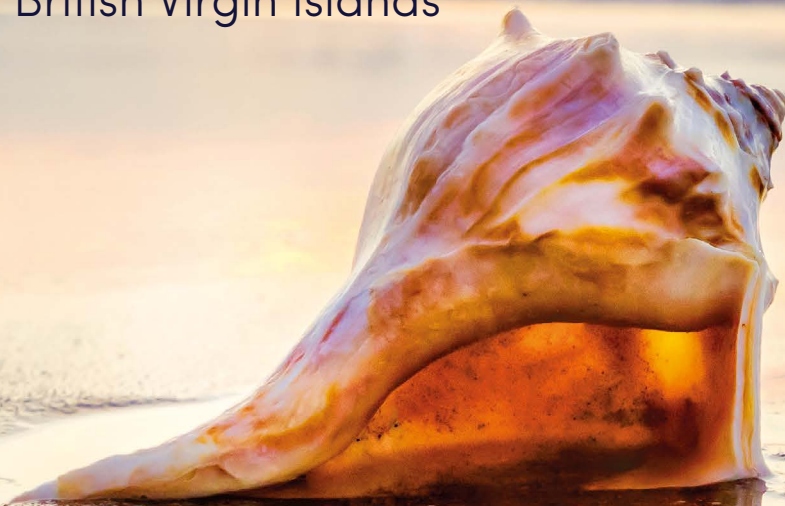


Immigration guide –
Q&A on relocating
to British Virgin Islands



Contents

2	1. Legal framework
2	2. Business travel
2	3. Work permits
4	4. Settlement
4	5. Dependants
4	6. Intra-company transfers
4	7. New hires
5	8. Sponsorship
5	9. Trends and predictions
5	10. Tips and traps
6	About Carey Olsen
7	Authors
8	Our offices

At Carey Olsen, we always look at the bigger picture. In the face of opportunities or challenges, our clients know that the advice and guidance they receive from us will be based on a complete understanding of their goals and objectives combined with outstanding client service, technical excellence and commercial insight.

BIGGER PICTURE

Carey Olsen has authored immigration guides for each of the five offshore law jurisdictions we advise on for the Mondaq Immigration comparison guides: Bermuda, the British Virgin Islands, the Cayman Islands, Guernsey and Jersey. These guides include commentary on the legal framework, business travel, work permits, settlement, dependents, intra-company transfers, new hires, sponsorship, trends and predictions and tips and traps.

Q&A on the British Virgin Islands

1. Legal framework

1.1 Which legislative and regulatory provisions govern corporate immigration in your jurisdiction?

The legislative provisions that govern immigration in the British Virgin Islands (the BVI) are contained in the Labour Code 2010 (the Code).

1.2 Do any special regimes apply in specific sectors?

There are no special regimes currently in place however on April 30 2021 the BVI government announced they plan to introduce a 'Work in Paradise' programme. This would allow foreign persons to work remotely from the BVI by acquiring some form of extended stay visa. At this time no further details have been published by the BVI government, nor has an implementation date been set.

1.3 Which government entities regulate immigration in your jurisdiction? What powers do they have?

Section 8 of the Code states that there shall exist a Commissioner (the Commissioner) who (subject to the direction of the Minister of Labour (the Minister)) is in charge of the Labour Department (the Department).

1.4 What is the government's general approach to immigration in your jurisdiction?

The BVI is generally receptive to immigration as evidenced by the large expat community working in the legal and financial services industries.

2. Business travel

2.1 Do business visitors need a visa to visit your jurisdiction? What restrictions and exemptions apply in this regard?

There are no visa's designed specifically for business visitors however, depending on the frequency and length of stay for a business visit there are a number of visa's that could apply. For a typical, short business trip, the most appropriate visa is likely to be an emergency work permit – is a permit issued to someone on a single occasion to undertake emergency work by an employer for a period not exceeding seven days.

There is also a Visa exemption program that was implemented on 1 September 2016 which permits nationals of a country that would otherwise require a visa to be exempted from such requirement if they have a visa from the United Kingdom, United States of America and or Canada. This program allows such persons to enter the BVI for business, tourism, work or other related matters for up to six months.

2.2 Do the requirements vary depending on sector or purpose?

No

2.3 What is the maximum stay allowed for business visitors?

It depends on the kind of permit a business visitor receives. For a continued stay (as opposed to many short trips within a one year timeframe as allowed under a periodic work permit (outlined below) the longest period a person could work would be for 6 months under the exemption referred to in 2.1 above, otherwise three months under a temporary work permit (outlined below).

2.4 What activities are business visitors allowed to conduct while visiting your jurisdiction?

The Code does not specify what activities business visitors are allowed to undertake.

