rules³ make provision as to the practice to be followed in the administration of the Immigration Acts 1971, 1988 and 1999 as extended to the Bailiwick of Guernsey. The Rules regulate entry into, and the stay in, the Bailiwick of Guernsey for Commonwealth citizens, British protected persons, nationals of member states of the European Economic Area and Switzerland, nationals of foreign states outside the European Economic Area and stateless persons. The Rules are made by the Committee *for* Home Affairs with the concurrence of His Excellency the Lieutenant Governor
- 2.3 The CTA is a long-standing arrangement between the UK, Bailiwick of Guernsey, Bailiwick of Jersey, Isle of Man and the Republic of Ireland. Under the CTA, British and Irish citizens can move freely between, and reside in, these islands (subject to population management controls). Without the CTA, all islanders travelling elsewhere in the British Islands or Republic of Ireland, or UK and Irish residents travelling to the islands, would have to clear through the relevant immigration entry channels on every journey.
- 2.4 Updating the Bailiwick's immigration legislation is part of a continual process of ensuring that provisions that apply in Guernsey (and the rest of the Bailiwick) are broadly consistent with provisions applying in the UK and other parts of the CTA. This is essential to ensure that the Bailiwick continues to remain in the CTA.

Article 72A of the Reform (Guernsey) Law, 1948

- 2.5 Article 72A of the Reform (Guernsey) Law, 1948 is a relatively new provision.

³ [Immigration \(Bailiwick of Guernsey\) Rules, 2008](#)

introduced in 2019⁴. Article 72A(1)(b)(i) requires the Policy & Resources Committee to submit to the States of Deliberation any proposal for an Order in Council to be made to extend to Guernsey provisions of Acts of Parliament, in order that the States can signify their views on it. This applies unless that Committee considers it unnecessary to do so. The Policy & Resources Committee is submitting this Policy Letter (together with the Committee *for* Home Affairs) to fulfil that obligation.

3 Nationality and Borders Act 2022 - Background

- 3.1 The UK Parliament has enacted NABA, with Royal Assent granted on 28th April 2022. The Act contains provisions about nationality, asylum and immigration which have relevance due to the Bailiwick's constitutional relationship with the UK, through the Crown, and its participation in the CTA.
- 3.2 The nationality provisions (Part 1 of NABA) apply directly to the Bailiwick. Those provisions were acknowledged by the States of Deliberation in July 2023⁵, when agreement was signified to their application for the purposes of Article 72A.
- 3.3 NABA also introduced changes to the UK's immigration regime. In the usual way, the UK Home Office consulted the Committee *for* Home Affairs during drafting of the Bill (now Act) and the Committee considered it was appropriate to provide for the extension of certain provisions to the Bailiwick. Consequently, a PEC was included in NABA to enable relevant immigration provisions to be extended to the Bailiwick of Guernsey at a future time.
- 3.4 The provisions in NABA which the Committee *for* Home Affairs considers necessary to be extended to the Bailiwick are outlined in the following sections. As with the nationality provisions that were acknowledged by the States of Deliberation in July 2023, these provisions also engage Article 72A.

⁴ The Reform (Guernsey) Law, 1948, was amended following consideration of a [Policy Letter \('Referral of UK Acts of Parliament and Orders in Council to the States of Deliberation'\)](#) in March 2019. [The Reform \(Guernsey\) \(Amendment\) Law, 2019](#) came into effect on 4th November, 2019.

Examples of occasions on which the Committee has referred matters to the States under Article 72A of the Reform (Guernsey) Law, 1948 include:

- Policy Letter dated 7th January, 2020, 'The Withdrawal Agreement between the United Kingdom and European Union – Implications for the Bailiwick of Guernsey', [Billet d'État II of 2020](#).
- Policy Letter dated 16th November, 2020, 'Brexit & biometric data: Extending relevant provision of UK Immigration Acts', [Billet d'État XXVII of 2020](#).

⁵ Policy Letter titled ['Recent UK Act of Parliament and Bills Regarding Nationality – Article 72A of the Reform \(Guernsey\) Law 1948: Nationality and Borders Act 2022; Illegal Migration Bill; and British Nationality \(Regularisation of Past Practice\) Bill'](#), Billet d'État XII of 2023, and [Resolutions](#) of 21st July, 2023

4 Electronic Travel Authorisation

- 4.1 Visitors who are subject to control under the Immigration Act 1971, as extended, and who are not specified as visa nationals may currently visit the Bailiwick for a period of up to 6 months without prior approval. Immigration security checks are made on arrival at the port⁶. Through the extension of immigration provisions in NABA, it is intended that such persons will be required to obtain an Electronic Travel Authorisation ('ETA') prior to travel.
- 4.2 An ETA will give the Guernsey Border Agency the opportunity to conduct security checks on travellers ahead of arrival, and enable immigration officers to identify certain individuals for the purpose of stopping/refusing travel before the journey has been undertaken. This is intended to add an additional layer of security which will reduce the likelihood of discharging refusals on arrival. For clarification, persons who need, and have been granted, an entry clearance visa will not be required to apply for an ETA and will travel on their visa, as now.
- 4.3 The main objective for the introduction of ETAs in the Bailiwick is to secure the CTA border⁷, by improving the ability to identify individuals who pose a threat, and to deter and prevent their travel before they reach the border. This includes protecting the Bailiwick against crime, immigration abuse, espionage and terrorism.
- 4.4 ETAs will enable more detailed checks to be done prior to travel and will provide greater opportunity to obtain information, ahead of time, regarding a person's links to, for example, organised crime and/or terrorism. To put this into context, in the year ending September 2024 there were approximately 59 million arrivals to the UK of non-British nationals, a large number of whom who did not need to obtain any form of pre-entry clearance to be able to enter the UK, and therefore the CTA (including the Bailiwick)⁸.
- 4.5 The introduction of ETAs also supports the UK's wider ambitions to transform the way passengers are managed when travelling to and crossing the border of the CTA, by delivering a data-driven, person-centric border. The ETA scheme incentivises carriers to properly check documents ahead of travel and by authorising carriers to refuse travel of certain individuals when it is in the public interest to do so. The implementation of this more robust approach provides a

⁶ The following ports in the Bailiwick have Approved Ports status for customs purposes and Port of Entry status for immigration purposes: Guernsey airport, St Peter Port Harbour, Alderney airport, and Braye Harbour.

