

Employment Permits - Applications Made After Employment Starts Policy

Introduction

Applications for Employment Permits should be made before the person who will hold the Permit moves to Guernsey to work. In most situations this will not be a problem, because there is time to make the application after a person has been recruited but before they move to Guernsey to start work.

There might be situations where a person starts work in Guernsey with little or no notice. There might also be times where a person is already employed in Guernsey but their current Employment Permit is running out, or their circumstances are changing, so they will no longer have a valid Resident Permit.

Some special arrangements have been made to deal with these situations in [“The Population Management \(Employment Permit Applications\) Regulations, 2017”](#). This policy explains the effect of those regulations.

When is an application ‘made’?

An application will not be treated as being made until the full administration fee for the processing of the application has been paid. Even if an Employment Permit application is submitted to the Population Management Office before a person starts working, if the application fee is not paid until later, the application might still be late. [Reference LA1]

Short Term Employment Permits – for new employees

If a Short Term Employment Permit application is made **on or before the 7th day of employment**, the application will be treated as being on time. The Administrator will not take any action when an application is made ‘on time’, even though the person might have been working without holding a Permit. [Reference LA2a]

A person’s 7th day of employment is the 7th calendar day after and including the day their employment starts. For example, if a person’s 1st day of employment is a Monday, their 7th day of employment is the following Sunday, even if they don’t normally work on a weekend. [Reference LA3]

If a Short Term Employment Permit application is made **after the 7th day of employment but before the 15th day of employment**, the application will be treated as being late, and an application surcharge equal to 50% of the application fee will have to be paid before the application is treated as being 'made'. The Administrator will not usually take any enforcement action when an application is made 'late', even though the person will have been working without holding a Permit. [Reference LA4a]

A person's 7th day of employment is the 7th calendar day after and including the day their employment starts, and the 15th day is calculated in the same way. For example, if a person's 1st day of employment is a Saturday, their 7th day of employment is the next Friday, even if they don't normally work on a weekend; and their 15th day of employment will be the Saturday two weeks after the day their employment starts. [Reference LA5]

If a Short Term Employment Permit application is made **on or after the 15th day of employment**, the application will be treated as being 'overdue', and an application surcharge equal to 100% of the application fee will have to be paid before the application is treated as being 'made'. The Administrator will consider imposing a discretionary financial penalty against an employer who employs a person for 15 or more days without them holding a valid Certificate or Permit. If an employer makes an application that is very overdue, or makes multiple overdue applications, the Administrator will consider starting an investigation, and this could lead to prosecution. [Reference LA6a]

Where a Short Term Employment Permit is granted on a late or overdue application, the **Permit will not usually be back-dated** to the first day of employment. The start date of the Permit will usually be the date the application is made. [Reference LA7a]

Where a Short Term Employment Permit is granted on a late or overdue application, the **Permit's expiry date will usually be calculated from the first day of employment**. For example, an application made 1 month after employment commenced would, if successful, result in a Short Term Employment Permit valid for maximum of 11 months from the date the application is made, because this would take into account the month of employment before the application was made. This is to make sure that there is no advantage to an employer making a late or overdue application. [Reference LA8a]

Short Term Employment Permits – for current employees

If a Short Term Employment Permit application is made **because a person's current Short-Term Employment Permit will soon expire** and their employer wants their employment to continue, the application should be made 1 month before the earlier Short Term Employment Permit expires. [Reference LA9a] The Administrator will consider imposing a discretionary financial penalty against an employer who continues to employ a person where no new Permit is in place, or where there is a gap between Permits, after an earlier Short Term Employment Permit has expired. If the situation continues, the Administrator will consider starting an investigation, and this could lead to prosecution. [Reference LA10a]

If a Short Term Employment Permit application is made because **a person's current Permit is (or will become) invalid by a change of circumstances**, and the employer wants their employment to continue, the application should be made as soon as the employer knows it is needed. [Reference LA11a] The Administrator will consider imposing a discretionary financial penalty against an employer who continues to employ a person where no new Permit is in place, or where the delay between an earlier Permit becoming invalid and a Short Term Employment Permit application being made is unreasonable. If the employment of a person without a valid Permit continues, the Administrator will consider starting an investigation, and this could lead to prosecution. [Reference LA6b]