2.5 Is authorisation required for business visitors to provide or receive short-term training?

The Code does not specify whether this is permitted or not.

3. Work permits

3.1 What are the main types of work permit in your jurisdiction? What restrictions and exemptions apply in this regard?

There are four main types of work permit in the BVI per section 169 of the Code:

1. emergency work permit – is a permit issued to someone on a single occasion to undertake emergency work by an employer for a period not exceeding seven days;
2. periodic work permit – is a permit issued to a person to enter and work in the BVI for a single employer for short periods within a one year period;
3. temporary work permit – is a permit issued to a person to enter and work in the BVI for a single period not exceeding three months; and
4. work permit – general work permit granted for no more than three years and may be renewed or extended by the Minister from time to time.

3.2 What is the maximum stay allowed under each type of work permit? Can this be extended?

See 3.1 above.

Extensions may be applied for.

3.3 What criteria must be satisfied to obtain each kind of permit?

The criteria for the various work permits noted above is not specified in the Code. However guidance on the BVI government website notes that the 'supporting documents' for a work permit application are:

1. passport sized photograph;
2. cover letter signed by employer summarising request for work permit;
3. job description;
4. valid trade licence (of the employer);
5. full page of two newspaper advertisements (run consecutively for two weeks with visible dates);
6. whether Belongers (as defined below) applied, and if so, why they were not hired;
7. copy of applicants diplomas and other qualifications; and
8. a letter from Immigration confirming the applicant's status in the BVI.

A belonger (a Belonger) as defined in the Code is a person who belongs to the BVI as defined in section 2(2) of the Virgin Islands Constitution Order, 2007. This generally means any person:

1. born in the BVI and at the time of birth his or her father or mother is or was:
 - a. a British overseas territories citizen (BOTC); or
 - b. permanently settled (as outlined in 4.1 below) in the BVI;
2. born in the BVI of a father or mother who belongs to the BVI by birth or descent;
3. adopted as a child in the BVI by a person who belongs to the BVI by birth or descent;
4. born outside the BVI of a father or mother who is a BOTC by virtue of birth in the BVI or descent from a father or mother born in the BVI or who belongs to the BVI by virtue of birth in the BVI or descent from a father or mother who was born in the BVI;
5. who is a BOTC by virtue of registration in the BVI;
6. who is the spouse of a person who belongs to the BVI.

3.4 Do any language requirements apply for each kind of permit?

There are no language requirements specified in the Code.

3.5 Are any work permits subject to quotas?

There are no provisions of the Code that permit quotas to be set however, section 178 of the Code permits the Minister to take into consideration both the short-term need and availability of human resources. This section suggests that the Minister may increase or decrease the amount of work permits that are granted based on the 'need' for human resources that exists at that time.

3.6 Do any specific rules apply with regard to the following:

(a) Work in specific sectors?

None specified.

(b) Shortage occupations?

None specified.

(c) Highly skilled workers?

None specified.

(d) Investors and high-net worth individuals?

None specified.

3.7 What are the formal and documentary requirements for obtaining each kind of permit?

See 3.3 above.

3.8 What fees are payable to obtain each kind of permit?

According to a bulletin published on the BVI government website, work permit fee structures are as follows:

- Special consideration has been made for domestic workers; who will pay 1% of annual salary.
- For all other workers, the fee for earnings up to \$25,000 will be charged at 3%; the fee for earnings from \$25,001 to \$50,000 will be calculated at 5% and the fee for earnings above \$50,001 will be calculated at 7%.

3.9 What is the process for obtaining a permit? How long does this typically take?

The process for obtaining a work permit is to apply in the prescribed form to the Labour Department (section 171 of the Code). According to the BVI government website the processing time for a work permit application is typically 30 working days.

3.10 Once a work permit has been obtained, what are the rights and obligations of the permit holder? What are the penalties in case of breach?

Section 171(2) of the Code permits the Minister to impose any conditions he or she may consider appropriate when approving a work permit. Section 171(12) of the Code also permits the Minister to vary the conditions of a work permit at any time.

Section 174 of the Code states that a person who fails to comply with sections 170 or 171 (requirement to obtain a work permit and abide by the conditions imposed on such a work permit, respectively) commits an offence and is liable on summary conviction to a fine not exceeding eight thousand dollars and shall have their work permit cancelled.

4. Settlement

4.1 What are the criteria for obtaining settlement in your jurisdiction? What restrictions apply in this regard?

The Code does not expressly deal with the ability to obtain permanent residency in BVI. However, the BVI government website states that an applicant must reside in the BVI for 20 years consecutively before an application can be considered. In addition that person cannot be absent from the BVI for more than 90 days in a calendar year except when pursuing further education or as a result of an illness.

