

STATES OF JERSEY



MIGRATION CONTROL POLICY (P.137/2020) - SECOND AMENDMENT (P.137/2020 AMD.(2)) - AMENDMENT

**Lodged au Greffe on 23rd February 2021
by the Chief Minister
Earliest Date for Debate: 2nd March 2021**

STATES GREFFE

MIGRATION CONTROL POLICY (P.137/2020) - SECOND AMENDMENT
(P.137/2020 AMD.(2)) - AMENDMENT

1 PAGE 2, PART 2 –

In the new sub-paragraph (vii), for the words “, gender-balanced panel,” substitute the words “panel appointed subject to the oversight of the Jersey Appointments Commission,”.

2 PAGE 2, PART 2 –

In the new sub-paragraph (vii), for the words “who have proven expertise” substitute the words “at least one member of which has proven expertise”.

3 PAGE 2, PART 2 –

In the new sub-paragraph (vii), for the word “island” substitute the word “country”.

CHIEF MINISTER

Note: After this amendment, sub-paragraph (vii), as proposed by Deputy J.H. Perchard of St. Saviour, would read as follows –

- (vii) to provide for an independent statutory, expert panel appointed subject to the oversight of the Jersey Appointments Commission, the members of which are actively sought from across the globe and at least one member of which has proven expertise in small country populations (defined as populations of 500,000 or less), to research and advise on population matters

The proposition, as amended by the amendment of Deputy J.H. Perchard of St. Saviour (as amended) would read as follows –

THE STATES are asked to decide whether they are of opinion –

- (a) to agree that action should be taken to provide more responsive controls on the number of migrants who acquire the right to settle permanently in Jersey and to remove the automatic ‘graduation’ from one CHWL permission to another;
- (b) to request the Chief Minister to bring forward amendments to the States of Jersey Law 2005 to require the Council of Ministers to develop, by the end of December 2021, a common policy on population (as outlined in 'Migration and Population Data' (P.120/2020), adopted as amended by the

Assembly on 4th November 2020) that is reviewed and updated annually based on the prior year's population growth and that includes annually updated infrastructural, educational, health-related, environmental and social requirements of any projected population growth;

- (c) to request the Chief Minister to bring forward the following amendments to the Control of Housing and Work (Jersey) Law 2012 (CHWL):
 - (i) to introduce a 9 month CHWL permission that does not lead to permanent residential status;
 - (ii) to introduce a 4 year CHWL permission that does not lead to permanent residential status;
 - (iii) to introduce a 10 year CHWL permission that may lead to permanent residential status;
 - (iv) to introduce a long-term CHWL permission that does provide permanent residential status;
 - (v) to require the applicant for a new permit to make a declaration of any unspent criminal convictions;
 - (vi) to introduce enhanced identity requirements for all CHWL cards issued to new residents;
 - (vii) to provide for an independent statutory, expert panel appointed subject to the oversight of the Jersey Appointments Commission, the members of which are actively sought from across the globe and at least one member of which has proven expertise in small country populations (defined as populations of 500,000 or less), to research and advise on population matters;
 - (viii) to ensure that the panel established in accordance with sub-paragraph (vii), as one aspect of its wider research, will engage with a representative sample (that is, reflecting the common characteristics of the Jersey population) by way of consultation; and
 - (ix) to provide for a Committee of States members to hold responsibility for determining applications under the CHW law that fall outside formal guidelines.

REPORT

The Chief Minister acknowledges Deputy Perchard's strong commitment to improve diversity within all aspects of the government. However, the wording included in the proposed amendment to c(vii) and the argument put forward in Deputy Perchard's report is directly at odds with the formal guidelines set out by the Jersey Appointments Commission (JAC).

The JAC is established by the Employment of States of Jersey Employees (Jersey) Law 2005. This law requires the JAC to publish guidelines. The [guidelines](#) include the following section.

3. The Standards

3.1 The Guidelines outline the standards against which all appointments should be made. These standards are:

- 1. Appointment on merit must be the overriding principle governing the appointments process. Applicants must be considered equally on merit at each stage of the selection process;*
- 2. The principles of equal opportunity and diversity must be inherent within the process;*
- 3. Each role will be advertised in such a way to encourage applicants from all sectors and groups, especially those who are under-represented at senior levels within public service;*
- 4. Every prospective applicant must be given equal and reasonable access to adequate information about the job and its requirements and about the selection process;*
- 5. Selection techniques must be reliable, consistent and guard against bias and be in line with discrimination legislation;*
- 6. Selection must be based on robust objective criteria applied consistently to all candidates;*
- 7. The application of the appointment process must be transparent. All stages of the process should be documented and the information be readily available for audit.*
- 8. Personal information about applicants and panel members must remain confidential, unless the individual concerned gives permission for its release; and*
- 9. Data protection legislation must be considered in relation to all recorded information.*
- 10. Where a succession plan is in place it should follow guidance published by the States.*

3.2 There are four reasons for the application of these standards:

- 1. To appoint the most appropriate person for the job on the basis of individual merit regardless of race, gender, age or any other personal factor;*
- 2. To put all appointments above suspicion of patronage or prejudice;*
- 3. To ensure that recruitment procedures uphold the political impartiality of the public service; and*
- 4. To maintain public confidence in the method of recruitment to senior appointments.*

P.137/2020 seeks to create a system of effective migration controls and part of the process to achieve this is to obtain independent, expert advice from the Panel envisaged in c(vii). Whilst the final details are to be confirmed it is likely that a panel of 3 or 4 experts will be proposed.

The Deputy's amendment seeks to override the process set out by the JAC and to require a gender balance to be achieved in the composition of the Panel.

This Panel will be recruited under the supervision of the JAC and wholly in line with the JAC guidelines. These guidelines, which are considered to be best practice, are based on the principle of appointing "... *the most appropriate person for the job on the basis of individual merit regardless of race, gender, age or any other personal factor;*" accordingly the Chief Minister cannot support this part of the amendment.

This amendment proposes the following changes to the second amendment c(vii):

- To remove the reference to a gender balanced panel. The Panel members must be chosen on the basis that they are the best people for the job.
- To add a specific reference to the Jersey Appointments Commission. This wording emphasises that the appointment of the Panel will be fully compliant with the JAC guidelines and supervised by JAC members.
- Replace the words "who have proven expertise" with the words "at least one member of which has proven expertise". The Chief Minister acknowledges that experience of small jurisdictions will be a useful addition to the remit of the Panel. However, it is overly restrictive to require that experience from every member of the Panel. The amendment seeks to include this expertise in at least one member, but not from every member of the Panel.
- Replace the word "island" with the word "country": As noted above, it is acknowledged that the Deputy's proposals on small jurisdiction experience is a useful addition to the remit of the Panel. However, the Chief Minister does not consider that the restriction for this experience to be gained solely in respect of an island state is necessary.

The Chief Minister accepts the remainder of the second amendment, namely the changes to (b) and the insertion of a new c(viii).

Financial and manpower implications

There are no additional financial and manpower implications arising from adoption of the amendment.