

Seasonal Workers and the Rural Economy

Economic and International Affairs
Scrutiny Panel

12th April 2022

S.R.5/2022



States of Jersey
States Assembly



États de Jersey
Assemblée des États

CONTENTS

Section 1 – Chair’s Foreword	2
Section 2 – Executive Summary	4
Section 3 – Key Findings	6
Section 4 – Recommendations	9
Section 5 – Introduction	10
The Panel’s Review	10
Methodology	11
The Jersey Farmers’ Union (JFU)	11
The Jersey Royal Company (JRC)	11
Section 6 – Process for Work Permits and Visas	12
The 9-Month Seasonal Work Permit	13
Extension of 9 months rule to 12 months	16
Processing Times for Work Permits and Visas	18
Processing of Work Visas in Jersey	21
Section 7 – Costs	22
Provision of Accommodation	22
Section 8 – Social Security Payments, Hospital Care and Health Insurance	26
Section 9 – Legislation	30
Draft Control of Housing and Work (Amendment) (Jersey) Law 202-.....	30
Section 10 – Conclusion	32
Appendix 1 – Panel Membership and Terms of Reference	33

Section 1 – Chair’s Foreword

As advised in the following Executive Summary, the President of the Jersey Farmers’ Union (JFU) did in his speech to last year’s annual Farming Conference draw attention to the challenges faced by the agricultural industry. He there identified three parties involved in the overall equation, these being the market/consumer, the grower/farmer and, finally, the Government.

Following the conference, the Panel invited the President of the JFU to a private meeting to better understand the problems faced by the industry. As a result of such meeting, the Panel agreed to undertake a review of the problems identified with seasonal workers and the rural economy and the various areas are considered in individual sections of this report. These cover processes involving work permits and visas, associated costs, provision of accommodation, and social security payments, hospital care and health insurance.

I will not repeat here the various findings and recommendations which are more fully dealt with in the ensuing chapters of this report. However, more generally, it needs to be recognised that there is a shortage of labour in certain sectors of the economy, principally agriculture and hospitality, and, as this applies not just to Jersey but the United Kingdom and other jurisdictions, so the island needs to make the prospect of working here more attractive; in this context, agricultural workers need to be assured that they are regarded as valuable contributors to the island economy and it is submitted that the present social security system (whereby employees are not entitled to benefits for the first 6 months of employment of each 9 month contract) hardly encourages that concept. As against that, the Panel was pleased to learn during the course of its review that the Minister for Health and Social Services was in the process of bringing forward revised rules which would provide ‘returning’ workers access to free health care if they had lived and worked in Jersey for at least 6 months continuously during the three years immediately prior to treatment.

It is to be stressed that the review focussed entirely on matters relating to seasonal workers rather than the wider picture of the rural economy at large. However, as stated in the concluding comments of this report, agriculture plays an essential part in the island’s way of life, not least in protecting its environment, and it will be to the severe detriment of island life as a whole if the sector’s concerns, particularly as to rising costs, are not listened to and addressed. The Panel therefore hopes that, not only will the recommendations contained in this report be implemented but, further, that these will mark the beginning of other positive changes for the benefit of the industry.

Finally, I take the opportunity of thanking all those who have engaged with the Panel in conducting our review, my Panel colleagues for their input and support and, not least, the Panel Officers for preparing this report and their hard work throughout the review.



A handwritten signature in black ink, appearing to read "David Johnson".

Deputy David Johnson
Chair, Economic & International Affairs Scrutiny Panel

Section 2 – Executive Summary

Following the annual Farm Jersey Conference in November 2021 and the speech given by the President of the Jersey Farmers' Union at the conference, the Panel became aware of challenges faced by the agricultural industry due to Brexit and the Covid-19 pandemic. The conference also highlighted the three parties involved in these rising costs and discussed how they could be addressed, one of those three parties being Government.

The Panel held a private meeting with the Jersey Farmers' Union (JFU) to gain further insight into the challenges faced and to understand how Government could help the industry through these challenging times, if at all. Following this meeting, the Panel began its review and held Public Hearings with the Jersey Farmers' Union, the Jersey Royal Company (JRC), and the Minister for Home Affairs, who has responsibility for the issuance of Jersey work permits. The Panel also wrote to the Minister for Social Security and the Minister for Health and Social Services regarding access to both social security and healthcare for seasonal workers.

The Panel learned that seasonal workers worked to a 9-month on 3-month off-Island rule and, whilst both the JFU and the JRC believed the Immigration Services in Jersey to be extremely efficient and helpful with the issuance of Jersey work permits, they have both faced challenges around delays in the issuance of work visas that were granted by the UK Immigration Services. Both complained that visa applications could be delayed, and they had no way of contacting the UK office. They were kept in the dark as to the status of visa applications with no explanation regarding the reasons for delays. The Panel has recommended a channel of communication be set up with the Jersey Immigration Services and the UK Immigration Services to provide employers of seasonal workers with an avenue to receive updates on the status of visa applications. This line of communication should be via the Jersey Customs and Immigration Service and not directly for employers.

The Panel also learned that, in order to make Jersey attractive to the seasonal worker, certain additional benefits or facilities had to be offered. These include subsidised accommodation, transport to and from work, and the use of the company vehicles. Costs of flights and work permits were usually paid for by the employer and a combined cost of £1,900 for each worker was not unusual. The Panel was informed that an amount of approximately £91 per week was allowed as an offset for accommodation. This figure was aligned with the minimum wage and had increased year on year in line with any increase in the minimum wage. The Panel was disappointed to learn that the offset in accommodation was not increased in 2022 despite the minimum wage increasing by almost 11%. This placed an extra burden on employers regarding costs as they were unable to recoup any increase in the value attributable to cost of accommodation, even though they were paying the higher wage. The Panel has recommended this be reviewed and the offset increased in line with the minimum wage with immediate effect.

Lastly, the Panel found that seasonal workers who return year on year were not entitled to social security benefits or non-emergency health care for the first 6 months of employment in their returning year. This was despite workers having paid 9 months of contributions in the previous year, during the life of their employment contract. Private health insurance is regularly taken out by the employer to cover this period at a cost of £150 per person. Whilst the Panel is aware that anyone coming to work in Jersey is not entitled to social security

benefits for the first 6 months of employment, it is of the opinion that there should be a measure of flexibility (and fairness) when dealing with returning seasonal workers. The Panel has recommended that the Minister for Social Security review this policy and a system be implemented whereby seasonal workers who return following a previous, consecutive 9-month contract of employment can freeze social security payments for the 3 months they are off-island. The employees should then be able to unfreeze these on their return the following year and have access to the social security system.

In contrast to the Social Security position, the Panel is extremely pleased to note that the Minister for Health and Social Services has agreed to bring forward plans to revise the policy for the current Health and Community Care system to allow returning seasonal workers access to free health care on their return to the Island, providing they had lived and worked in Jersey for at least six months continuously during the three years immediately prior to the date of the required treatment.