⁷ Within the CTA, the ETA scheme will apply to the UK (England, Scotland, Wales, Northern Ireland) and the Crown Dependencies (Bailiwick of Guernsey, Bailiwick of Jersey, Isle of Man). The Republic of Ireland will be subject to the EU scheme ETIAS, once introduced.

⁸ [How many people come to the UK each year? - GOV.UK.](https://www.gov.uk/how-many-people-come-to-the-uk-each-year)

more effective border control by introducing an additional layer of checks, prior to travel, to those who previously required no form of pre-clearance to enter the UK and islands.

- 4.6 ETAs are a significant part of the UK's digital transformation program and the Bailiwick's participation will enable the governments in the CTA to further promote automated efficient clearance methods of low-risk individuals, whilst being able to maximise the detection of potential security threats such as the use of forged or counterfeit documents by imposters. This will allow immigration officers to focus their efforts on high-risk passengers as well as other activities associated with their role and responsibilities at the border. The introduction of ETAs ensures data sharing between the CTA jurisdictions, which will enhance this work.
- 4.7 With the introduction of ETAs, all foreign travellers will be required to use passports for travel to the UK and Crown Dependencies ('CDs'). Passports are a more secure method of identification and proof of nationality; the UK and CDs phased out the use of less secure national identity cards during October 2021. In Ministerial correspondence, the UK advised that "in 2020, 48% of all false documents detected at the [UK] border were EU, EEA or Swiss ID cards". Currently there are some exceptions to this requirement: EU nationals who have settled or pre-settled status may continue to use a valid EU identity card for travel to the CTA until at least the end of 2025; Guernsey and Jersey have also operated temporary schemes which have allowed French nationals a limited ability to use their identity cards when travelling to the Bailiwicks for day trips. However, the ETA digital system is not compatible with national identity cards and, consequently, all passengers will be required to travel with valid passports once the ETA system is implemented.
- 4.8 As members of the CTA, the CDs have a responsibility and obligation to ensure parity with the UK to maintain a strong and secure CTA border. The UK and CDs are seeking to jointly participate within the ETA scheme. This is considered a positive move, bringing additional strength and a united approach to security at our common borders and ensuring the CDs are not a 'weak link' in the CTA single border. In Ministerial correspondence, the UK noted that the Bailiwick's participation in the ETA scheme and the phasing out of national identity cards for travel was "to our mutual benefit and supported the strong external border to the CTA by reducing the number of insecure documents that are valid for travel".
- 4.9 Engagement with the UK Government will continue as the ETA scheme is implemented across the UK and CDs. That could include Guernsey's government investigating whether it would be possible for the temporary identity card scheme (as in paragraph 4.7) to continue in its current form, or in some other format, following the implementation of the ETA scheme for the Bailiwick.

- 4.10 There might be actual or proposed policy changes by the UK Government which would affect the treatment of EU nationals travelling to/from the UK. Such changes could arise as a result of the current 'EU-UK Reset' negotiations; preparatory discussions for this work are still ongoing. Such changes would automatically be considered for implementation locally.
- 4.11 In any case, approval of the Propositions in this Policy Letter, relevant legislation, and subsequent implementation of the ETA scheme as set out in this Policy Letter needs to continue to progress in a timely manner (in accordance with the timescales mentioned in paragraph 4.23) to ensure alignment with UK immigration policy and the continuation of free movement within the CTA for Bailiwick residents.
- 4.12 The Bailiwick of Guernsey does not have the technical infrastructure or resources to independently set up or administer a global ETA scheme. Negotiations have been undertaken with the UK Government to facilitate the establishment of a Bailiwick ETA scheme, to be administered by UK the Secretary of State on behalf of the Bailiwick of Guernsey, which would not constitutionally compromise the Bailiwick of Guernsey.
- 4.13 The Secretary of State will make regulations to recognise an ETA issued on behalf of the Bailiwick as a valid document for travel to the UK. When the ETA provisions of NABA are extended to the Bailiwick, and the Committee *for* Home Affairs makes reciprocal regulations, they will provide for recognition of UK issued ETAs for the purposes of travel to the Bailiwick. Similar reciprocity will apply to Jersey and the Isle of Man, which are both intending to introduce their own versions of the ETA scheme in a similar way to the Bailiwick. This demonstrates both the UK and the Bailiwick's commitment to maintaining the integrity and security of the CTA.
- 4.14 The ETA scheme will be administered in much the same way as the online visa application system is currently operated, whereby non-complex cases will be approved automatically. An ETA which requires more consideration, where reasonable concerns have been identified through the automated review, will be referred for assessment and final decision by an officer in the jurisdiction for which the ETA is issued. This will be the jurisdiction which acts as the first point of entry for a traveller into the CTA.
- 4.15 As with the visa application system, any fees collected for the processing and issuance of an ETA will remain with the UK government. The UK Home Office will continue to develop and manage the ETA online system and will ensure that those traveling to the Bailiwick are in possession of a valid ETA, when required. The Home Office, working with the Guernsey Border Agency, will also engage with local carrying companies, and ensure guidance is drawn up as part of the implementation preparations and made available to all carriers.

- 4.16 It has been confirmed by the UK that an ETA will cost £10 and will be valid for multiple journeys during a two-year issue period, or the period up to the expiry of the passport used for the application, whichever is sooner. This is comparable with other countries operating similar systems⁹.
- 4.17 The UK ETA scheme has been implemented in a phased manner, on the basis of nationality, from October 2023 until April 2025. The scheme started with Qatar nationals in October 2023, and progressed with nationals from Oman, United Arab Emirates, Kuwait, Bahrain and Saudi Arabia during February 2024 with rest of the world nationals being added during January 2025. The UK ETA scheme will be fully operational for all nationalities, including European nationals, by April 2025.
- 4.18 The introduction of ETAs is in line with the approach taken to border security by many of the UK's closest international partners; it is a familiar concept to many carriers and travellers:
- Australia has operated an Electronic Travel Authority system since 1996
 - The USA introduced the Electronic System for Travel Authorization ('ESTA') in 2008
 - Canada introduced an Electronic Travel Authorization system ('eTA') in 2015
 - New Zealand introduced the New Zealand Electronic Travel Authority system ('NZeTA') in 2019
 - The EU including the Schengen area are seeking to introduce the European Travel Information and Authorisation System ('ETIAS') during 2026¹⁰
- 4.19 A high proportion of travellers will already be familiar with this type of requirement and the associated cost. Therefore, it is considered that this scheme is unlikely to deter most legitimate visitors whilst having significant border security benefits. That said, there may be an impact on volume of visitors who are deemed 'unsuitable' and refused permission to travel using an ETA. An individual who is refused permission to travel may still apply for a visit visa if they so wish, at which stage the application will be considered in more depth.
- 4.20 There are significant security and resource efficiencies to be gained arising from the identification of a person who, on information available, would stand to be refused entry. The refusal of an ETA would, potentially, save on the cost of detention and removal and staff resource if refused entry at the port. As noted,

⁹ An Australia ETA is valid for 1 year and costs A\$20; a US ESTA is valid for 2 years and costs US\$21; a Canadian eTA is valid for 5 years and costs \$7; a New Zealand NZeTA is valid for 2 years and costs NZ\$17 if completed on a free app or NZ\$23 if completed online; the EU ETIAS will be valid for 3 years and cost €7.

