

STATES OF JERSEY



ENTITLEMENT TO WORK – REDUCTION IN RESIDENCY REQUIREMENT (P.49/2023): COMMENTS

Presented to the States on 13th July 2023
by the Chief Minister

STATES GREFFE

COMMENTS

Summary

The COM agrees with Deputy Kovacs' sentiment that full use should be made of the resident population and all efforts taken to support local businesses.

However, Ministers are concerned that the proposals put forward in this proposition will not achieve their intended aim and are likely to create unnecessary disruption in the local labour market.

Ministers consider that a simpler, quicker and more effective solution is to work with local businesses to ensure that additional registered permissions are available to support any business facing a labour shortage where existing registered workers are available on island to fill vacancies.

COM strongly urge Members to reject parts (a) and (b) of the proposition.

Legal background

The Control of Housing and Work Law (CHW Law) provides unfettered access to the local labour market for individuals who have been in Jersey for at least five years. This is known as "Entitled to Work" status (ETW).

To employ someone who has been in Jersey for less than five years, an employer requires a CHW permission. Licenced and registered permissions are available. Licensed permissions relate to jobs which require a specific level of skill or qualification and a higher minimum salary - these permissions are mainly designed to address the issue of skills gaps in the Jersey labour market. Registered permissions mainly relate to jobs with a lower minimum salary - these permissions are useful in helping to address the issue of labour gaps in the local labour market.

The rules relating to employment status are set out in CHW regulations. Any change to the existing five-year residency requirement for ETW status would need to be approved through a change in CHW Regulations. It is not possible to set up a temporary scheme to override the existing legal framework. Even if law drafting was initiated immediately following the debate in the week of 17 July it is unlikely that Regulations could be drafted, lodged and approved by September.

The change needed to the Regulations would be a permanent change. The Regulations would however have a time limited impact as the Regulations would specify that the concession to grant ETW status without completing five years of residence would only apply to individuals who were ordinarily resident in Jersey at the end of December 2020 and have remained ordinary resident since that time.

It should be noted that other areas of legislation also use a 5-year residence test as part of overall eligibility test (e.g. benefits, higher education funding). These areas would not be affected by a change in the CHW legislation.

Data

How many people are covered by this proposal?

Statistics Jersey estimate¹ that 2,350 registered working age individuals moved to in Jersey in 2019 and 1,670 in 2020, a total of just over 4,000 across both years.

¹ [Microsoft Word - Population and migration statistics \(Jersey\) 2011 - 2021 140623 \(gov.je\)](#)

Additional analysis suggests that approximately 1,600 of these individuals have remained in Jersey since their first arrival and would be included in the proposals set out in the proposition.

The nationality split of these individuals is approximately:

700 CTA (British or Irish)

800 – EU (excluding Irish)

100 – Rest of world.

These are very approximate figures. However, they provide useful context for the level of the impact of the proposals.

How many registered jobs are there in the economy ?

Labour market reports are published twice a year giving breakdowns across different types of worker and different market sectors.

The most recent report is for December 2022².

The report counts the number of jobs filled. One person will be counted more than once if they have 2 (or more) jobs.

This shows:

CHW status	Total Number of Jobs 31/12/2022
ETW	55,400
Licensed	2,810
Registered	5,360
Exempt ³	200

Registered jobs made up 8% of the total number of jobs.

Many registered jobs have traditionally been associated with seasonal industries with job numbers higher in the summer than the winter. The seasonal variation is becoming less pronounced. In December 2022 the total number of jobs in the economy was higher than the June 2022 figure.

In terms of local businesses, the number of jobs in the private sector figures are relevant.

Private sector jobs	June 2022 ⁴ :	December 2022
ETW	47,300	47,410
Licensed	1,920	1,980
Registered	5,430	5,140
Exempt	230	160

Registered posts accounted for 10% of all private sector jobs in June and 9% in December.

² [R Jersey Labour Market Dec 22 20230427 SJ.pdf \(gov.je\)](#)

³ A small number of non-local workers are exempt from needing a CHW permission.

⁴ [R Jersey Labour Market Jun 22 20221027 SJ.pdf \(gov.je\)](#)

How many permissions have been issued to employ registered staff?