The Panel has made a number of key findings and recommendations within this report, and whilst it is positive news that the Minister for Health and Social Services is bringing forward plans to revise the policy for Health and Community Care to assist seasonal workers, the Panel believes there is still more that Government could do to assist this industry in these challenging times.

Section 3 – Key Findings

Key Finding 1

Work permits are a legal requirement for persons who do not have a right of abode in Jersey under the Immigration (Work Permit) (Jersey) Rules 1995 and the application must be made by the person wishing to employ the entrant.

Key Finding 2

The Work Permit Policy sets out the rules to which employers must adhere when employing seasonal and temporary workers. The policy document shows the main routes to employers for employing migrant workers.

Key Finding 3

The employer is also required to meet the requirements of the Control of Housing and Work (Jersey) Law 2012 and hold the requisite registered or licensed permission if the person does not hold Entitled or Entitled for Work status.

Key Finding 4

The Panel heard from employers that the Jersey Immigration office was considered efficient, helpful and responsive.

Key Finding 5

The Panel heard from key stakeholders that, at times, delays to work visas issued in the UK happened without any explanation. In addition, there was no direct contact for the Jersey employer to contact the UK Immigration Service to discuss the status of visa applications.

Key Finding 6

Discussions were in place to bring certain aspects of the visa processing service to Jersey. This was viewed as welcome news to the Panel as it could speed up and streamline part of the application process.

Key Finding 7

The Panel calculates combined fees for each employee prior to commencing employment could be in excess of £1900.

Key Finding 8

There was no increase in the offset for accommodation in 2022 despite the minimum wage increasing by almost 11%. The figure remained at £91 per week despite the increase in salary.

Key Finding 9

The Minister for Social Security did not ask the Employment Forum to consult on the levels of the minimum wage and offsets for 2022 and instead, carried out her own assessment. This was reportedly due to the Covid-19 pandemic and the States Assembly agreed to allow the Minister to use Covid-19 emergency powers to override the provisions of the Employment Law, which ordinarily require the Forum to consult.

Key Finding 10

Both the Jersey Farmers' Union and the Jersey Royal Company expressed disappointment that the offset in accommodation had not increased in line with the minimum wage in 2022 as it had done year on year since the minimum wage was introduced.

Key Finding 11

The Panel was informed that, to make Jersey attractive to seasonal workers, certain facilities had to be offered in addition to subsidised accommodation, which included transport to and from work and use of the company vehicles.

Key Finding 12

The Minister for Social Security informed the Panel that she had no plans in the final months of this Government's term to alter the current offset rates; however, going forward, in the next few months the Employment Forum will be asked to consider the appropriate level of both the minimum wage and offset rates for 2023.

Key Finding 13

Anyone coming to work in Jersey is not entitled to social security benefits for the first 6 months of employment. Seasonal workers who return year on year are not entitled to social security benefits for the first 6 months of employment in their returning year. Private health insurance is regularly taken out by the employer to cover this period at a cost of approximately £150 per person.

Key Finding 14

Currently, any new worker to the Island is not entitled to Health and Community Care costs for their first 6 months on the Island. The Panel is pleased to note that the Minister for Health and Social Services is in the process of bringing revised rules forward to the existing policy which will provide that returning workers may access free health care on their return to the

Island if they had lived and worked in Jersey for at least six months continuously during the three years immediately prior to the date of the required treatment.

Section 4 – Recommendations

Recommendation 1

The Minister for Home Affairs should instruct officers to urgently review the Work Permit Policy document to set some flexibility within the seasonal and temporary work permit arrangements to align with the business need. It is acknowledged that this work may need to be revisited as and when the secondary legislation and regulations for the amended Control of Housing and Work Law are proposed by a future Council of Ministers.

Recommendation 2

The Minister for Home Affairs should establish a direct line of contact with the UK Immigration Services to ensure employers can receive an update on the status of delayed visas. The contact should be between Jersey Immigration Officers and the UK Immigration Officers only and not Jersey employers. This should be carried out within 6 months of presentation of this report.

Recommendation 3

The Minister for Home Affairs should ensure that provided there are no changes to the application from the previous year, the work permit fee of £115 be waived for each consecutively returning employee to help bring the costs of employment down. This should be implemented within 6 months of presenting this report.

Recommendation 4

The Minister for Social Security should increase the offset in accommodation rates in line with that of the minimum wage for 2022. This would align with what has been implemented year on year in the past and should be applied without delay.

Recommendation 5

The Minister for Social Security should implement a system whereby seasonal workers who return following a previous, consecutive 9-month contract of employment can freeze social security payments for the 3 months they are off-island. The employee should then be able to unfreeze these on their return the following year and have access to the social security system. This should be a legacy from the existing Minister to the incoming Minister following the end of this term of office.

Section 5 – Introduction

The Panel's Review

On 11th November 2021, Farm Jersey held its [annual conference](#) at La Mare Vineyards. The conference covered the continuing challenges brought by Brexit and the Covid-19 pandemic but also highlighted the positive changes that were appearing on the farming horizon.

advances in technology, which allow for the adaptation of current practices alongside opportunities to save on labour costs; crop diversification, offering possible new markets and opportunities to support the island's efforts to become carbon neutral, all while maintaining the high standards which already underpin our agricultural community.¹

The Panel received a copy of the speech given by the President of the Jersey Farmers' Union at the conference and was concerned to learn of the difficulties currently being faced by the agricultural industry due to rising costs. The speech highlighted the three parties involved in these rising costs and discussed how they could be addressed. The three parties were:

- The Market/Consumer
- The Grower /Farmer
- The Government

The speech went on to discuss how each of the parties could play a part in addressing the difficulties being faced by farmers. The problems highlighted as those coming from Government were listed as:

- Minimum wage up 11% to £9.22
- Holiday entitlement up 50%
- Cost to employ new person
- Work permit £115
- Social security card £80
- UK Visa (9 months) £244

Excerpt from the Speech given by the President of the Jersey Farmers Union at the Farm Jersey Conference:

These last 3 cost someone £11 a week, employer or employee. At the moment, as you all know, it's an employee's market. Can't Government reduce some of these costs? Why, if the same employee returns after his 3 months enforced absence, could we not have a reduced permit fee? Why, if they pay Social Security, don't they get cover from day 1? These are not medical tourists, they are here to work. At the moment the staff and grower have to have medical insurance, for those who come from outside Europe - another cost.²

It was with these key issues in mind that the Panel first discussed the idea of undertaking a review into seasonal workers in the agricultural industry and the impact it may have on the rural economy overall. The Panel held a private meeting in January 2022 with the President

¹ <https://www.jerseyfarmingconference.com/>

² JFU President's Speech

of the Jersey Farmers' Union to obtain additional background and to further understand both the highlighted concerns, and any others faced within the industry. Following this meeting, the Panel agreed that there was sufficient concern within the agricultural industry as to the role played by Government and agreed to undertake this review, focusing on seasonal workers and the rural economy.