The Administrator will **consider whether to back-date a Short Term Employment Permit** granted following a change in circumstances relating to the Permit holder. Where the Administrator decides, based on the information available, that the delay between an earlier Permit becoming invalid and a Short Term Employment Permit application being made is reasonable, the Short Term Employment Permit will usually be back-dated. [Reference LA12a] Where the Administrator decides, based on the information available, that the delay between an earlier Permit becoming invalid and a Short Term Employment Permit application being made is unreasonable, the Short Term Employment Permit will not usually be back-dated. [Reference LA13a]

Medium Term Employment Permits - for new employees

Applications for Medium Term Employment Permits for new employees must always be made in advance of their employment starting. [Reference LA14a]

Medium Term Employment Permits - for current employees

If a Medium Term Employment Permit application is made **because the Employment Permit Policy has changed** and an employee holding a Short Term Employment Permit (or an Open Market Employment Permit) might now be granted a Medium Term Employment Permit, the application can be made at any time, and should be made 1 month before the Short Term Employment Permit expires. [Reference LA15a] The Administrator will consider imposing a discretionary financial penalty against an employer who continues to employ a person where no new Permit is in place, or where there is a gap between a Short Term Employment Permit and a Medium Term Employment Permit. If the employment of a person without a valid Permit continues, the Administrator will consider starting an investigation, and this could lead to prosecution. [Reference LA6c]

If a Medium Term Employment Permit application is made because **a person's current Permit is (or will become) invalid by a change of circumstances**, and the employer wants their employment to continue, the application should be made as soon as the employer knows it is needed. [Reference LA11b] The Administrator will consider imposing a discretionary financial penalty against an employer who continues to employ a person

where no new Permit is in place, or where the delay between an earlier Permit becoming invalid and a Medium Term Employment Permit application being made is unreasonable. If the employment of a person without a valid Permit continues, the Administrator might consider starting an investigation, and this could lead to prosecution. [Reference LA6d]

The Administrator will **consider whether to back-date a Medium Term Employment Permit** granted following a change in circumstances relating to the Permit holder. Where the Administrator decides, based on the information available, that the delay between an earlier Permit becoming invalid and a Medium Term Employment Permit application being made is reasonable, the Medium Term Employment Permit will usually be back-dated. [Reference LA12b] Where the Administrator decides, based on the information available, that the delay between an earlier Permit becoming invalid and a Medium Term Employment Permit application being made is unreasonable, the Medium Term Employment Permit will not usually be back-dated. [Reference LA13b]

Long Term Employment Permits - for new employees

Applications for Long Term Employment Permits for new employees must always be made in advance. [Reference LA14b]

Long Term Employment Permits - for current employees

If a Long Term Employment Permit application is made **because the Employment Permit Policy has changed** and an employee holding a Short/Medium Term Employment Permit (or an Open Market Employment Permit) might now be granted a Long Term Employment Permit, the application can be made at any time, and should be made 1 month before the Short/Medium Term Employment Permit expires. [Reference LA15b] The Administrator will consider imposing a discretionary financial penalty against an employer who continues to employ a person where no new Permit is in place, or where there is a gap between a Short/Medium Term Employment Permit and a Long Term Employment Permit. If the employment of a person without a valid Permit continues, the Administrator might consider starting an investigation, and this could lead to prosecution. [Reference LA6e]

If a Long Term Employment Permit application is made because **a person's current Permit is (or will become) invalid by a change of circumstances**, and the employer wants their employment to continue, the application should be made as soon as the employer knows it is needed. [Reference LA11c] The Administrator will consider imposing a discretionary financial penalty against an employer who continues to employ a person where no new Permit is in place, or where the delay between an earlier Permit becoming invalid and a Long Term Employment Permit application being made is unreasonable. If the employment of a person without a valid Permit continues, the Administrator might consider starting an investigation, and this could lead to prosecution. [Reference LA6f]

The Administrator will **consider whether to back-date a Long Term Employment Permit** granted following a change in circumstances relating to the Permit holder. Where the Administrator decides, based on the information available, that the delay between an earlier Permit becoming invalid and a Long Term Employment Permit application being made is reasonable, the Long Term Employment Permit will usually be back-dated. [Reference LA12c] Where the Administrator decides, based on the information available, that the delay between an earlier Permit becoming invalid and a Long Term Employment Permit application being made is unreasonable, the Long Term Employment Permit will not usually be back-dated. [Reference LA13c]