The Business Hub, part of the administration of the CLS Department, issues regular statistics⁵ on applications for CHW permissions. For Q1 2023, 108 applications from businesses to employ an additional registered worker were granted – out of 132 requested. An additional 81 applications for seasonal permissions were all granted. For Q2 2023, 156 applications for registered permissions were granted – out of 182 requested. An additional 56 applications for seasonal permissions were granted out of 58 requested. In total 401 new permissions to employ a registered worker have been granted to businesses this year from 453 applications, i.e. 89% of applications were approved.

Labour Shortages

This proposition does not increase the local labour force. The effect of the proposition would be to give some people living in Jersey and holding a registered CHW status the ability to move to any job in the local labour market.

Anecdotal evidence suggests that workers do often leave their registered job at the end of their five- year qualification period and move to a job in the local labour market. This creates churn in the registered job market with employers in these sectors struggling to keep trained staff.

This proposition would allow approximately 1,600 registered individuals who arrived in Jersey in 2019 or 2020 to move into local jobs at the same time.

The proposition suggests that this would help sectors such as “hospitality, retail, construction and care, where there are known to be shortages of workers.” However, there is a significant risk that these sectors will see a net loss of workforce as a result of this proposition and will be placed in a worse position than they are today.

Businesses are already recruiting from across the globe to fill their vacancies. Inevitably, this takes more time and resources than recruiting from local residents. The potential movement of a large number of registered workers who have all acquired ETW status at the same time is likely to put significant pressure on many local businesses who are already struggling to retain their existing staff.

CHW permissions

The annual population policy report recently issued by the Council of Ministers emphasises that the effective use of the resident workforce is a key priority in the overall population policy.

This includes ensuring that businesses have the right number and type of CHW permissions to operate their business effectively. Businesses can approach the government at any time to request additional permissions to employ staff. In the first 6 months of 2023, a total of 401 additional registered permissions have been granted this year from 453 applications, i.e. 89% of applications were approved.

If businesses require additional registered permissions, it is straightforward to apply to the Business Hub at CLS to extend their existing business licence.

⁵ [Control of housing and work quarterly statistics 2023 Q1.pdf \(gov.je\)](#)

Ministers are concerned that a wholesale transfer of registered workers to ETW status runs the risk of a significant disruption to the local labour market with the biggest negative impact experienced by those sectors that Deputy Kovacs seeks to support.

As a simple and practical alternative to Deputy Kovacs' proposition, Ministers will engage with business representatives to understand any specific issues in relation to the improved use of registered workers already living in Jersey. For example, one or more additional registered permissions can be granted to a business if it is suffering labour shortages and the business is aware of local residents who hold registered status and are available to take up vacant posts that the business has been unable to fill with ETW workers.

Granting these additional registered permissions can be achieved with minimal bureaucracy and delay.

Operational impact on Government

The operational impact of this proposal would be significant.

The proposal is that if an individual was resident in Jersey on 31 December 2020 and they can prove that they have been continuously resident since that date then the individual should be granted ETW status even though they have not achieved five years of residency.

In reality this will apply to people who have arrived in Jersey in 2019 or 2020. As noted above this is estimated to apply to approximately 1,600 working age individuals.

People arriving in or before 2018 who have continued to live here since then will have achieved five years residency and will be entitled to ETW status under the current Regulations. The normal workflow in respect of individuals in this position requesting ETW status for the first time is approximately 100 to 150 a month.

Using the approximate figure of 1,600 individuals covered by this proposal, all these individuals would be able to apply for ETW status at the same time. Each applicant would need to provide detailed information confirming their residency in Jersey during 2021, 2022 and 2023.

Significant resources would be required to process this number of applications.

Operational impact on businesses

As noted above, this proposal could affect up to 1,600 workers which represents very roughly one-third of the total registered worker population.

Some of the sectors that hold significant numbers of registered permissions are also the sectors that have been most directly impacted by recent staff shortages and the impact of Brexit and the additional costs associated with bringing in workers from other countries on work permits.

The sudden loss of existing registered workers could have a negative impact on local businesses. As well as needing to advertise for new staff, businesses may not be able to find local applicants and so will also need to apply for additional work permits and attract new workers from outside Jersey to fill these vacancies.

Impact on individuals

This is proposed as a temporary scheme that is only available to individuals who were in Jersey at the end of December 2020. Whereas this date has significance for EU citizens, who lost free movement from January 2021, it is not significant to British and Irish citizens who continued to be able to travel to and work in Jersey as before.

The approximate split of the 1,600 individuals includes 800 EU citizens (excluding Irish) but also 700 CTA citizens (British or Irish) and 100 people of other nationalities. For example, if a building company was recruiting registered staff from the UK in late 2020, and one British worker arrived in December 2020 and another British worker arrived in January 2021, the first worker would be covered by this scheme and the second worker who may have arrived a few days later will not be covered.