Methodology

The Panel held Public Hearings with the [Minister for Home Affairs](#) to discuss the issue of visas and work permits. It also held Public Hearings with the [Jersey Farmers' Union \(JFU\)](#) and the [Jersey Royal Company \(JRC\)](#) to discuss the issues faced with employing seasonal workers in the agricultural sector.

The Panel also wrote to the Minister for Social Security to discuss the problems faced by seasonal workers in agriculture regarding payments and access to benefits. A copy of this letter can be found [here](#) and is discussed in more detail later in this report. Finally, the Panel wrote to the Minister for Health and Social Services to gain an understanding of the entitlement seasonal workers had regarding the payment of medical services derived from being treated at the general hospital. A copy of this letter can be found [here](#) and is also discussed in more detail within this report.

The Jersey Farmers' Union (JFU)

It should be noted that the JFU promotes the interest of those involved in agriculture and considers, discusses, and advises on questions affecting the industry in Jersey. It has a list of members who, amongst many other things, use it for assistance with the employment of seasonal workers. The JFU will work on behalf of the member to ensure the work permit application is processed and all necessary paperwork and legalities are adhered to. During the evidence gathering for this report, the Panel learned that the majority of seasonal workers employed through the JFU were from the Philippines and required work visas from the UK.

The Jersey Royal Company (JRC)

The JRC is a relatively large operation employing up to 450 people and are by some way the largest potato grower in Jersey. It processes its own staff applications and undertakes its own regulatory requirements to ensure all legalities for seasonal workers are adhered to. During the evidence gathering for this report, the majority of seasonal workers employed by the JRC were from Eastern Europe (EU) and did not require work visas from the UK. These workers were allowed to work in Jersey up to 6 months without a work visa; however, they still required a Jersey-issued work permit.

Section 6 – Process for Work Permits and Visas

Work permits are issued to seasonal workers in line with the conditions contained within the [Work Policy Permit Document](#).

The Work Policy Permit Document is a Government document with the purpose of setting out the main routes available to employers who wish to employ seasonal/migrant/temporary workers.

Excerpt from the Work Policy Permit Document:

Work permits are a requirement under the Immigration (Work Permits) (Jersey) Rules 1995 and as such employers are required to apply for a work permit for those individuals who require immigration permission to enter or remain in Jersey for work. Work permits are not required for those that have acquired immigration permission in the form of settled or pre-settled status.³

There are three types of permits available to seasonal/temporary workers namely:

9 Month (Seasonal) Route

This route is available for those individuals employed in both the agriculture and hospitality sectors for a maximum period of 9 months. There is also the ability to apply for work within the fishing industry for employment on fishing vessels as crew for a maximum period of 9 months.

1 Year Route

This route is available for those individuals employed in the construction industry for specific projects. Permits will initially be issued for a 1-year period but may be extended on a yearly basis up to a maximum period of 4 years.

Skilled Work Permit Employment

This route is available for those individuals employed as skilled migrant workers in any industry for up to an initial period of 3 years following which a further work permit may be granted. Work Permits may be granted to Medical Doctors for up to 5 years in the first instance.

The Work Policy Permit Document is not legislation and the conditions relied upon therein are policy as opposed to Law.

The Work Policy Permit Document also sets out:

- *To protect the Common Travel Area employment pool*
- *To ensure suitable migrant workers are recruited with an acceptable background and adequate skills to undertake the work they will be doing*
- *To protect migrant workers from ‘Modern Day Slavery’ and ensure their welfare is maintained*
- *To support the Island’s population strategy⁴*

³ Work Policy Permit Document – 01.03.22

⁴ Work Policy Permit Document – 01.03.22

The Deputy of St. Mary:

This document is a bible, is it, effectively as far as work is concerned?

Acting Director for Customs and Immigration:

It is, yes. That is what the officers will be working to and it is obviously a public document for employers and employees to be aware of in terms of the requirements.⁵

Key Finding 1

Work permits are a legal requirement for persons who do not have a right of abode in Jersey under the Immigration (Work Permits) (Jersey) Rules 1995 and the application must be made by the person wishing to employ the entrant.

The Panel became aware throughout the course of its evidence gathering that work permits, issued in Jersey, must be granted before the work visa can be applied for, the visa being issued in the UK. The visa must be applied for in the employee's country of origin with the Jersey issued work permit forming part of the necessary paperwork for the work visa application.

Work permits are issued in the name of the grower, or the employer and it is the employer that usually pays for the work permits. Once a work permit has been issued in the name of that employer, that employee can only work for that named person.

Once the visa application is received by the UK, it is submitted and referred to officers within the immigration team in Jersey. These officers make the determination as to whether the visa should be granted and authorised. The response is then given back to the UK who will then issue the visa on behalf of Jersey and the physical visa vignette that goes into the applicant's passport is done abroad at the visa application centres within their country of origin. The Panel heard that this can be a lengthy process which is discussed in more detail later in this report.

For the purposes of this review and in line with its Terms of Reference, the Panel will focus on the issuance of the 9-month seasonal work permit.

The 9-Month Seasonal Work Permit

This permit is available for those individuals employed in both the agriculture and hospitality sectors for a maximum period of 9 months. Following the completion of 9 months, the employee must leave the Island for at least 3 months before he/she is allowed to return. For those granted permission to work in this category, they are unable to extend beyond 9 months, switch employment into another temporary route or bring dependants to the Island. Time spent in these categories does not lead to settlement.

The Panel learned that any returning workers who had previously completed a 9-month period of employment on the Island, have to undergo the work permit and visa application process again, in the same way as those applying for the first time. As mentioned above, the employer cannot apply for a work permit until the employee has physically left the Island. The Panel was informed that this had caused problems in the past as the date of the work permit must be fixed by the employer when applying, and once the visa is granted in the UK the date for

⁵ Public Hearing with the Minister for Home Affairs – 21.02.22

the visa will be the same as that stated on the permit. If there were any delays in the granting of the visa from the UK, the work permit would begin regardless thus impacting on the already short 9-month work permit. This is explained in more detail in the next section.

The Panel was keen to know how the 9-month rule impacted on the employer's ability to run their business effectively. The JFU explained that it wasn't ideal; however, they worked around the rules and effectively worked to a 3-year calendar.

Senator S.W. Pallett:

Before I ask the question around Control of Housing and Work Law, this is the big question, does the timeframe work for your industry; agriculture industry?