¹⁰ As of 7 March 2025, the expected implementation date for ETIAS is the last quarter of 2026: [Revised timeline for the EES and ETIAS - European Union](#)

an ETA refusal does not necessarily preclude a person from applying for the more in depth visit visa if they still wish to pursue the intention to come to the UK or Islands.

- 4.21 The ETA scheme will apply to persons travelling to the Bailiwick in circumstances where there is no mandatory requirement to obtain a visa. This includes tourists, business visitors, and persons participating in sports and cultural events. Visa nationals and non-visa nationals seeking to enter for purposes other than a visit (for example, for work or for stays longer than 6 months) will not require an ETA as they already require a visa which is a more involved procedure.
- 4.22 British and Irish citizens are exempt from the need to obtain an ETA for travel within the CTA. In addition, persons who already have limited or indefinite leave (permission) to remain, including individuals with EU settled or pre-settled status, will not need to apply for an ETA, neither will an ETA be required for local journeys within the CTA.
- 4.23 It is not possible at this stage to give a detailed explanation on exactly how ETAs will be applied in practical terms; this will be dealt with by means of secondary legislation. The UK have advised of their aims for the ETA, with recognition on equal terms of any ETA issued on behalf of any other jurisdiction within the CTA. Parameters for the refusal of an ETA are set out in detail in UK Immigration Rules¹¹. It is anticipated that any equivalent regulations and Rules made in the other CTA jurisdictions will mirror these provisions, with appropriate modifications for the relevant jurisdiction. It is intended that the ETA scheme will become operational by the end of quarter 4 2025.

5 Consequential amendment to liability of carriers

- 5.1 All air, sea and rail operators who carry passengers to the UK or Islands are required to check that an individual has the correct documentation such as a valid passport and, in the case of a visa national, a visa. A carrier which carries a passenger who does not have the correct documentation risks incurring a financial penalty, though there are safeguards where, for example, high quality forgeries/counterfeits are presented, or a passenger destroys their passport enroute. These provisions are contained in the Immigration and Asylum Act, 1999 as extended ("the 1999 Act"). NABA includes provision to extend this requirement to ETAs by amending the 1999 Act.

6 Visa Penalties

- 6.1 With the exception of British citizens, Irish citizens, individuals with EU settled or pre-settled status and visitors from non-visa national countries, all persons

¹¹ [Immigration Rules - Immigration Rules Appendix Electronic Travel Authorisation - Guidance - GOV.UK](#)

subject to control entering the CTA are required to demonstrate their right to work and reside by way of obtaining entry clearance approval (visas).

6.2 The UK process and issue visas on behalf of all the CDs with, in the case of the Bailiwick of Guernsey, applications being referred here for approval to grant. It should be noted that whilst the Bailiwick does have authority as regards to whom visas are granted for where the visa is for entry to the Bailiwick of Guernsey, visa fees are charged and retained by the UK for its element in the processing.

6.3 For ETA applications a set of rules have been agreed with the UK and other CDs as to when an application should be granted automatically. Where a person's first point entry into the CTA is the Bailiwick, those subject to refusal will be referred here for consideration. As noted in paragraph 4.20, should an ETA be refused, the person would have the option to apply for a visa, which would also be referred to the Bailiwick of Guernsey for consideration.

6.4 Section 70 of NABA introduces powers to impose 3 new penalties on certain specified countries in certain circumstances by:

- slowing down visa processing;
- temporarily suspending visa services;
- imposing additional fees.

6.5 One of the ways to maintain a strong and secure CTA border is to ensure alignment to the sections of the Immigration Acts which would have direct implications on border security. This is particularly relevant when considering the issuance overseas of visas and other pre-entry clearances administered on our behalf by the UK.

6.6 NABA, as in force in the UK and which the Order in Council wishes to extend to the Bailiwick, makes provision for the Secretary of State to impose visa penalties when they consider it appropriate in relation to citizens or nationals of a specified country as follows:

- Countries posing a risk to international peace and security;
- Countries engaging in warmongering;
- Countries taking actions that cause or are likely to cause a breach of international humanitarian law;
- Uncooperative countries in that the Secretary of State may specify a country if the government of that country is not cooperating in relation to the return to that country from the United Kingdom of any of its nationals or citizens who require leave to enter or remain in the United Kingdom but do not have it, thus resulting in nationals or citizens of that country being unable to return and therefore remain unlawfully in the United Kingdom.

6.7 If the Secretary of State is of the opinion that a country is not cooperating in relation to returns or it poses a risk to peace or security, they may specify and apply visa penalty provisions as considered appropriate as follows:

- That applications for visa or other entry clearance made by persons who are nationals or citizens of a specified country should not be granted before the end of a specified period (delay processing);
- That an application for a visa or other entry clearance made by a national or citizen of a specified country be considered as invalid for the purposes of the immigration rules (stop processing);
- A national or citizen of a specified country making a visa or other entry clearance application may be required to pay a specified sum in connection with that application, in addition to any fee or other amount payable (additional fee).

6.8 It is intended that any visa penalty decision made by the Secretary of State and implemented through UK Immigration Rules will automatically and immediately apply to the Bailiwick but that the Committee *for* Home Affairs will have the power to opt out or modify these as they apply to the Bailiwick at a later stage should it consider it necessary to do so. It is envisaged that this will be a very rare occurrence, if it occurs at all.

7 Order in Council and Article 72A

7.1 Article 72A(1)(b)(i) requires the Policy & Resources Committee to submit to the States of Deliberation any proposal for an Order in Council to be made to extend to Guernsey provisions of Acts of Parliament of the UK, in order that the States can signify their views on it. The Policy & Resources Committee is submitting this Policy Letter (together with the Committee *for* Home Affairs) to fulfil that obligation.