Part (c) of the Proposition asks for a review of the impact of reducing the five-year residency period for ETW and Ministers support this element of the proposition.

There is no justification for selecting a specific group of migrant workers who arrived between two arbitrary dates to be covered by this proposal. Any change to residency conditions should be carefully considered, fully discussed and, if approved, applied to all migrant workers fairly.

Data collection

The proposition suggests that the proposals will provide useful data for future policy development. However, the choice of 31/12/2020 in the proposition is aligned to the implementation of the Brexit controls.

EU individuals who were in Jersey before 31/12/20 had freedom of movement across the EU and into Jersey. Since 31/12/2020 this situation has changed, and any data gathered from the proposed temporary scheme would not be relevant in the planning of any post Brexit scheme.

The proposition also suggests that data will be easily available in terms of the jobs that the new ETW individuals move into. While this could be tracked on a person-by-person basis, in general data terms, once the individual has been granted ETW status, their job sector will only be recorded as part of the overall ETW figures in the twice-yearly labour market reports. As such there is no advantage in data collection from this proposal. The alternative approach of providing additional registered permissions to individual businesses when they identify a specific registered individual to fill an existing vacancy will provide much richer data as each case will be recorded and can be collated for analysis.

What is Government doing ?

Ministers are firmly committed to supporting local businesses and making sure that every resident can play their full part in the labour market.

In terms of this proposition, businesses have received over 400 extra CHW permissions to employ registered staff this year. As an alternative to Deputy Kovacs' proposal, discussions will be arranged with local business representatives to understand whether there are any areas where additional registered permissions would be helpful in addressing current labour shortages. These permissions can be provided without delay.

In broader terms, the recent annual report on the Common Population Policy sets out action areas including:

Build up skilled local workforce

- Further education and skills actionable agenda; Skills Development Fund.

Drive sustainable growth

- Future Economy Programme; 2040 foresight ; Inward investment strategy.

Simplify and adjust controls

- Up to 3 year Work Permits for hospitality workers ; CHWL licences for carers; Employment rights for unmarried partners; Single business portal for CHWL and work permit applications ; More flexibility in CHWL regulation.

Promote productivity and automation

- Impact Jersey (Technology Accelerator Fund); Automation / Artificial Intelligence; Productivity through digital innovation.

In addition, the Future Economy Programme is developing a range of positive measures to improve current levels of economic activity, identify new economic sectors and create high quality, sustainable growth. The Economic Strategy is due to be published in September 2023.

Conclusion

Ministers accept that Deputy Kovacs' proposition is well-intentioned but have serious concerns that its approval could have significant negative consequences on the business sectors that she is aiming to support.

Under the Deputy's proposals, approximately 1,600 individuals would gain access to the local labour market at the same time. As is already the case when workers reach their five-year residency, many of these may seek jobs across the labour market moving out of the retail, hospitality and other sectors which rely heavily on their registered workforce.

The Deputy's proposals are strongly linked to the status of EU citizens at the end of 2020, but an analysis of nationality shows that only approximately half of the total of 1,600 individuals are EU citizens. For the remaining 800 individuals, the choice of December 2020 is an arbitrary date. This will create unfairness between individual workers who arrived just before or just after the December 2020 date.

Significant administrative issues would need to be resolved if it was agreed that 1,600 individuals should be given immediate access to ETW status. In broad terms this would represent over one year's worth of extra activity to be undertaken in one exercise. For comparison, the recent extension of ETW status to unmarried partners has resulted in an additional 27 applications to date.

The Deputy suggests that the exercise would provide valuable data for future policy development. It is unlikely that the data gathered could be used to support other projects. The very specific timing of the concession and its link to the Brexit changes mean that it would be difficult to draw any general conclusions.

Deputy Kovacs' proposition would require legislation to be drawn up and brought back to the Assembly for approval before any worker could receive a different CHW status. This approach is unnecessary and will lead to delays before any change is made.

Over 400 new registered permissions have already been granted in the first six months of 2023. Ministers will work with local business representatives to understand and identify any areas where additional registered permissions would support businesses in making better use of local residents. This can be achieved within existing legislation with a minimum of delay.

Members are urged to reject parts (a) and (b).

Part (c) calls for a review and Ministers will incorporate this into the ongoing work on CHW controls.