President, Jersey Farmers' Union:

Ideally, no. But I mean we are learning to live with it but every grower now is ... I will give you an example, we are talking about the length of the visas, we are on our own with the farm and we work mostly ... we work 12 months of the year because we have got a mixed farm. We are trying to get our staff into 4 lots of 9 months to make a 3-year policy. We literally consult a 3-year calendar and this year we had to send 3 people who are excellent home a month early because we can manage in March, this month in March, but we are desperately needing them on 25th April when we are digging potatoes and planting courgettes and all the other jobs we do. That is not sort of a mistake we made, it is just that we have got to get the whole of our farm into this, as I say, 4 lots of 9 months to make 3 years and I think every grower is working. Certainly, we have had a lot of people come in this year in sort of mid-November, which is really a bit late for the standing but growers are saying: "No, okay, I will lose a bit of early standing", this is standing of potatoes for those who are listening: "But it takes the realm of the 9 months to the end of the lifting of the seed." We are all having to work to it really.⁶

The JRC also found the 9-month rule inconvenient informing the Panel that it has to rotate staff to ensure all 12 months are accommodated.

The Deputy of St. Mary:

Again, that is the first stage. Let me go on to ... I was going to ask about the visa, we will leave these until later. As I understand it, the system still revolves around a 9-month work permit, does it?

Business Unit Director, The Jersey Royal Company:

Yes, so it is all quite new. So last year we introduced 9-month work permits, I do believe that you can get shorter ones now though. So we can go down the 6 months, which might be quite helpful for certain periods of the year. Yes, 9 months is difficult ... well all work permits are difficult because we have operations that run 12 months of the year. So it does mean that we have to rotate staff around, fit them in to make sure that we have 12 months of cover.⁷

⁶ Public Hearing with the Jersey Farmers' Union – 16.02.22

⁷ Public Hearing with the Jersey Royal Company – 21.02.22

As previously mentioned in this report, the JFU and JRC employ staff from different jurisdictions both with different immigration and visa regulations. The JRC employs the majority of its workers from Eastern Europe, who can work for up to 6 months without the need for a UK visa. However, the JFU employs most of its seasonal workers from the Philippines where UK work visas are required. In all cases; however, whether 6 months or 9 months, seasonal workers had to be off-Island for a minimum of 3 months at the end of their contract before returning.

The Deputy of St. Martin:

Without a visa for 6 months and they then had to go back but do they have to stay away a certain amount of time?

Business Unit Director, The Jersey Royal Company:

Yes, whichever one you are up for, 6 months, 9 months, they have to be away for 3 months.

The Deputy of St. Martin:

So in the case you are talking about you could do 6 months here, 3 months home, 6 months back, 3 months home and rotate on that basis?

Business Unit Director, The Jersey Royal Company:

Yes, yes. That will help us particularly when we get to our packing period, when we need to bring in our next 100 people. That is a much shorter season and if we can do that without the Visa then it is more viable both for us and for the worker.

The Deputy of St. Martin:

That would happen sort of now, people coming in on a 6 month?

Business Unit Director, The Jersey Royal Company:

Yes, we have to work ... it used to be that you could just ring somebody up and 2 weeks later they land in Jersey and we are away. Now, we have to work 2 or 3 months ahead of that so we are already planning the amount of staff we need in April.⁸

Whilst the Panel is aware that the 9-month rule is in place to prevent employees building up settlement status, it believes there should be some flexibility in this rule to accommodate the agricultural industry.

Key Finding 2

The Work Permit Policy sets out the rules to which employers must adhere when employing seasonal and temporary workers. The policy document shows the main routes to employers for employing migrant workers.

⁸ Public Hearing with the Jersey Royal Company – 21.02.22

Recommendation 1

The Minister for Home Affairs should instruct officers to urgently review the Work Permit Policy document to set some flexibility within the seasonal and temporary work permit arrangements to align with the business need.

It is acknowledged that this work may need to be revisited as and when the secondary legislation and regulations for the amended Control of Housing and Work Law are proposed by a future Council of Ministers.

Extension of 9 months rule to 12 months

During the course of its review, the Panel became aware of the 9-month rule being extended to 12 months for the hospitality industry.

Government Press Release – October 2021

The Minister for Home Affairs, Deputy Gregory Guida, has announced an exception to the Immigration Work Permit Policy. This will allow migrant workers from outside the Common Travel Area, who are working in the hospitality sector, to remain beyond the existing nine-month temporary seasonal permission.

The permit extension will allow an additional nine months, to run consecutively to the original permit, without the requirement for the holder to leave Jersey for three months in between. The Minister has approved this one-off exception for anyone currently on a nine-month hospitality work permit, or whose start date is on or before 1 May 2022.⁹

The Minister went on to say:

"The opportunity for employers to extend their permits by nine months provides much needed and immediate assistance to the hospitality sector. This move will allow time for the labour market to stabilise and for us to gather reliable data before considering any substantive changes to the Work Permit Policy."¹⁰

The Panel asked the Minister for Home Affairs if this could be extended to other sectors of seasonal/temporary workers; however, he explained to the Panel that it did not necessarily work for the agricultural sector as the same people tended to come back each season.

The Minister for Home Affairs:

It is a renewal. It is a possibility because you do ask only for 9 months visa and you get a renewal for another 9 months but then you do not come back. So we could do that but it does not work for the agricultural industry that needs, if possible, the same people to come back each season.¹¹

The Panel asked the JFU and the JRC what their views were on the extension to the 9-month rule and whether this could prove beneficial.

⁹<https://www.gov.je/news/2021/pages/extendedimmigrationpermits.aspx>

¹⁰<https://www.gov.je/news/2021/pages/extendedimmigrationpermits.aspx>

¹¹ Public Hearing with Minister for Home Affairs – 21.02.22

The JFU did not believe it would work for their business needs as after 18 months (2 x 9 months as per the extension rules), the worker then had to leave with no route to return leaving them in the same situation as before with the employee having to leave the Island.

Senator S.W. Pallett:

Talking about other industries, we know the hospitality industry, for example, they can extend from 9 to 12 months, is that something that you have spoken to or spoken about?

President, Jersey Farmers' Union:

I am not quite sure but my understanding is they can go from 9 to 12, they will also be based on 9 to 18. I understood that if you go to 12 months staff might have go away for a year. I think that would be even worse for us because we would be losing a skillset for a year.¹²

The JRC explained that it may be beneficial in (assisting in) retaining their skilled work force going on to say they would spend the same amount of time training someone who could stay continuously for 18 months, as opposed to having to leave after 9 months.

The Deputy of St. Martin:

You would have heard the hospitality industry over the last year or so have been granted some extensions to 12 months. Would that be of any use to you inasmuch as, you know, they still have to go home for a period of time? Would that make it just as confusing as the 9 and 3?