7.2 The proposed Order in Council entitled “The Immigration (Guernsey) Order 2025” (set out in Appendix 2) will extend sections 70, 75 and 76 of the Nationality and Borders Act 2022 to the Bailiwick, with such modifications as appear to His Majesty in Council to be appropriate following consultation with the Committee *for* Home Affairs. This will enable the introduction of ETAs for the Bailiwick. The proposed Order in Council also includes legislation for Visa Penalties and Carriers’ Liability which are not considered contentious for the Bailiwick.

7.3 The ongoing participation in the Common Travel Area (CTA) is a policy that the Assembly have accepted and have not deviated from. It was defined as one of the core objectives of the States of Guernsey during the process of Brexit. This brings with it certain obligation to align with parts of the UK immigration regime, including the introduction of the ETA scheme. Were the Bailiwick not to implement the scheme, it could have a detrimental effect on the Bailiwick’s

ongoing participation in the CTA and therefore the ability of Bailiwick residents to travel freely to and from the UK and rest of the CTA.

- 7.4 Both Committees therefore recommend to the States that the States signify their agreement to the proposed Order in Council, so that when the Order in Council is made and transmitted to the Royal Court for registration in due course, the Royal Court can register that Order in Council without delay and without further reference to the Policy & Resources Committee, in accordance with Article 72A(2)(b).

8 Alderney and Sark

- 8.1 The immigration provisions in NABA, and the subsequent drafting of this Policy Letter, have been discussed at a Bailiwick Council meeting in February 2025. The Committees have shared the Policy Letter with the Policy & Finance Committees of Alderney and Sark for use by their jurisdictions if so wished, with appropriate modifications.
- 8.2 Sark has enacted equivalent legislation to Article 72A in section 63A of the Reform (Sark) Law, 2008¹². Consequently, Sark's Policy & Finance Committee would also need to consider whether to refer the matters considered in this Policy Letter to Chief Pleas.
- 8.3 Although Alderney has not enacted equivalent legislation, the States of Alderney may wish to consider the same proposals more generally.

9 Engagement and Consultation

- 9.1 The Law Officers of the Crown – The Law Officers have advised on the proposals, and any legislative and practical changes required as referenced in this Policy Letter.
- 9.2 Alderney and Sark – As outlined in section 8 above.
- 9.3 UK Government Departments – Engagement has taken place at Ministerial and officer level with the Home Office (including the current Government), which is responsible for immigration matters, and with the Ministry of Justice, due to its role in managing the UK's constitutional relationship with the Crown Dependencies. Consultation was undertaken by the Home Office about the proposed UK legislation and its application and extension to the Bailiwick at the time the Bill was introduced in Parliament, as set out in this Policy Letter, and there is ongoing engagement in relation to the operational implementation of new immigration measures in the UK.

¹² [Reform \(Sark\) Law, 2008.](#)

- 9.4 Jersey and the Isle of Man – There has been engagement regarding the UK’s legislation proposals. In a similar way to the requirements of Guernsey’s article 72A, the States of Jersey will be required to consider the direct application and extension of any UK legislation in accordance with its own legislation¹³. The proposals will also be considered by Tynwald in the Isle of Man.
- 9.5 The Lieutenant-Governor – Due to his role in immigration matters, the Lieutenant-Governor has been briefed on the proposals as set out in this Policy Letter.

10 Resource implications of the proposals

- 10.1 Introduction of ETAs for the Bailiwick will incur some additional work for existing staff, primarily for those ETA applications that stand to be rejected. These will be referred to the Guernsey Border Agency for assessment. At the time of writing, it is not known how many such applications will be received on an annual basis, but it is anticipated that numbers will be low and that this work will be undertaken within existing financial and staff resources. This will be kept under review following the introduction of ETAs.
- 10.2 It is anticipated that appropriate regulations and Rules will need to be drafted and made to implement the ETA scheme in the Bailiwick, as previously mentioned in this Policy Letter.
- 10.3 No additional financial resources or investment will be required for the practical implementation of ETAs, as they will be integrated into the existing equipment and systems already used by the Guernsey Border Agency for control on entry of arrivals into the Bailiwick of Guernsey.

11 Compliance with Rule 4

- 11.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 11.2 In accordance with Rule 4(1):
- a) In accordance with Rule 4(1)(a), this Policy Letter contributes to States’ objectives and policy plans including, as identified in the Government Work Plan reset 2023-2025¹⁴, the obligatory activities of aligning immigration and

¹³ Article 31 of the [States of Jersey Law 2005](#).

¹⁴ Policy Letter, dated 18th August, 2023, Policy & Resources Committee – ‘Government Work Plan 2023-25 policy, strategies and plans’ as at <https://gov.gg/CHttpHandler.ashx?id=170639&p=0>; the importance of aligning immigration and border controls is referred to on page 13.

border controls with the Bailiwick's membership of the Common Travel Area.

- b) In accordance with Rule 4(1)(b), the Committees have consulted with other parties as outlined in Section 9 above, in accordance with Rule 4(5). The Committees will continue to consult and engage with relevant stakeholders regarding this matter, including States' Committees, the Office of the Lieutenant-Governor, UK Government departments, Alderney and Sark, together with the Crown Dependencies of Jersey and the Isle of Man.
- c) In accordance with Rule 4(1)(c), the Propositions have been submitted to His Majesty's Procureur for advice on any legal or constitutional implications.
- d) In accordance with Rule 4(1)(d), the resources required to fulfil the Propositions of this Policy Letter are set out in this document.

11.3 In accordance with Rule 4(2):

- a) In accordance with Rule 4(2)(a), the Propositions relate to the duties of the Committee *for* Home Affairs because its mandate includes responsibilities to advise the States and develop and implement policies on matters including the immigration regime. The Propositions relate to the duties of the Policy & Resources Committee because its mandate includes responsibilities to, "advise the States and to develop and implement policies and programmes relating to: (a) leadership and co-ordination of the work of the States" which includes "developing and promoting the States' overall policy objectives", "promoting and facilitating cross-committee policy development" and "(c) external relations and international and constitutional affairs, which includes: 1. the island's constitutional position and the relationship with the Crown; and 2. relations with the United Kingdom and other jurisdictions". The Committee's mandate also includes exercising powers and performing duties conferred on it by extant legislation (in this case, those in Article 72A of the Reform (Guernsey) Law, 1948, as amended).
- b) In accordance with Rule 4(2)(b), it is confirmed that the Propositions have the unanimous support of both Committees.