4.2 Do any specific rules apply to foreign citizens with ancestral connections?

The Code does not make reference to any such rules.

4.3 What are the formal and documentary requirements for obtaining settlement?

In addition to submitting the completed application form, the BVI government website states that the additional documentation required to submit a permanent residency application is: Valid ID, bank statements, proof of social security benefits or other evidence of self-sufficiency, evidence of accommodation, two copies of a police certificate from the country of birth of the applicant and upon approval, a medical certificate in the prescribed form.

4.4 What fees are payable to obtain settlement?

No fees are outlined in the Code or on the BVI government website.

4.5 What is the process for obtaining settlement? How long does this typically take?

Completing the prescribed application form and submitting it (in person) together with the required documentation. The BVI government website states that applications are process within 2-3 business days.

4.6 Is the settlement process the same for EU citizens?

Yes.

5. Dependants

5.1 What are the criteria to qualify as a dependant? What restrictions apply in this regard?

There are no qualifying criteria in the Code for dependents. The BVI government website states that any person wishing for a dependent (spouse or children) to reside with them should write a letter to the Chief Immigration Officer. Such requests are responded to within 10 business days.

5.2 What rights do dependants enjoy once admitted as such?

There are no details in the Code or on the BVI government website surrounding the rights that dependents of work permit holders are afforded.

5.3 How are civil/unmarried partners and same-sex partners treated in this regard?

Civil partnerships are not currently recognised under domestic BVI law.

6. Intra-company transfers

6.1 Is there a specific regime for the transfer of employees from an overseas branch of a multinational to your jurisdiction?

No.

6.2 What is the maximum stay allowed under this regime? Can this be extended?

N/A

6.3 What criteria must the employer satisfy to obtain a permit under this regime?

N/A

6.4 What are the formal and documentary requirements to obtain a permit under this regime?

N/A

6.5 What fees are payable to obtain a permit under this regime?

N/A

6.6 What is the process for obtaining a permit? How long does this typically take?

N/A

7. New hires

7.1 Are employers in your jurisdiction bound by labour market testing requirements before hiring from overseas? Do any exemptions apply in this regard?

There is no reference to such requirements in the Code however the BVI government website states that part of the document suite required to be submitted as part of a work permit application requires (among other things) proof of two newspaper advertisements (run consecutively for two weeks with visible dates). In addition an applicant must submit information outlining whether Belongers applied, and if so, why they were not hired.

7.2 If labour market testing requirements apply, how are these satisfied and what best practices should employers follow in this regard?

Based on the BVI government website, an employer must (before applying for a work permit for a foreign employee) advertise the position and test the local labour market. To satisfy this an employer must run two newspaper advertisements (run consecutively for two weeks with visible dates) and submit information outlining whether Belongers applied, and if so, why they were not hired.

7.3 Which work permits are primarily used for new hires? What is the process for obtaining them and what fees are applicable, for both employer and employee?

The work permit that is used would depend on the length of desired employment for the individual (see 3.1) and the fees for the same are outlined in 3.8. Employers would also incur the costs of advertising the position as described above in 7.1 and 7.2.

7.4 Is labour market testing required if the new hire is to extend his or her residence?

This is not outlined in the Code however the BVI government issued a bulletin on 20 September 2020 outlining the documents required to complete a work permit renewal (in addition to the completed form) and are as follows:

- A valid receipt as evidence of an application to the Department of Inland Revenue for Certificate of Earnings.
- A Certificate of Earnings from the Social Security Board (SSB)
- A Certificate of Earnings from National Health Insurance (NHI)

This suggests that labour market testing is not required to renew a permit.

7.5 Can new hires apply for permanent residence?

Not unless they fall within 4.1 above.

8. Sponsorship

8.1 Are any licences or authorisations required to sponsor foreign nationals? What other criteria apply in this regard?

None exist in the Code.

8.2 What obligations do sponsoring employers have to ensure continued immigration compliance?

N/A

8.3 Are sponsoring employers subject to any local training requirements?

None exist in the Code.

8.4 How is compliance with the sponsorship regime monitored? What are the penalties for non-compliance?

N/A

Penalties for employers are set out in 8.2.

9. Trends and predictions

9.1 How would you describe the current immigration landscape and prevailing trends in your jurisdiction? Are any new developments anticipated in the next 12 months, including any proposed legislative reforms?

Overall, the BVI financial services and legal markets are strong and therefore immigration is expected to continue in order to meet the increased level of demand.

10. Tips and traps

10.1 What are your top tips for businesses seeking to recruit talent from abroad and what potential sticking points would you highlight?