Business Unit Director, The Jersey Royal Company:

That would probably help with the more skilled workers or what we determine as skilled workers. I know it is not skilled under the policies but our tractor drivers, for instance. Driving one of those tractor units around the Island, they are all electronic now, that takes some training to learn how to use one of those with some kit on the back. Now, the work of the tractor drivers is 12 months of the year, so you are trying to build in a rotation and we spend a lot of money on training and to train someone for 9 months and then send them home is difficult. If those people could stay for 12 months it would be an easier rotation. It would help, yes.¹³

Key Finding 3

The employer is also required to meet the requirements of the Control of Housing and Work (Jersey) Law 2012 and hold the requisite registered or licensed permission if the person does not hold Entitled or Entitled for Work status.

The Panel is aware that amendments to the CHWL were debated in late March 2022 and these amendments have laid the foundations for potential future changes of the work status system such as time limited work permits. Such permits could replace the seasonal and temporary permits currently applied for by employers. However, the regulations to the amended CHWL to change the current system of Entitled, Entitled for Work, Registered and

¹² Public Hearing with the Jersey Farmers' Union – 16.02.22

¹³ Public Hearing with the Jersey Royal Company – 21.02.22

Licensed status' have yet to be lodged, so employers will, in the meantime, need to abide by the current legislation.

Processing Times for Work Permits and Visas

Throughout the course of its review, the Panel heard evidence that there did not seem to be a hard and fast rule with regards to processing times for the issuance of visas from the UK. Whilst the issuance of work permits in Jersey was pretty flawless and usually turned around within 48 hours, delays in the granting of visas from the UK were common without any valid explanation. It should be noted that both the JFU and the JRC were extremely complimentary towards the staff within Jersey Immigration who were involved in the issuance of work permits. They were seen to be helpful, efficient, and always on hand to help with a query.

Secretary, Jersey Farmers' Union:

The work permits are processed here in Jersey by Immigration and they turn around very quickly, they are very efficient. It can be anything between a day or 10 hours but it is that quick and it is very helpful

The Deputy of St. Martin:

It is a matter of days and not weeks and months.

Secretary, Jersey Farmers' Union:

Definitely, yes. If we have a query they always come back very quickly with answers.

The Deputy of St. Martin:

Do you have a relationship with an officer or specific officers inside Home Affairs or Immigration to deal with that?

Secretary, Jersey Farmers' Union:

Yes, we have had several meetings with (named officer). All of the officers are always very helpful there when we have got a query.¹⁴

Business Unit Director, The Jersey Royal Company:

I have to say immigration are very good, if you have an issue they are normally on hand to help you out and sort things out.¹⁵

In contrast, both the JFU and the JRC went on to describe to the Panel some of the difficulties faced when dealing with UK visa issuance and the limited involvement they have with their respective UK officers.

The Panel was informed that once the work permit is issued in Jersey, it is sent back to the future employee in their country of residence because it forms part of the documentation needed for the work visa application. The UK Immigration Department, on receipt of the application, puts the employee through the rigorous checks they would be required to undertake if they were working in the UK, even though they have a permit to work in Jersey which can at times be delayed. Furthermore, flights for the employee are not usually secured until the work visa has been granted which could result in a further delay. As mentioned

¹⁴ Public Hearing with the Jersey Farmers' Union - 16.02.22

¹⁵ Public Hearing with the Jersey Royal Company – 21.02.22

previously in this report, returning workers have to reapply and begin the whole process again and, with a 3-month window in which to recruit, this was seen by employers as challenging.

The Panel found that employers had to result to 'educated guesswork' to try and mitigate any delays.

The Deputy of St. Mary:

One question in this area is - and you have touched on it - the time factor; you are giving a work permit, will it be 9 months from the date rather than a fixed date with perceived delays occurring and ...

President, Jersey Farmers' Union:

No, the visa is issued and then if you cannot get flights you start losing time, so you have to try to pitch.

Secretary, Jersey Farmers' Union:

It is a bit of guess work, educated guess work.

President, Jersey Farmers' Union:

Yes, exactly. In a situation in which many times we would be in, I do not want to go into what we will be saying later, but you have to try and pitch that you have got people going back and you want them in 3 months and you have got to get on it straightaway to try and get that. But when you have done the work permit and it has taken a few weeks to do that by the time the staff have been recruited or they come back, sorry, so that can be done quite quickly. If the visa takes a long time and then you cannot get flights, you will find you might have lost a week in your visa because you did not have the flights ...

The Deputy of St. Mary:

You have got to do the guesswork at your end because you ...

Secretary, Jersey Farmers' Union:

We do.

The JRC gave the Panel an example of applying for visas in bulk where some were delayed. despite the information on each application being of a similar nature. They went on to say that a lot of people applied in groups and wanted to come together, so a direct contact within UK immigration would be beneficial to help keep the employer updated on the status.

The Deputy of St. Martin:

The timing of the visas coming back to you from the U.K. (United Kingdom), is that an issue for you?

Business Unit Director, The Jersey Royal Company:

Sometimes you get them back fairly quick, sometimes they are quite delayed, sometimes you put a load in all at once and some come back quite quickly and some of them will be delayed.

The Deputy of St. Martin:

Do you have a direct contact?

Business Unit Director, The Jersey Royal Company:

No, no, it is all done remotely so we have no contacts there at all, it is just a question of filling out the paperwork and sending it in.

The Deputy of St. Martin:

Is that something that you would like to have if you had the opportunity, somebody who you knew at the other end of the department who always dealt with Jersey visas?

Business Unit Director, The Jersey Royal Company:

It would be beneficial, yes. Especially when you are trying to get groups of people over. A lot of people apply in groups and want to come with their friends, their family and sometimes they are split up because some get approval, some do not.

The Deputy of St. Martin:

In those sorts of situations where you might apply for 30 or 40 and you only get half and the other half come later, would you bring that first half over sooner?

Business Unit Director, The Jersey Royal Company:

Yes, I mean it is all timed for when we need these people over. So end up getting people late because there is a delay in their visa application.¹⁶

The Panel asked the Minister for Home Affairs if he had a direct link to the UK Immigration Office, and whilst there was no direct contact, they did have openings. However, the Minister and his team generally relied on the UK Immigration Office to do their job and were of the opinion that usually it was done well.

The Panel was further informed that the Immigration Office in Jersey were reluctant to cause issues and, as they believed the majority of applications were handled well, suggested that intervening may add to any potential delays.

Acting Director for Customs and Immigration:

The fact that the majority are handled very well, if anything we can almost cause issues if we start putting our thumb into the middle of a process of the U.K. If we were to ask: "What is going on? Why have we not got this?" only to find out that in fact the applicant had not submitted the paperwork and we have caused another step in the delay by asking about it and taking an officer's time away from that case.¹⁷

Key Finding 4

The Panel heard that Jersey Immigration was considered efficient, helpful and responsive.

¹⁶ Public Hearing with the Jersey Royal Company – 21.02.22

¹⁷ Public Hearing with the Minister for Home Affairs – 21.02.22

Key Finding 5

The Panel heard from key stakeholders that, at times, delays to work visas issued in the UK happened without any explanation. In addition, there was no direct contact for the Jersey employer to contact the UK Immigration Service to discuss the status of visa applications.