Yours faithfully

Committee *for* Home Affairs

R G Prow
President

Policy & Resources Committee

L S Trott OBE
President

S P J Vermeulen
Vice-President

S E Aldwell
L McKenna
A W Taylor

P A Harwood OBE
Non-States Member

H J R Soulsby MBE
Vice-President

J A B Gollop
J P Le Tocq
R C Murray

Article 72A of the Reform (Guernsey) Law, 1948

The Reform (Guernsey) Law, 1948 was amended in 2019¹⁵ to insert Article 72A, which requires the Policy & Resources Committee (unless it considers it unnecessary) to refer any proposal that:

- (a) a provision of a draft UK Act of Parliament should apply directly to Guernsey, or
- (b) an Order in Council should be made extending a provision of an Act of Parliament or a Church of England measure, or that is otherwise expressed to have effect in, or to be applicable to or otherwise binding upon, Guernsey,

to the States of Deliberation in order that the States may signify their views on it.

Extract (below) from the [Reform \(Guernsey\) Law, 1948 \(as amended\)](#)

Duty to refer certain matters to the States of Deliberation.

- 72A.** (1) Where it is proposed that –
- (a) a provision of a draft Act of the Parliament of the United Kingdom should apply directly to Guernsey, or
 - (b) an Order in Council should be made –
 - (i) extending to Guernsey a provision of an Act of the Parliament of the United Kingdom,
 - (ii) extending to Guernsey a Measure, pursuant to the Channel Islands (Church Legislation) Measures 1931 and 1957, or
 - (iii) that is otherwise expressed to have effect in, or to be applicable to or otherwise binding upon, Guernsey,

the Policy and Resources Committee shall, unless that Committee considers it unnecessary, submit the proposal to the States of Deliberation, in order that the States may signify their views on it.

- (2) Where, upon transmission of –
- (a) an Act of the Parliament of the United Kingdom containing a provision described in paragraph (1)(a), or
 - (b) an Order in Council described in paragraph (1)(b),
- to the Royal Court for registration, it appears to the Royal Court that the States

¹⁵ The Reform (Guernsey) Law, 1948, was amended following consideration of a [Policy Letter \('Referral of UK Acts of Parliament and Orders in Council to the States of Deliberation'\)](#) in March 2019. [The Reform \(Guernsey\) \(Amendment\) Law, 2019](#) came into effect from 4th November, 2019.

of Deliberation have not signified their agreement to the substance of the provision or Order in Council -

- (i) the Royal Court shall refer the provision or Order in Council, as the case may be, to the Policy and Resources Committee, and
- (ii) the Policy and Resources Committee shall, unless that Committee considers it unnecessary, submit it to the States in accordance with paragraph (1).

STATUTORY INSTRUMENTS

2025 No.

IMMIGRATION

The Immigration (Guernsey) Order 2025

Made - - - - 2025

Coming into force in accordance with article 1(1)

At the Court at Buckingham Palace, the 1st day of January 2025

Present,

The King's Most Excellent Majesty in Council

His Majesty, in exercise of the powers conferred upon Him by section 86(4) of the Immigration Act 1971 ⁽¹⁶⁾, section 170(7) of the Immigration and Asylum Act 1999 ⁽¹⁷⁾ and section 86(4) of the Nationality and Borders Act 2022 ⁽¹⁸⁾ is pleased, by and with the advice of His Privy Council, to order as follows:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Immigration (Guernsey) Order 2025 and comes into force on the day specified by regulations made by the States of Guernsey Committee for Home Affairs; and different dates may be specified for different provisions and for different purposes.

(2) In this Order—

“the 1971 Act” means the Immigration Act 1971,

“the 1999 Act” means the Immigration and Asylum Act 1999,

“the 2022 Act” means the Nationality and Borders Act 2022,

“Guernsey” means the Bailiwick of Guernsey, and

“relevant Act” means the 1971 Act, the 1999 Act, the Nationality, Immigration and Asylum Act 2002 or the 2022 Act.

(3) For the purposes of construing provisions of a relevant Act as part of the law of Guernsey, a reference to an enactment which extends to Guernsey is to be construed as a reference to that enactment as it has effect in Guernsey, unless the context requires otherwise.

⁽¹⁶⁾ 1971 c. 77.

⁽¹⁷⁾ 1999 c. 33.

⁽¹⁸⁾ 2022 c. 36.

Extension of the 2022 Act to Guernsey

2.—(1) Each provision of the 2022 Act specified in column 1 of Schedule 1 to this Order is extended to Guernsey with any modifications specified in column 2 of the schedule.

(2) Schedule 2 to this Order sets out the provisions of the 2022 Act as extended to Guernsey.

(3) In case of any conflict between Schedule 1 and Schedule 2, the former prevails.

Signatory text

Richard Tilbrook
Clerk of the Privy Council

SCHEDULE 1

Article 2(1)

Extension and modification of provisions of the Nationality and Borders Act 2022

<i>Column 1</i>	<i>Column 2</i>
<i>Provision</i>	<i>Modifications</i>
Section 70 of the 2022 Act.	<p>For this section, substitute the following section –</p> <p>“70 Visa penalty provisions: application of UK Immigration Rules to the Bailiwick</p> <p>(1) Subject to subsections (2) and (3), immigration rules making visa penalty provision under section 70 of this Act, as it has effect in the United Kingdom, have effect in and in relation to the Bailiwick as if they were rules made under section 3(2) of the 1971 Act.</p> <p>(2) The Committee may at any time by Order –</p> <p>(a) disapply subsection (1) in relation to any of those rules; or</p> <p>(b) modify the application of subsection (1) in relation to any of those rules, including providing for any or all of those rules to have effect in the Bailiwick subject to modifications specified in the Order.</p> <p>(3) Subject to subsection (4), and unless the context or an Order under subsection (2) requires otherwise, a reference in those rules –</p> <p>(a) to entry clearance is to be construed as a reference to entry clearance within the meaning given by section 33(1) of the 1971 Act;</p> <p>(b) to immigration officers is to be construed as a reference to immigration officers appointed for the purposes of the 1971 Act;</p> <p>(c) to the United Kingdom is to be construed as a reference to the Bailiwick;</p> <p>(d) to the Secretary of State is to be construed as a reference to the Committee; and</p>