1. Seek immigration advice in early course; and
2. All prospective applicants should ensure the requisite forms are completed correctly, and all supporting documentation is correct before they submit as any errors can cause significant delays.

About Carey Olsen

Carey Olsen is a leading offshore law firm advising on the laws of Bermuda, the British Virgin Islands, the Cayman Islands, Guernsey and Jersey from a network of nine international offices.

We provide legal services in relation to all aspects of corporate and finance, trusts and private wealth, investment funds, insolvency, restructuring and dispute resolution.

Our clients include global financial institutions, investment funds, private equity and real estate houses, multinational corporations, public organisations, sovereign wealth funds, high net worth individuals, family offices, directors, trustees and private clients.

We work with leading onshore legal advisers on international transactions and cases involving our jurisdictions.

In the face of opportunities and challenges, our clients know that the advice and guidance they receive from us will be based on a complete understanding of their goals and objectives combined with consistently high levels of client service, technical excellence and commercial insight.

British Virgin Islands immigration services

We can advise you on the relocation process for you and your family, your assets, investments and your business interests offshore. We have the local knowledge and transactional experience to assist you with all aspects of your relocation, including advice on immigration and residency options; assistance in compiling information and documentation required by local authorities; advice on the relocation of assets and investments, estate and succession planning; as well as assistance with property purchases and leasing arrangements.

In addition to our comprehensive guidance on the immigration process our lawyers can also introduce you to key contacts in the relocation and private wealth sectors. Our services include:

- / Relocation and immigration
- / Residential and commercial property
- / Trusts and estate planning
- / Wills and inheritance
- / Corporate law
- / Regulatory
- / Family office
- / Philanthropy

 **Authors****Bernadette Carey**

Partner – Head of Trusts and Private Wealth

D +1 345 749 2025

E bernadette.carey@careyolsen.com

Chris Duncan

Counsel – Trusts and Private Wealth

D +1 345 749 2057

E chris.duncan@careyolsen.com

The Mondaq Comparative Guides are part of a series of publications that provide an overview of some of the key points of law and practice on multiple topics and allow readers to compare regulatory environments and laws across multiple jurisdictions. Carey Olsen has provided the Immigration guides for Bermuda, the British Virgin Islands, Cayman Islands, Guernsey and Jersey.



PLEASE NOTE

This briefing is only intended to provide a very general overview of the matters to which it relates. It is not intended as legal advice and should not be relied on as such. © Carey Olsen 2022.



WINNER



Our offices

Jurisdictions

Bermuda

Carey Olsen Bermuda Limited
Rosebank Centre 5th Floor
11 Bermudiana Road
Pembroke HM 08
Bermuda

T +1 441 542 4500
E bermuda@careyolsen.com

British Virgin Islands

Carey Olsen (BVI) L.P.
Rodus Building
PO Box 3093
Road Town
Tortola VG1110
British Virgin Islands

T +1 284 394 4030
E bvi@careyolsen.com

Cayman Islands

Carey Olsen
PO Box 10008
Willow House
Cricket Square
Grand Cayman KY1-1001
Cayman Islands

T +1 345 749 2000
E cayman@careyolsen.com

Guernsey

Carey Olsen (Guernsey) LLP
PO Box 98
Carey House
Les Banques
St Peter Port
Guernsey GY1 4BZ
Channel Islands

T +44 (0)1481 727272
E guernsey@careyolsen.com

Jersey

Carey Olsen Jersey LLP
47 Esplanade
St Helier
Jersey JE1 0BD
Channel Islands

T +44 (0)1534 888900
E jerseyco@careyolsen.com

International offices

Cape Town

Carey Olsen
Protea Place
40 Dreyer Street
Claremont
Cape Town 7708
South Africa

T +27 21 286 0026
E capetown@careyolsen.com

Hong Kong SAR

Carey Olsen Hong Kong LLP
Suites 3610-13
Jardine House
1 Connaught Place
Central
Hong Kong SAR

T +852 3628 9000
E hongkong@careyolsen.com

London

Carey Olsen LLP
Forum St Paul's
33 Gutter Lane
London EC2V 8AS
United Kingdom

T +44 (0)20 7614 5610
E londonco@careyolsen.com

Singapore

Carey Olsen Singapore LLP
10 Collyer Quay #29-10
Ocean Financial Centre
Singapore 049315

T +65 6911 8310
E singapore@careyolsen.com

OFFSHORE LAW SPECIALISTS

BERMUDA BRITISH VIRGIN ISLANDS CAYMAN ISLANDS GUERNSEY JERSEY
CAPE TOWN HONG KONG SAR LONDON SINGAPORE

[careyolsen.com](https://www.careyolsen.com)