Recommendation 2

The Minister for Home Affairs should establish a direct line of contact with the UK Immigration Services to ensure employers can receive an update on the status of delayed visas. The contact should be between Jersey Immigration Officers and the UK Immigration Officers only, and not Jersey employers. This should be carried out within 6 months of presentation of this report.

Processing of Work Visas in Jersey

The Panel heard from the Minister for Home Affairs that options were being looked at to bring certain aspects of the visa processing service to Jersey. Whilst it was discussed that it was not in specific relation to seasonal workers, it was being looked at to make the overall process easier to allow Jersey to receive the applications without manual intervention in the visa application centre.

Acting Director for Customs and Immigration:

So at the moment it goes through some processing there before they press the button and, in effect, email it to us. It is not quite like that but that is pretty much what happens. However, the new process will mean that the moment they attend at the visa application centre we will automatically get all the documents sent to us, which will probably speed things up a little bit.¹⁸

This was positive news for the Panel and it believed would be welcome to both the JFU and the JRC. The Panel informed the Minister that both the JFU and the JRC had informed it that they have an excellent working relationship with the Jersey Immigration Department and their issue is more with the UK visa part of it.

Key Finding 6

Discussions were in place to bring certain aspects of the visa processing service to Jersey. This was viewed as welcome news to the Panel as it could speed up and streamline part of the application process.

¹⁸ Public Hearing with the Minister for Home Affairs – 21.02.22

Section 7 – Costs

The Panel was keen to understand the costs applied not only to work permits and visas, but additional overall costs needed to secure seasonal workers. As the majority of workers employed by the JFU are from the Philippines, one of the terms of conditions from the Embassy in the Philippines is that the employer pays return flights for the employee. This was not always the case with the JRC who acquires most if its resource from the EU.

The Panel found there was a slight difference in how the JFU and the JRC reimbursed location costs and expenses prior to the employee arriving. However, it is to be noted that it is not within the Panel's remit to look into the contracts and make comparisons around the terms of employment issued from both the JFU and the JRC and has not taken a view on either.

Work permits, issued in Jersey	£115
Return flights from Philippines	£1300
UK Work Visa (Payable to UK Home Office)	£244
Agency Fee	(up to) £150
Health insurance per employee*	£150
Total	£1959

*Health insurance costs is covered in more detail later in this report.

The Panel considers these costs to be considerable for both employer and employee and understands that, whilst some costs cannot be avoided, an option may be to waive the fee on Jersey issued work permits for returning employees.

Key Finding 7

The Panel calculates combined fees for each employee prior to commencing employment could be in excess of £1900.

Recommendation 3

The Minister for Home Affairs should ensure that, provided there are no changes to the application from the previous year, the work permit fee of £115 be waived for each consecutively returning employee to help bring the costs of employment down. This should be implemented within 6 months of presenting this report.

Provision of Accommodation

The Panel became aware that it was the norm for accommodation to be provided to seasonal workers in the agricultural industry. Although the level of accommodation ranged from block-built cottages, to bedsits, to portacabin style accommodation, the employer was entitled to

deduct from the employee's wages a maximum sum of £91 per week (by way of 'offset') on account of the provision for such accommodation.

The offset in accommodation costs had increased annually in line with the introduction of the minimum wage; however, there was no increase in 2022 despite an increase in the minimum wage of almost 11%. The Panel understands that it is the role of the [Employment Forum](#)¹⁹ to consult on the rate of minimum wage and other employment related issues as directed by the Minister for Social Security. The results of these consultations are then reported back to the Minister, along with recommendations on each issue.

The Panel, keen to understand why there was no increase in the offset in 2022, wrote to the Employment Forum raising the following points:

- Could you inform us of what consultation you had with the Minister regarding the increase of offset for provision of accommodation workers in agriculture last year and what recommendations you made, if any?
- If you made no recommendations or recommended that the offset not be increased, could you advise us to the reasons given for this decision?
- Could you also inform us if you are in consultation with the Minister to raise this offset for 2022 and if not, why not?

The Panel was informed that the Minister for Social Security did not ask the Forum to consult on the levels of the minimum wage and offsets for 2022, and instead, the Minister carried out her own assessment. This was reportedly due to the Covid-19 pandemic and the States Assembly agreeing to allow the Minister to use Covid-19 emergency powers to override the provisions of the Employment Law, which ordinarily require the Forum to consult.

The full correspondence can be viewed using the links below:

- [Panel letter to Employment Forum](#)
- [Employment Forum response to Panel](#)

Following this response, the Panel wrote to the Minister for Social Security asking for reasons as to why no consultation took place and asking the following questions:

- Could you inform us of the reason for there being no increase of offset for provision of accommodation for workers in agriculture last year even though there was a minimum wage rise of almost 11%?
- Could you also inform us if you are in consultation with the Employment Forum to raise this offset for 2022 and if not, why not?

The Minister responded and stated that the priority in considering the minimum wage and offset rates for 2022 was to put extra money into the pockets of those who have arguably been the most disadvantaged by the economic downturn caused by the Covid-19 pandemic. The

¹⁹ The role of the Employment Forum is to act as a nonpolitical consultative body

Minister also stated that raising the minimum wage rate to the target agreed by the States Assembly and leaving the offset rates at their current level would help to achieve that priority. The Minister went on to say that she had no plans in the final months of this Government's term to alter the current offset rates; however, going forward, the Employment Forum will be asked to consider the appropriate level of both the minimum wage and offset rates for 2023.

The full correspondence can be viewed using the links below:

- [Panel letter to Minister](#)
- [Minister's response to Panel](#)

Key Finding 8

There was no increase in the offset for accommodation in 2022 despite the minimum wage increasing by almost 11%. The figure remained at £91 per week despite the increase in salary.

Key Finding 9

The Minister for Social Security did not ask the Employment Forum to consult on the levels of the minimum wage and offsets for 2022 and instead, carried out her own assessment. This was reportedly due to the Covid-19 pandemic and the States Assembly agreed to allow the Minister to use Covid-19 emergency powers to override the provisions of the Employment Law, which ordinarily require the Forum to consult.

During its public hearings with the JFU and the JRC, the Panel discussed the issue of the offset rates. Both stakeholders said that it was disappointing that the offset had not been increased. The JFU informed the Panel that, since the introduction of the minimum wage, salaries had increased steadily year on year by 3% to 4%; however, in 2021, they jumped to 10.8% whilst the offset remained the same. The rise in the minimum wage without a corresponding rise in the offset was another cost to the employer.

The Panel was further informed that the accommodation offered by both the JFU and the JRC was fully furnished and included heating, electricity and in the case of the JRC, breakfast and evening meals. It was also informed that, to make Jersey attractive to seasonal workers, certain facilities had to be offered in addition to accommodation such as transport to and from work, use of the company van at the weekends for shopping.