	<p>(e) to any of the Immigration Acts is to be construed as a reference to that Act as it has effect in the Bailiwick.</p> <p>(4) Any amount of money payable under a visa penalty provision is to be paid into the Consolidated Fund of the United Kingdom.</p> <p>(5) For the avoidance of doubt, the Guernsey Statutory Instruments (Registration) Ordinance, 1949 applies to an Order under subsection (2).</p> <p>(6) For the avoidance of doubt, a reference in this section to the 1971 Act is a reference to that Act as it has effect in the Bailiwick.</p> <p>(7) In this section –</p> <p>“the Bailiwick” means the Bailiwick of Guernsey; and</p> <p>“the Committee” means the States of Guernsey Committee for Home Affairs.”</p>
Section 75 (except subsection (5)) of the 2022 Act.	<p>In section 75(2) of the 2022 Act –</p> <p>(a) in section 11C as inserted in the 1971 Act –</p> <p>(i) for subsection (1), substitute the following subsection –</p> <p>“(1) In this Act –</p> <p>“an ETA” means an authorisation in electronic form to travel to the Bailiwick;</p> <p>“any other British CTA territory” means the United Kingdom, the Bailiwick of Jersey or the Isle of Man;</p> <p>“the Bailiwick” means the Bailiwick of Guernsey; and</p> <p>“the Committee” means the States of Guernsey Committee for Home Affairs.”;</p> <p>(ii) in subsections (2), (3) and (4), for “United Kingdom” in each place where the expression occurs, substitute “Bailiwick”;</p> <p>(iii) in subsection (5) –</p> <p>(A) for “United Kingdom” in each place where it occurs, substitute “Bailiwick”;</p>

(B) for “of the Islands” in paragraph (a), and “island” in paragraph (b) and the part of that subsection following paragraph (b), respectively, substitute “other British CTA territory”; and for “Secretary of State”, substitute “Committee”; and

(iv) in subsection (6)(d)(ii), for “United Kingdom”, substitute “Bailiwick”;

(b) in section 11D as inserted in the 1971 Act –

(i) in its heading, for “the Islands”, substitute “other British CTA territories”;

(ii) in subsection (1) –

(A) for “Secretary of State”, substitute “Committee”;

(B) for “United Kingdom”, substitute “Bailiwick”; and

(C) for “of the Islands” and “island” respectively, substitute “other British CTA territory”;

(iii) in subsection (2) –

(A) for “United Kingdom” in each place where it occurs, substitute “Bailiwick”;

(B) for “of the Islands” in paragraph (c), substitute “other British CTA territory”; and

(C) for “Secretary of State” in paragraph (d), substitute “Committee”; and

(iv) for subsections (3), (4), (5) and (6), substitute the following subsection –

“(3) For the avoidance of doubt, the Guernsey Statutory Instruments (Registration) Ordinance, 1949 applies to regulations under subsection (1).”;

(c) immediately after section 11D as inserted in the 1971 Act, insert the following section –

“11E Arrangements for functions to be carried out by Secretary of State

(1) The Committee may arrange for the Secretary of State to carry out any function in relation to ETAs conferred on any person (“the decision-maker”) by immigration rules under section 11C or regulations under section 11D.

(2) A function carried out by or on behalf of the Secretary of State under an arrangement made under subsection (1) is for all purposes carried out by the decision-maker under the rules or regulations concerned; and every decision taken or other thing done by or on behalf of the Secretary of State under such an arrangement has the same effect as if taken or (as the case may be) done by the decision-maker.

(3) An arrangement under subsection (1) –

(a) may be varied or terminated at any time by the Committee, but without prejudice to anything done under the arrangement or to the making of a new arrangement; and

(b) does not prevent the performance of the function by the decision-maker concerned.

(4) For the avoidance of doubt, the decision-maker may be the Committee.

(5) This section has effect for the removal of any doubt and is not to be construed as impliedly invalidating anything done in conformity with any other enactment or rule of law, either before or after this section comes into force.”

In section 75(3) of the 2022 Act, in section 24A(1)(a) of the 1971 Act as amended, for “Kingdom”, substitute “Guernsey”.

In section 75(4) of the 2022 Act –

(a) for “place insert -”; and

(b) for the definition of “**an ETA**”, substitute –

“places, insert the following definitions in the appropriate order –

““**any other British CTA territory**” or “**other British CTA territory**” has the meaning given by section 11C;”

Section 76 of the 2022 Act.

““**the Bailiwick**” has the meaning given by section 11C;”

““**the Committee**” has the meaning given by section 11C;” and

““**an ETA**” means an authorisation in electronic form to travel to the Bailiwick;”

In section 76(1) of the 2022 Act, for “(8)”, substitute “(6)”.

In section 76(2) of the 2022 Act –

(a) in relation to the substituted section 40(1) of the 1999 Act –

(i) for “Secretary of State”, substitute “States of Guernsey Committee for Home Affairs (“the Committee”);” and

(ii) for “United Kingdom”, substitute “Bailiwick of Guernsey”; and

(b) in relation to the substituted section 40(1C)(a), for “United Kingdom” in each place where it occurs, substitute “Bailiwick of Guernsey”.

For section 76(4) of the 2022 Act, in relation to section 40(4) of the 1999 Act, substitute the following subsection –

“(4) For subsection (4), substitute the following subsection –

“(4) No charge shall be payable on the basis that Case 1 applies in respect of any individual if the owner provides evidence that the individual produced an immigration document of the kind mentioned in subsection (1A) to the owner or an employee or agent of the owner when embarking on the ship or aircraft for the voyage or flight to the Bailiwick of Guernsey.””

In section 76(5) of the 2022 Act –

(a) in section 40(4A) of the 1999 Act as inserted –

(i) in paragraph (a), for “United Kingdom”, substitute “Bailiwick of Guernsey”; and

(ii) in paragraphs (b) and (c), immediately after “Secretary of State” in each place where the expression occurs, insert “, the Committee or an immigration officer”;

(b) in section 40(4B) of the 1999 Act as inserted –

(i) in paragraph (a) –

(A) immediately after “Secretary of State”, insert “, the Committee or an immigration officer”; and

(B) for “United Kingdom”, substitute “Bailiwick of Guernsey”; and

(ii) in paragraph (b), immediately after “Secretary of State”, insert “, the Committee or an immigration officer”.

For section 76(6), (7) and (8) of the 2022 Act, in relation to section 40 of the 1999 Act, substitute the following subsection –

“(6) For subsections (5), (6), (7), (8), (11) and (13), substitute the following subsections –

“(5) For the purpose of subsection (4) or (4A)(a), an owner shall be entitled to regard a document as –

(a) being what it purports to be unless its falsity is reasonably apparent; and

(b) relating to the individual producing it unless it is reasonably apparent that it does not relate to him.