Open Market Employment Permits - applications made after a person starts work

If an Open Market Employment Permit application is made **on or before the 7th day of employment**, the application will be treated as being on time. The Administrator will not take any action when an application is made 'on time', even though the person might have been working without holding a Permit. [Reference LA2b]

A person's 7th day of employment is the 7th calendar day after and including the day their employment starts. For example, if a person's 1st day of employment is a Monday, their 7th day of employment is the next Sunday, even if they don't normally work on a weekend. [Reference LA3]

If an Open Market Employment Permit application is made **after the 7th day of employment but before the 15th day of employment**, the application will be treated as being late, and an application surcharge equal to 50% of the application fee will have to be paid before the application is treated as being 'made'. The Administrator will not usually take any enforcement action when an application is made 'late', even though the person will have been working without holding an Employment Permit. [Reference LA4a]

A person's 7th day of employment is the 7th calendar day after and including the day their employment starts, and the 15th day is calculated in the same way. For example, if a person's 1st day of employment is a Saturday, their 7th day of employment is the next Friday, even if they don't normally work on a weekend; and their 15th day of employment will be the Saturday two weeks after the day their employment starts. [Reference LA5]

If an Open Market Employment Permit application is made **on or after the 15th day of employment**, the application will be treated as being 'overdue', and an application surcharge equal to 100% of the application fee will have to be paid before the application is treated as being 'made'. The Administrator will consider imposing a discretionary financial penalty against an employer who employs a person for 15 or more days without them holding a valid Certificate or Permit. [Reference LA6g]

Where an Open Market Employment Permit is granted on a late or overdue application, the **Permit will not usually be back-dated** to the first day of employment. The start date of the Permit will usually be the date the application is made. [Reference LA7b]

Where an Open Market Employment Permit is granted on a late or overdue application, the **Permit's expiry date will usually be calculated from the first day of employment**. For example, an application made 1 month after employment commenced would, if successful, result in an Open Market Employment Permit valid for a maximum of 4 years and 11 months from the date the application is made, because this would take into account the month of employment before the application was made. This is to make sure that there is no advantage to an employer making a late or overdue application. [Reference LA8b]

Open Market Employment Permits – for current employees

If an Open Market Employment Permit application is made **because a person's current Open Market Employment Permit will soon expire** and their employer wants their employment to continue (in the case of Part B and C employees, the maximum period of consecutive residence for a live-in employee is 5 years), the application should be made 1 month before the earlier Open Market Employment Permit expires. [Reference LA9b] The Administrator will consider imposing a discretionary financial penalty against an employer who continues to employ a person where no new Permit is in place, or where there is a gap between Permits, after an earlier Open Market Employment Permit has expired. If the employment of a person without a valid Permit continues, the Administrator might consider starting an investigation, and this could lead to prosecution. [Reference LA10b]

If an Open Market Employment Permit application is made because **a person's current Permit is (or will become) invalid by a change of circumstances**, and the employer wants their employment to continue, the application should be made as soon as the employer knows it is needed. [Reference LA11d] The Administrator will consider imposing a discretionary financial penalty against an employer who continues to employ a person where no new Permit is in place, or where the delay between an earlier Permit becoming invalid and an Open Market Employment Permit application being made is unreasonable. If the employment of a person without a valid Permit continues, the Administrator might consider starting an investigation, and this could lead to prosecution. [Reference LA6h]

The Administrator will **consider whether to back-date an Open Market Employment Permit** granted following a change in circumstances relating to the Permit holder. Where the Administrator decides, based on the information available, that the delay between an earlier Permit becoming invalid and an Open Market Employment Permit application being made is reasonable, the Open Market Employment Permit will usually be back-dated. [Reference LA12d] Where the Administrator decides, based on the information available, that the delay between an earlier Permit becoming invalid and an Open Market Employment Permit application being made is unreasonable, the Open Market Employment Permit will not usually be back-dated. [Reference LA13d]

Policy Review

This policy will be reviewed on 2 April 2019. The policy should not be relied upon as an indication of how Employment Permit applications made after a person starts employment will be treated after the review date. The Administrator reserves the right to review this policy before the published review date if there is good reason to do so.

Much of the information provided in this policy is contained within [“The Population Management \(Employment Permit Applications\) Regulations, 2017”](#), and so is a matter of law, and not policy.