Key Finding 10

Both the Jersey Farmers' Union and the Jersey Royal Company expressed disappointment that the offset in accommodation had not increased in line with the minimum wage in 2022 as it had done year on year since the minimum wage was introduced.

Key Finding 11

The Panel was informed that, to make Jersey attractive to seasonal workers, certain facilities had to be offered in addition to subsidised accommodation, which included transport to and from work and use of the company vehicles.

Key Finding 12

The Minister for Social Security informed the Panel that she had no plans in the final months of this Government's term to alter the current offset rates; however, going forward, in the next few months the Employment Forum will be asked to consider the appropriate level of both the minimum wage and offset rates for 2023.

Recommendation 4

The Minister for Social Security should increase the offset in accommodation rates in line with that of the minimum wage for 2022. This would align with what has been implemented year on year in the past and should be applied without delay.

Section 8 – Social Security Payments, Hospital Care and Health Insurance

The Panel is aware that any new worker to the Island, whether seasonal or otherwise, is not entitled to full social security benefits for the first 6 months of employment. The Panel was disappointed to learn that any returning seasonal worker who had paid into the social security system the previous year for the term of their 9 month employment contract, had to then start payments again the following year and was not eligible to claim until 6 months had passed. This was described as ‘immoral’ by the JRC in its Public Hearing with the Panel:

Business Unit Director, The Jersey Royal Company:

We are all paying the social security for health cover and if you are here for only 9 months, you are only allowed to be here for 9 months. You pay your first 6 months, nothing happens. You come back the next year and you start all over again and you get no health cover. That is immoral.²⁰

The Panel has mentioned earlier in this report the cost of health insurance per employee is £150. This is taken out by JFU to cover the first 6 months of the employees’ contract before they are eligible to claim social security and sickness benefits. The JRC does not provide this service; however, they do recommend each employee takes out their own health insurance prior to employment. The Panel is aware that, in terms of healthcare, people can access GP services immediately on arrival in Jersey. Prior to having been on the Island for six months, they will not receive the Medical Benefit payment of £20.28, and so any consultation fee would be the standard GP fee, plus an additional £20.28.

Key Finding 13

Anyone coming to work in Jersey is not entitled to social security benefits for the first 6 months of employment. Seasonal workers who return year on year are not entitled to social security benefits for the first 6 months of employment in their returning year. Private health insurance is regularly taken out by the employer to cover this period at a cost of approximately £150 per person.

Recommendation 5

The Minister for Social Security should implement a system whereby seasonal workers who return following a previous, consecutive, 9-month contract of employment can freeze social security payments for the 3 months they are off-island. The employee should then be able to unfreeze these on their return the following year and have access to the social security system. This should be a legacy from the existing Minister to the incoming Minister following the end of this term of office.

Whilst access to the social security system was a problem for employers and employees, the main concern was around hospital fees and how much coverage seasonal workers were entitled to, should they fall ill and need hospital attention. The Panel was informed that there have been cases in the past where seasonal workers had gone to hospital and left at the end

²⁰ Public Hearing with the Jersey Royal Company – 21.02.22

of their 9-month contract without paying their hospital bill. The employer is then left to pay the bill as they were responsible for the employee at that time.

Business Unit Director, The Jersey Royal Company:

You break your arm, okay, then: "Right, we will come and look at your arm." Now they are going to x-ray your arm, tell you to come back the next day and they will put it in plaster and they will start charging you which you would probably expect from the hospital. Somebody has got to pay for that but that should be covered and paid for out of their social security. We have had people who have broken a limb and gone back on the boat the next day to have treatment back home, and that is just not right because they just do not want to pay for it when they get the bill. We pay people's hospital bills because they have had an accident or fallen off their bike at the weekend or whatever and cannot afford to pay their hospital bill, so we stump up for it. But that cannot be right when they are paying social security and we are paying our social security as a company as well and they get no cover.²¹

During the Public Hearing with the JFU, the issue of hospital costs was also discussed, and it was explained to the Panel that Accident and Emergency would treat the initial emergency; however, anything following that would be at the cost of the employee/employer.

The Deputy of St. Martin:

Have you taken up this issue? I presume it is the Minister for Social Security. Have you spoken to officers about how we might try to resolve this?

President, Jersey Farmers' Union:

We approached it through the Minister for Health and Social Services and that was because of this query about the hospital but never had much of a reply, have we?

Secretary, Jersey Farmers' Union:

No.

The Deputy of St. Mary:

If there is an accident, God forbid, in that first 6 months, A and E will treat them.

President, Jersey Farmers' Union:

A and E will treat them. That is not the problem. It is just if they need physiotherapy, for example, that is what we have to bear.

The Deputy of St. Mary:

So, A and E will treat them for the actual emergency.

President, Jersey Farmers' Union:

Yes. The emergency.

The Deputy of St. Mary:

²¹ Public Hearing with the Jersey Royal Company – 21.02.22

The follow-up, after-sales service would be down to you.

President, Jersey Farmers' Union:

Yes.

The Deputy of St. Mary:

This has been aired but not sufficiently.

President, Jersey Farmers' Union:

No.²²

The Panel is aware that hospital costs are the responsibility of the Minister for Health and Social Services and wrote to the Minister to ask for more information regarding the rights seasonal workers have with regards to hospital costs. A copy of this letter can be found [here](#).

The Minister informed the Panel that there is a Health and Community Care Scheme (HCS) for both residents and non-residents brought forward by the Minister which sets out the criteria for free access, or otherwise, to HCS provided care.

The purpose of the policy is to provide for appropriate, fair and reasonable access to free healthcare thus safeguarding public money, whilst deterring healthcare tourism ie, people travelling to Jersey with the sole or express intent of accessing free care and treatment.²³

The Minister went on to say that the policy currently sets out that any person can access free emergency treatment in the General Hospital's Emergency Department but that free non-emergency care is only available to certain categories of people based on their residential and working status. The Minister was keen to inform the Panel that no-one would be precluded from receiving health care, adding that those who do not qualify under the policy would still receive non-emergency care but would be required to pay.

The Panel was informed that the policy currently provides that a worker, who is ordinarily resident and who has been in paid regular employment in Jersey for a full six-month continuous period immediately prior to seeking treatment, can access free non-emergency care. The policy does not, however, factor in any previous periods of residency i.e., the six-month qualifying period must be the six months immediately prior to accessing care. This means a seasonal worker, who is working in Jersey for nine months, would be eligible for free care after they completed six months' continuous residency but, if they leave for three months and then return, the clock resets and they would have to start again in terms of gaining their six-month qualifying period. The current position is therefore similar to the position in which seasonal workers find themselves with regards to social security access.