(6) For the purposes of this section an individual requires an entry clearance if under the immigration rules he requires an entry clearance for entry into the Bailiwick of Guernsey.

(7) In this section “immigration document” means –

(a) a passport; and

(b) a document which relates to a national of a country other than the United Kingdom and

which is designed to serve the same purpose as a passport.

(8) The Committee may by Order substitute a sum for the sum in subsection (1).

(9) An Order under subsection (8) must be laid before a meeting of the States of Deliberation as soon as possible and, if at that or the next meeting the States of Deliberation resolve to annul it, ceases to have effect, but without prejudice to anything done under it or to the making of a new Order.

(10) For the avoidance of doubt, the Guernsey Statutory Instruments (Registration) Ordinance, 1949 applies to an Order under subsection (8).”

SCHEDULE 2

Article 2(2)

Provisions of the Nationality and Borders Act 2022 as extended to Guernsey

Provision as extended to Guernsey

“70. Visa penalty provisions: application of UK Immigration Rules to the Bailiwick

(1) Subject to subsections (2) and (3), immigration rules making visa penalty provision under section 70 of this Act, as it has effect in the United Kingdom, have effect in the Bailiwick as if they were rules made under section 3(2) of the 1971 Act.

(2) The Committee may at any time by Order –

(a) disapply subsection (1) in relation to any of those rules; or

(b) modify the application of subsection (1) in relation to any of those rules, including providing for any or all of those rules to have effect in the Bailiwick subject to modifications specified in the Order.

(3) Subject to subsection (4), and unless the context or an Order under subsection (2) requires otherwise, a reference in those rules –

(a) to entry clearance is to be construed as a reference to entry clearance within the meaning given by section 33(1) of the 1971 Act;

(b) to immigration officers is to be construed as a reference to immigration officers appointed for the purposes of the 1971 Act;

(c) to the United Kingdom is to be construed as a reference to the Bailiwick;

(d) to the Secretary of State is to be construed as a reference to the Committee; and

(e) to any of the Immigration Acts is to be construed as a reference to that Act as it has effect in the Bailiwick.

(4) Any amount of money payable under a visa penalty provision is to be paid into the Consolidated Fund of the United Kingdom.

(5) For the avoidance of doubt, the Guernsey Statutory Instruments (Registration) Ordinance, 1949 applies to an Order under subsection (2).

(6) For the avoidance of doubt, a reference in this section to the 1971 Act is a reference to that Act as it has effect in the Bailiwick.

(7) In this section –

“**the Bailiwick**” means the Bailiwick of Guernsey; and

“**the Committee**” means the States of Guernsey Committee for Home Affairs.”

“75. Electronic travel authorisations

(1) The Immigration Act 1971 is amended in accordance with subsections (2) to (4).

(2) After Part 1 insert—

“Part 1A

Electronic Travel Authorisations

11C. Electronic travel authorisations

(1) In this Act -

“**an ETA**” means an authorisation in electronic form to travel to the Bailiwick of Guernsey;

“**any other British CTA territory**” or “**other British CTA territory**” means the United Kingdom, the Bailiwick of Jersey or the Isle of Man;

“**the Bailiwick**” means the Bailiwick of Guernsey; and

“**the Committee**” means the States of Guernsey Committee for Home Affairs.

(2) Immigration rules may require an individual of a description specified in the rules not to travel to the Bailiwick from any place (including a place in the common travel area), whether with a view to entering the Bailiwick or to passing through it without entering, unless the individual has an ETA that is valid for the individual’s journey to the Bailiwick.

(3) The rules may not impose this requirement on an individual if—

(a) the individual is a British citizen, or

(b) the individual would, on arrival in the Bailiwick, be entitled to enter without leave.

(4) In relation to an individual travelling to the Bailiwick on a local journey from a place in the common travel area, subsection (3)(b) applies only if the individual would also be entitled to enter without leave if the journey were instead from a place outside the common travel area.

(5) The rules may impose the requirement mentioned in subsection (2) on an individual who—

(a) travels to the Bailiwick on a local journey from a place in any other British CTA territory, and

(b) has leave to enter or remain in that other British CTA territory,

only if it appears to the Committee necessary to do so by reason of differences between the immigration laws of the Bailiwick and that other British CTA territory.

(6) The rules must—

(a) provide for the form or manner in which an application for an ETA may be made, granted or refused;

(b) specify the conditions (if any) which must be met before an application for an ETA may be granted;

(c) specify the grounds on which an application for an ETA must or may be refused;

(d) specify the criteria to be applied in determining—

(i) the period for which an ETA is valid;

(ii) the number of journeys to the Bailiwick during that period for which it is valid (which may be unlimited);

(e) require an ETA to include provision setting out the matters mentioned in paragraph (d)(i) and (ii);

(f) provide for the form or manner in which an ETA may be varied or cancelled;

(g) specify the grounds on which an ETA must or may be varied or cancelled.

(7) The rules may also—

(a) provide for exceptions to the requirement described in subsection (2), and

(b) make other provision relating to ETAs.

(8) Rules made by virtue of this section may make different provision for different cases or descriptions of case.

11D. Electronic travel authorisations and other British CTA territories

(1) The Committee may by regulations make provision about the effects in the Bailiwick of the grant or refusal under the law of any other British CTA territory of an authorisation in electronic form to travel to that other British CTA territory.

(2) Regulations under subsection (1) may in particular make provision about—

(a) the recognition in the Bailiwick of an authorisation granted as mentioned in subsection (1);

(b) the conditions or limitations that are to apply in the Bailiwick to such an authorisation;

(c) the effects in the Bailiwick of such an authorisation being varied or cancelled under the law of any other British CTA territory;

(d) the circumstances in which the Committee or an immigration officer may vary or cancel such an authorisation (so far as it applies in the Bailiwick).

(3) For the avoidance of doubt, the Guernsey Statutory Instruments (Registration) Ordinance, 1949 applies to regulations under subsection (1).

11E. Arrangements for functions to be carried out by Secretary of State

(1) The Committee may arrange for the Secretary of State to carry out any function in relation to ETAs conferred on any person (“the decision-maker”) by immigration rules under section 11C or regulations under section 11D.

(2) A function carried out by or on behalf of the Secretary of State under an arrangement made under subsection (1) is for all purposes carried out by the decision-maker under the rules or regulations concerned; and every decision taken or other thing done by or on behalf of the Secretary of State under such an arrangement has the same effect as if taken or (as the case may be) done by the decision-maker.