In addition to the Minister for Health and Social Services setting out the current position in his letter, the Panel was extremely pleased to note his confirmation that he has decided to revise these rules and amend the existing policy so as to provide that returning workers may access free healthcare on their return to the Island, provided that they had lived and worked in Jersey

²² Public Hearing with the Jersey Farmers' Union – 16.02.22

²³ Letter from Minister for Health and Social Services to Panel – 25.03.22

for at least six months continuously during the three years immediately prior to the date of the required treatment:

*I have therefore decided that revised rules should be brought forward that recognise and welcome these workers' contribution to the Island. The existing policy will be amended to provide that **returning workers** may access free health care on their return to the Island if they had lived and worked in Jersey for at least six months continuously during the three years immediately prior to the date of the required treatment – ie, there will be no requirement to complete a further qualification period. They will, however, need to be able to show that they have returned to Jersey for the purposes of work.²⁴*

The Panel welcomes this decision by the Minister. However, it wishes to point out that this is in stark contrast to the approach taken by the Minister for Social Security, whereby no changes to how seasonal workers access the social security system are to be implemented before the end of this term of office and with no indication that any changes will be recommended or suggested for the incoming Minister.

Key Finding 14

Currently, any new worker to the Island is not entitled to Health and Community Care costs for their first 6 months on the Island. The Panel is pleased to note that the Minister for Health and Social Services is in the process of bringing revised rules forward to the existing policy which will provide that returning workers may access free health care on their return to the Island if they had lived and worked in Jersey for at least six months continuously during the three years immediately prior to the date of the required treatment.

²⁴ Letter from Minister for Health and Social Services to Panel – 25.03.22

Section 9 – Legislation

It should be noted that since drafting this report, the amendment to the CHWL was approved by the States Assembly on 29th March 2021.

As previously mentioned, work permits are issued in line with the Work Policy and Permits Document which is policy as opposed to law. The Panel is aware of the ongoing work to update the Control of Housing and Work Law (CHWL) which would hopefully bring some of these regulations into legislation. The Panel's focus throughout this review has been on seasonal workers and the 9-month rule and, whilst the Panel is aware of the pending amendment to the CHWL, it has not gone into any great detail in reviewing it as part of its evidence gathering. It should be noted a review is currently underway by the Population and Migration Review Panel where this proposition is being studied more closely in line with the Review Panel's Terms of Reference.

A brief overview of the amendment is detailed below.

Draft Control of Housing and Work (Amendment) (Jersey) Law 202-

On 20th January 2022, the Chief Minister lodged [P.13/2022 Draft Control of Housing and Work \(Amendment\) \(Jersey\) Law 202-](#), an amendment to the existing Control of Housing and Work Law (CHWL). The proposition states that the proposed amendments to the Control of Housing and Work (Jersey) Law 2012 form part of a broad project to introduce a common population policy for Jersey and to provide more responsive migration controls as a key control mechanism within that policy. The common population policy coupled with these draft amendments to the Law provide a framework and control mechanism in which short, medium and long-term plans can be successfully implemented to manage and impact the population of the Island.²⁵

The Proposition also states that:

Subject to the approval by the Assembly of this primary legislation, Regulations will be brought back to the Assembly later in 2022, to set out the details of the new CHWL statuses. These will be based on the existing decision approved in P.137/2020 –

(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;*

²⁵ P.13/2022 Draft Control of Housing and Work (Amendment) (Jersey) Law 202-

- vi *to introduce enhanced identity requirements for all CHWL cards issued to new residents;*

Section 10 – Conclusion

Throughout this review, the Panel learned of the obstacles faced by the farming industry with not only the rising cost of materials, but the difficulties faced when recruiting seasonal workers; these included unforeseen administration problems when applying for working visas, time restrictions on work permits, limited access to health care and social security and the difficulty of remaining competitive with other jurisdictions to entice workers.

Jersey, quite rightly, has historically had to implement restrictions on settlement status for individuals on seasonal working contracts to mitigate problems such as over-population and the ever-growing problem of housing shortages. Whilst the Panel recognises that restrictions are necessary on such a small Island, it also identifies that there are issues which can be addressed immediately by Government to assist seasonal workers and the farming industry, and which will assist Jersey in continuing to be an attractive and enticing place in which to work.

A key theme throughout this report was the fact that seasonal workers who return year on year were not entitled to social security benefits or non-emergency health care for the first 6 months of employment in their returning year with one stakeholder using the word ‘immoral’ to describe the current system. This was despite seasonal workers having paid 9 months of contributions in the previous year during the life of their employment contract. The Panel has recommended that flexibility (and fairness) when dealing with returning seasonal workers be implemented and a system of freezing payments at the end of a 9-month work permit be introduced.

The Panel was pleased to learn that, following correspondence with the Minister for Health and Social Services, amended rules would be brought forward that recognise and welcome seasonal workers’ contribution to the Island. The rules would be amended to provide that **returning workers** may access free health care on their return to the Island if they had lived and worked in Jersey for at least six months continuously during the three years immediately prior to the date of the required treatment – i.e., there will be no requirement to complete a further qualification period. The Panel believes this change in procedure should highlight how we value our seasonal workers and acknowledge them to be a crucial part of our economy and Island life. The Panel also hope that this change should mark the beginning of further changes for the better, this to be achieved in part by implementation of the Panel’s recommendations.

Jersey is an Island rich in agriculture which is at the heart of Island life. The sector plays a key role in our economy, but the Panel heard that, far too often, the needs of other key industries, such as finance, are prioritised with the agricultural industry feeling left behind. It is the Panel’s belief that, should concerns of the industry remain unheard and its problems not fully addressed, it will have a huge detriment not only on our economy, but also on our general way of living.

Appendix 1 – Panel Membership and Terms of Reference

Panel Membership



Deputy David Johnson
Chair



Deputy Steve Luce
Vice-Chair



Senator Steve Pallett

Terms of Reference

1. To examine the existing system of approval of temporary work permits for seasonal workers in agriculture as detailed in the [Government of Jersey's Work Permit Policy and Procedures Policy](#) to include:
 - a) The examination of the 9 month seasonal route for working in agricultural and assess if it is still fit for purpose.
 - b) To assess if there is any flexibility in the present allowance for work permits for agricultural workers to be extended, if required.
 - c) Examine how work visas and work permits are issued and the reason for bottlenecks and delays and assess if these can be alleviated.
2. To examine the social security system under which seasonal workers in the agricultural industry are assessed to include:
 - a) How social security is calculated for seasonal workers working in the agricultural industry.
 - b) How the social security system for seasonal workers working in the agricultural industry is accessed.
 - c) What dispensations are given, if any, to accommodate the social security payments of seasonal workers working in the agricultural industry.
3. To examine the existing system as to calculation of level of offset for provision of accommodation for workers in the agricultural industry.



States Greffe | Morier House | Halkett Place | St Helier | Jersey | JE1 1DD

T: +44 (0) 1534 441 020 | E: statesgreffe@gov.je | W: Statesassembly.gov.je