(3) An arrangement under subsection (1) –

(a) may be varied or terminated at any time by the Committee, but without prejudice to anything done under the arrangement or to the making of a new arrangement; and

(b) does not prevent the performance of the function by the decision-maker concerned.

(4) For the avoidance of doubt, the decision-maker may be the Committee.

(5) This section has effect for the removal of any doubt and is not to be construed as impliedly invalidating anything done in conformity with any other enactment or rule of law, either before or after this section comes into force.”

(3) In section 24A (deception), in subsection (1)(a)—

(a) after “obtain” insert “— (i)”;

(b) after “Guernsey” insert “, or” and the following subparagraph—

(ii) an ETA.”

(4) In section 33 (interpretation), in subsection (1), at the appropriate places, insert the following definitions in the appropriate order -

“**any other British CTA territory**” or “**other British CTA territory**” has the meaning given by section 11C.”

“**the Bailiwick**” has the meaning given by section 11C;”

“**the Committee**” has the meaning given by section 11C;”

“**an ETA**” means an authorisation in electronic form to travel to the Bailiwick;”

(5) In section 126 of the Nationality, Immigration and Asylum Act 2002 (compulsory provision of physical data), in subsection (2), before paragraph (a) insert—

“(za) an ETA (within the meaning of section 11C of the Immigration Act 1971 (electronic travel authorisations)),”

“76. Liability of carriers

(1) Section 40 of the Immigration and Asylum Act 1999 (liability of carriers in respect of passengers) is amended in accordance with subsections (2) to (6).

(2) For subsection (1) substitute—

“(1) The States of Guernsey Committee for Home Affairs (“the Committee”) may charge the owner of a ship or aircraft the sum of £2,000 where—

(a) an individual who would not, on arrival in the Bailiwick of Guernsey, be entitled to enter without leave arrives by travelling on the ship or aircraft, and

(b) at least one of the Cases set out in subsections (1A) to (1C) applies.

(1A) Case 1 is where, on being required to do so by an immigration officer, the individual fails to produce an immigration document which is valid and which satisfactorily establishes the individual's identity and the individual's nationality or citizenship.

(1B) Case 2 is where—

- (a) the individual requires an entry clearance,
- (b) an entry clearance in electronic form of the required kind has not been granted, and
- (c) if required to do so by an immigration officer, the individual fails to produce an entry clearance in documentary form of the required kind.

(1C) Case 3 is where—

- (a) the individual was required not to travel to the Bailiwick of Guernsey unless the individual had an authorisation in electronic form ("an ETA") under immigration rules made by virtue of section 11C of the Immigration Act 1971 that was valid for the individual's journey to the Bailiwick of Guernsey, and
- (b) the individual did not have such an ETA."

(3) Omit subsection (2).

(4) For subsection (4), substitute the following the following subsection –

"(4) No charge shall be payable on the basis that Case 1 applies in respect of any individual if the owner provides evidence that the individual produced an immigration document of the kind mentioned in subsection (1A) to the owner or an employee or agent of the owner when embarking on the ship or aircraft for the voyage or flight to the Bailiwick of Guernsey."

(5) After subsection (4) insert—

"(4A) No charge shall be payable on the basis that Case 2 applies in respect of any individual if the owner provides evidence that—

- (a) the individual produced an entry clearance in documentary form of the required kind to the owner or an employee or agent of the owner when embarking on the ship or aircraft for the voyage or flight to the Bailiwick of Guernsey,
 - (b) the owner or an employee or agent of the owner reasonably believed, on the basis of information provided by the Secretary of State, the Committee or an immigration officer in respect of the individual, that the individual did not require an entry clearance of the kind in question,
 - (c) the owner or an employee or agent of the owner reasonably believed, on the basis of information provided by the Secretary of State, the Committee or an immigration officer, that an entry clearance in electronic form of the required kind had been granted, or
 - (d) the owner or an employee or agent of the owner was unable to establish whether an entry clearance in electronic form of the required kind had been granted in respect of the individual and had a reasonable excuse for being unable to do so.
-

(4B) No charge shall be payable on the basis that Case 3 applies in respect of any individual if the owner provides evidence that the owner or an employee or agent of the owner—

(a) reasonably believed, on the basis of information provided by the Secretary of State, the Committee or an immigration officer in respect of the individual, that the individual was not required to have an ETA that was valid for the individual's journey to the Bailiwick of Guernsey,

(b) reasonably believed, on the basis of information provided by the Secretary of State, the Committee or an immigration officer, that the individual had such an ETA, or

(c) was unable to establish whether the individual had such an ETA and had a reasonable excuse for being unable to do so.”

(6) For subsections (5), (6), (7), (8), (11) and (13), substitute the following subsections –

“(5) For the purpose of subsection (4) or (4A)(a), an owner shall be entitled to regard a document as –

(a) being what it purports to be unless its falsity is reasonably apparent; and

(b) relating to the individual producing it unless it is reasonably apparent that it does not relate to him.

(6) For the purposes of this section an individual requires an entry clearance if under the immigration rules he requires an entry clearance for entry into the Bailiwick of Guernsey.

(7) In this section “immigration document” means –

(a) a passport; and

(b) a document which relates to a national of a country other than the United Kingdom and which is designed to serve the same purpose as a passport.

(8) The Committee may by Order substitute a sum for the sum in subsection (1).

(9) An Order under subsection (8) must be laid before a meeting of the States of Deliberation as soon as possible and, if at that or the next meeting the States of Deliberation resolve to annul it, ceases to have effect, but without prejudice to anything done under it or to the making of a new Order.

(10) For the avoidance of doubt, the Guernsey Statutory Instruments (Registration) Ordinance, 1949 applies to an Order under subsection (8).”

(7) In consequence of the amendments made by this section—

(a) for the heading of section 40 of the Immigration and Asylum Act 1999 substitute “Charge in respect of individual without proper documents or authorisation”;

(b) for the italic heading before section 40 of that Act substitute “Individuals without proper documents or authorisation””

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends to the Bailiwick of Guernsey, with modifications, sections 70, 75 and 76 of the Nationality and Borders Act 2022.

These provisions, as extended and modified –

- (a) give effect to UK Immigration Rules providing for visa penalties (subject to disapplication or modification by Order of the Committee for Home Affairs,
- (b) provide for Electronic Travel Authorisations to be required for travel to the Bailiwick of Guernsey, and
- (c) amend provisions in the Immigration and Asylum Act 1999 (previously extended to the Bailiwick of Guernsey with modifications) relating to the liability of carriers.